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STATE ALLOCATION BOARD
SUBCOMMITTEE ON
SEISMIC MITIGATION PROGRAM

CALIFORNIA DEPARTMENT OF EDUCATION
1430 N STREET, ROOM 1101
SACRAMENTO, CALIFORNIA 95814

DATE: APRIL 26, 2011
TIME: 3:34 P.M.

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APPEARANCES

Committee Members:

SCOTT HARVEY, Chair, Acting Director, Department of General Services

ASSEMBLY MEMBER JOAN BUCHANAN

KATHLEEN MOORE, Director, School Facilities Planning Division, California Department of Education, designated representative for Jack O'Connell, Superintendent of Public Instruction; Member State Allocation Board

Office of Public School Construction Staff:

LISA SILVERMAN, Acting Executive Officer

JUAN MIRELES, Policy Manager, Program Services

DAVE ZIAN, Chief of Program Services, OPSC

P R O C E E D I N G S

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3 MR. HARVEY: I'm chairing the Subcommittee on
4 Seismic Mitigation Program and with me is Kathleen Moore. We
5 create by virtue of our attendance a quorum of the
6 Subcommittee. I am assured that Assembly Member Buchanan is
7 on her way, but she did have a robust briefing on the item,
8 so I feel safe in beginning it because she'll be here by the
9 time I'm sure we have our public comment.

10 As you know, we're here to talk about changing a
11 program that was enacted by the voters. The voters created
12 the ability for us to set up to 10 percent of the dollars in
13 Proposition 1D aside for seismic mitigation and the Board did
14 that.

15 The admonishment in the statute was that we had to
16 attack the more vulnerable facilities first. And our
17 criteria at the outset was intended to do that. We've
18 mitigated and changed the regulations one earlier time and
19 we're constituted today to talk a little bit about what
20 changes may be appropriate in today's environment.

21 At our last Committee meeting, staff was directed
22 to create an option which they have done to have as a
23 potential action, a recommendation from this body to the full
24 Body, a plan that would create a subset of Facility Hardship
25 Program and the policy discussion we would have to have is

1 whether that remains -- and the integrity of it remains as
2 seismic or whether it gets folded into the Facility Hardship
3 Program generically.

4 Staff was also directed to bring back a little more
5 robust discussion about direction they received some time ago
6 on whether or not the regulations should be altered to
7 include the possibility of including facilities that were,
8 quote, under imminent threat of collapse.

9 And the final direction from our Committee was a
10 discussion on if you are going to have a temporary housing
11 set-aside, how would you do that based on need. So I believe
12 staff is prepared to address those three directions today.
13 We didn't have an opportunity to hear a complete presentation
14 from staff at our last meeting, so we'll begin, Dave, with
15 whatever you want to do to pick us up, but go through the
16 options so we and the stakeholders can hear what those
17 options are and then we'll ask folk to address them.

18 MR. ZIAN: Okay.

19 MR. HARVEY: We do have a full Subcommittee
20 meeting. For the record, I'd like to welcome Assembly Member
21 Buchanan.

22 ASSEMBLY MEMBER BUCHANAN: Thank you.

23 MR. HARVEY: I should also ask do either one of you
24 wish to say anything before we start into this program?

25 ASSEMBLY MEMBER BUCHANAN: Nope. Let's go.

1 MS. MOORE: No.

2 MR. HARVEY: David, it's all yours.

3 MR. ZIAN: Okay. Thank you, Mr. Chairman and
4 members of the Seismic Safety Commission. Let's -- I'll
5 start with the area where we kind of touched on last time --
6 thank you -- which had to do with the engineering seismic
7 template reviews that we have been performing.

8 As indicated in the report last time, there was
9 additional funds left from the original grant from the
10 Seismic Safety Commission. We have 77,000 left. We are also
11 in the process of potentially receiving additional funding.
12 We will be seeking additional dollars from the Seismic Safety
13 Commission to augment the dollars that are left right now.
14 We'll report out on that later.

15 So with that regard, we're thinking with the
16 various options here in front of us today and based on the
17 direction we receive, there will be an enhanced need --
18 increased need for seismic review. So we want to ensure that
19 there's enough money in the short term to address those types
20 of issues.

21 With respect to the threat of -- imminent threat of
22 collapse which is on page 3 -- bottom of page 3, starting
23 there, as Mr. Harvey mentioned earlier, there was a request
24 from members at the last meeting to bring back a synopsis of
25 what had occurred, what had been directed, and to summarize

1 essentially at the August 2009 Board meeting, the State
2 Allocation Board requested DSA to make recommendations for
3 potential amendments to the Seismic Mitigation Program
4 particularly looking at the threat of imminent collapse to
5 see if maybe we're missing things, maybe things could be
6 expanded.

7 And the Board also directed at that time back in
8 August of 2009 that whatever is brought back should not
9 create a situation where we would create an unfunded list or
10 exceed the authority of the program that was approved by the
11 voters, so 199.5 million -- who are up to 199.5 million.

12 So with that said, at the March 2010 Implementation
13 Committee meeting and Board meetings subsequent to that, the
14 DSA reported after they researched this issue that there was
15 no scientific basis or clear definition at that point for the
16 term imminent collapse and without such clarity and
17 definition, it may be problematical in the evaluation of
18 buildings and it could be subjective and potentially create a
19 scenario for opening it up to the point where you overtax --
20 overexpend the authority currently provided in the program.

21 So the Board accepted the DSA report in March of
22 2010 and requested further discussion of the stakeholders for
23 promoting participation and facilitating the release of the
24 Seismic Mitigation Program funding. Those discussions
25 continue to today. So we're here to continue that endeavor.

1 The next section I'd like to touch on and this is
2 another thing that Mr. Harvey mentioned we had received
3 direction on to bring back/further discuss/explore is with
4 respect to the interim housing issue and what is appropriate
5 in essence for the Seismic Mitigation Program as it relates
6 to interim housing.

7 So I will again state that currently in the School
8 Facility Program we do not provide additional grants for
9 interim housing and that would be in modernization or new
10 construction or any other facility hardship. However, these
11 are allowable costs in the program. In other words, the
12 grants that are provided, they are allowable expenditures and
13 really I think what's at -- what we're discussing here is
14 whether or not we augment the current allowances provided in
15 this program.

16 In addition I should note that facility hardship
17 projects that are also financial hardship that meet that
18 criteria, in other words, they have, you know, severe
19 financial issues in meeting their local matching share, there
20 is an allowance in the regulation and the program to allow
21 the district to reserve funds for these interim housing
22 purposes, in essence to allow them to have an allowance for
23 interim housing out of their own funds and not deem that
24 money available as contribution.

25 So with all that said as a backdrop, now looking at

1 it, we went back and looked at the various options. Let me
2 digress here to talk about the three scenarios. It's a
3 little bit complex, so I'll try to go high level here and
4 hopefully this is make sense for everybody.

5 There are in essence three different options, three
6 different roads to go when you're facility hardship. One
7 would be Seismic Mitigation Program facility hardship
8 rehabilitation project and how you distinguish that is there
9 is are basic criteria in the program that have to do with how
10 you're eligible for the program. One would be there's a life
11 and safety type issue. That's one of the root criteria for
12 facility hardship as well as a Seismic Mitigation Program and
13 the additional criteria which we're talking about.

14 But in addition to that, there's a cost threshold
15 that has to be met. If you do not exceed the 50 percent of
16 the current replacement value, you fall into what we call a
17 Seismic Mitigation Program rehab project, meaning your costs
18 associated with your project are not so high that you would
19 exceed that threshold which would trigger when DSA's looking
20 at these kinds of projects, all the fire/life/safety
21 requirements get you up to current code.

22 So these rehab projects, how we deal with those
23 types of projects are we get a cost estimate and that cost
24 estimate delineates the essential work that is necessary to
25 mitigate the various seismic limitations or issues with an

1 existing building structure and that's what the cost estimate
2 has to do with.

3 Now, the State in the Seismic Mitigation Program
4 will share in 50 percent of the costs associated with that
5 cost estimate. So in looking at that as staff, we identified
6 an area where this may be a problem -- a serious problem for
7 school districts that have to essentially bear all of those
8 costs on their own since the costs in the estimate are only
9 seismic mitigation related repair costs or rehab costs.

10 And we felt that this is an area that you folks may
11 want to consider and provide additional direction to us,
12 whether you want us to go down the path here. And this -- I
13 should caution that this may require some additional legal
14 analysis, you know, if we are to go down this road.

15 With that said, also if we receive direction to
16 look at the facility hardship rehabilitation option, there
17 are two other options and let me digress again now, and these
18 are not the rehab options. This is where a facility hardship
19 exceeds the 50 percent of there replacement cost. So that's
20 what I'm talking about now.

21 We have the larger scale facility hardship seismic
22 projects where the 50 percent of the current replacement
23 value is exceeded and there are two options under that. One
24 would be a partial replacement where we would provide a
25 square foot additional -- a square footage allowance. It's

1 right in the regulation for the types of facilities and the
2 square footage. In addition we would provide additional
3 grants and excessive cost hardship grants to augment that
4 square footage allotment that's provided.

5 In addition there's a whole school facility
6 hardship seismic project where we would provide the per pupil
7 grants and that scenario and additional and excessive cost
8 hardship grants.

9 So in the vein of that and with my earlier
10 discussion about what we looked at, we did an analysis of the
11 various costs, kind of comparing a similar type situation
12 across the three options that I mentioned, the one option in
13 rehab versus the partial or full school replacement.

14 We tried to kind of look at it from a -- you know,
15 what the allowances look like and it appeared that the --
16 there were wide swings. Obviously it's a general example
17 that we looked at, but it appeared that the allowances were
18 not all generally consistent, that there were swings in the
19 costs provided.

20 So if we receive direction from you folks to look
21 at the rehabilitation interim housing, you may want us to --
22 potentially if you want us to look at these other scenarios,
23 the partial and the full school replacement facility
24 hardships, if that's something you want us to look at, we
25 could look at that also from an equity standpoint -- if you

1 want us to also look at those other scenarios.

2 But right now what we have in front of us it does
3 appear to be a cogent argument that we can make related to
4 the rehabilitation that an interim housing, if you consider
5 it, could be something that we could look at and a good
6 argument could be made for that. Beyond that, we'd seek your
7 direction.

8 So that's kind of a discussion about that
9 particular area and again it would require some legal review
10 and if we receive direction from you depending on how far you
11 want us to go on this.

12 So with that said, let's move onto the next issue.
13 I'm on page 5, reevaluating current Seismic Mitigation
14 Program criteria, and if I can summarize briefly here, we
15 have heard loud and clear from various stakeholders and
16 various venues, various meetings, either at the State
17 Allocation Board, the Implementation Committee meetings, or
18 the Seismic Safety Commission meetings where we have reported
19 at various meetings of those types that the stakeholders
20 believe in some cases that the current program criteria may
21 be too restrictive and potentially an impediment to accessing
22 the Seismic Mitigation Program funds.

23 And the issue gets worse when you have a design
24 that maybe doesn't exactly fit the boxes that we currently
25 have in the Seismic Mitigation Program. We have certain

1 categories included in this item on Attachment 2. You can
2 look at that later if you want to really get into that level
3 of detail, but those are the boxes. Those are the building
4 types that are currently recognized, currently codified in
5 our regulations for the Seismic Mitigation Program.

6 So if you don't fit one of those nice neat little
7 boxes or category areas and you're not in the right seismic
8 zone, you're -- essentially you're out. You don't qualify.

9 Now we've run into some situations and there was
10 some testimony at the last hearing as a matter of fact where
11 we had a gentleman who was in a 1.82 spectral acceleration
12 zone, but his building type was kind of a mix of one of the
13 most vulnerable building categories. It was kind of an odd
14 duck kind of thing here. So stakeholders vindicated. You
15 know, in those kinds of situations where you have a hybrid
16 building, you know, that's problematical. It can be an issue
17 of, you know, having it fit nice and neat into one of these
18 boxes that we've created, if I can use that analogy.

19 In addition there's other factors that the
20 stakeholders have mentioned repeatedly such as the spectral
21 acceleration zone, whether the threshold's too high or too
22 low. There's -- that's obviously all debatable. The age of
23 the facility, the overall maintenance of the facility,
24 overall structural condition of the building, inadequate
25 earthquake retrofits, past ones. You know, there's been a

1 series of building code changes over time. There may have
2 been retrofits that have taken place, but maybe they're an
3 old '40s style building code retrofit that maybe isn't up to
4 code, you know, with the more modern, more stringent
5 earthquake standards. So if I can throw that out here.

6 And lastly site liquefaction issues or perhaps also
7 issues of active earthquake faults and there's a lot of
8 debate and speculation that goes along with those active
9 earthquake faults, how active are the faults, you know,
10 what's the proximity of the earthquake fault, what's the soil
11 condition. You get into a lot of these issues that I'm --
12 basically I'm not prepared to talk about today other than to
13 say those are issues that we may want to also look at.

14 We have some experts here from the Seismic Safety
15 Commission and I believe we have some experts from DSA that
16 perhaps could speak to that if you want more information on
17 that.

18 So with all that said, depending on where we go
19 with this -- and I'm about to get into some proposals and ask
20 for some direction. But depending on how far we go, how
21 ambitious we are, I would just like to say that there is
22 always the risk of exceeding the authority in the program,
23 going beyond the 199.5 million depending on what we do. So
24 finding that balance to, you know, come up with a program
25 that provides flexibility but at the same time not creating

1 some huge need beyond what the voters have currently
2 approved, that's one of the risks here in what we're doing
3 today.

4 So with that said, I'd like to move into an idea --
5 an issue that was brought forward by representatives from
6 DSA, the acting State Architect, and the Seismic Safety
7 Commission. They brought up and felt that something we
8 should perhaps look at that provides some flexibility for
9 school districts in certain cases and I'd like to talk about
10 this incremental seismic upgrades part that's at the bottom
11 of page 5 in the item.

12 And I'd like to introduce it as this isn't the be
13 all/end all, but it is an option here. You know, we -- you
14 notice that there's been a lot of issues talked about in the
15 past about the local matching share, that the local matching
16 share if it's a full scope seismic project, it includes not
17 only the seismic work, but it includes, you know, all the
18 eligible costs in a school facility project, you know, the
19 additional grants, the excessive cost hardship grants, which
20 can increase the overall total project cost which half of
21 that is the district's share if they're not financial
22 hardship.

23 In addition to that when you do these full scope
24 projects, you're going to have to bring that building up to
25 current code too as far as all the fire/life/safety

1 requirements. So that also -- all these things in
2 combination can serve to be an issue for a district that has
3 limited resources.

4 So with that as a backdrop, I would like to provide
5 this option -- this idea that has been brought up recently
6 and provide it to you folks as this is a potential option to
7 address a couple of the issues.

8 This incremental seismic upgrade is a voluntary
9 seismic upgrade which allows a school district to go in and
10 essentially scalpel out work that needs to be done and it
11 allows for a much smaller approach, a less, you know,
12 bigger -- larger scope project that I was speaking to
13 earlier, but allows you to go in and address those seismic
14 issues that need to be addressed and not have to bring that
15 building up to current building code.

16 In addition, you don't have a lot of those eligible
17 School Facility Program additional and excessive cost
18 hardship grants added on. You could just go in and if you
19 wanted to to minimize your costs, your funding share in this
20 case, you could go in and you could look at this kind of a
21 project, this incremental approach, and perhaps schedule it
22 during the summer which addresses the second issue which is
23 the interim housing issue also.

24 So this is something we want to provide. This is
25 an option that could go through and you could use it as an

1 option depending on what option of the three options we
2 provide you could plug this right in here. It's one of the
3 array of options for a school district to use.

4 So with that said, we would like to provide that
5 and seek direction from the Seismic Subcommittee on that. I
6 would like to also say that with respect to this incremental
7 approach, it is my thought that these would probably all
8 be -- except in rare circumstances, these would be the
9 seismic mitigation rehab options. You'd probably be under
10 the 50 percent of the current replacement type situation
11 since you're going in and doing smaller limited work,
12 short-duration type projects. So that's something to think
13 about here as far as that.

14 Going back to the interim housing also, you -- with
15 this approach here, you can schedule the work, obtain minimum
16 disruption of staff and students, another one of the primary
17 drivers of this proposal here that I'm putting forward.

18 So with that said, if we could get into the options
19 and in Option 1, which we provided last time, this is the
20 option that would lower the spectral acceleration zone from
21 our current 1.68 threshold to 1.65 for a period of six months
22 and continue to lower that threshold by increments of .3 in
23 six-month windows until the 199.5 million of the Prop. 1D
24 funds are fully subscribed. That's one option for you to
25 consider today.

1 The second option --

2 MR. HARVEY: If I might.

3 MR. ZIAN: Yes.

4 MR. HARVEY: As a point of clarity, I'm reading
5 between the lines because it's not affirmatively said here,
6 but it sounds as if the window is open. If you don't take
7 advantage of that opportunity when the window's open and you
8 close it and go down to the next increment, you've lost your
9 opportunity to apply.

10 MR. ZIAN: That's correct.

11 MR. HARVEY: Is that correct?

12 MR. ZIAN: That is correct.

13 ASSEMBLY MEMBER BUCHANAN: You'd still exceed the
14 number. Why would you? In other words, if we lower it to
15 1.65 and then it goes down to 1.62, you're saying that if you
16 were at 1.66 or 1.65, you couldn't apply if you didn't apply
17 within that six-month time frame?

18 MR. ZIAN: That's -- if you think about our current
19 priorities for funding rounds that we've had, it would be
20 similar to that kind of mentality that we would open up
21 competition rounds, if I can use that terminology. It'd be a
22 six-month round. We've lowered the threshold. Come one,
23 come all. If you're within that window --

24 ASSEMBLY MEMBER BUCHANAN: So you're making it --

25 MR. ZIAN: -- you come in during that period and if

1 we move on, we move on.

2 ASSEMBLY MEMBER BUCHANAN: You're making the
3 assumption that all these school districts have had the
4 engineering reports done, they know exactly which buildings
5 qualify, they have all that information right now and they're
6 ready to go, they just aren't at the right factor?

7 MR. ZIAN: That would be one assumption we could
8 make, yes.

9 ASSEMBLY MEMBER BUCHANAN: So if a district 12
10 months from now had a -- was getting modernization or
11 whatever, but -- or had reason to have engineers go in and
12 take a look at a building and that building was at 1.6, but
13 now your factor had been lowered to 1.5 and if they didn't
14 know that, they wouldn't qualify?

15 MR. ZIAN: You're absolutely correct, Assembly
16 Member Buchanan, and that is one of our cons here that you
17 potentially leave higher, more vulnerable buildings behind by
18 this option, but you get right on it. That is one of the
19 cons here to this --

20 MS. MOORE: I would just say that we would not
21 support the second part of the recommendation for a variety
22 of circumstances could occur for a district that may want to
23 come in but couldn't come in at the specific time that was
24 provided. They still meet the criteria. They may -- it may
25 be that they're 50 percent was not available to them. It may

1 be that they didn't discover that they were eligible. It may
2 be a whole host of issues.

3 So I for one would not support restricting as we
4 move down the criteria. I'm not sure I'm there with that
5 option in total yet anyway. I think we have a lot of
6 discussion to go. But I wouldn't support that.

7 MR. HARVEY: That's good to know and of course we
8 can direct staff any number of ways depending on the
9 discussion and our own preference. I think inherent in this
10 and it's inherent in some of the complaints from any number
11 of sources is why isn't the money being utilized.

12 Not only have you created these arbitrary narrow
13 criteria, but you haven't done a decent job of providing
14 opportunities and I think inherent in here is you make some
15 adjustments. You give people an opportunity to access it.
16 If you want to keep it open longer, fine. You go down to the
17 next increment. You're opening up more opportunity and
18 ideally the money is expended appropriately but more quickly.

19 ASSEMBLY MEMBER BUCHANAN: There's one big
20 assumption there and that is that the SA factor is the right
21 evaluative tool for need and we heard -- I mean we -- at
22 our -- was it our last or two SAB meetings ago with Morongo
23 where it -- certainly the current criteria didn't work. We
24 heard with Piedmont where they felt their most distressed
25 building didn't quality despite the fact that it had a higher

1 factor than currently eligible.

2 So for a program like this to work, you have to
3 assume, one, that the criteria is the best criteria to use
4 and, two, that districts are in a position where they're
5 ready to move forward. And so I'm not sure on either one,
6 but I know we've got two more alternatives to talk about.

7 MR. HARVEY: Well, we may want to jump right over
8 to 3 because 2 is a subset of what we just talked and I've
9 heard --

10 ASSEMBLY MEMBER BUCHANAN: Right.

11 MR. HARVEY: -- and I've heard concerns on both
12 ends of Option 1.

13 ASSEMBLY MEMBER BUCHANAN: Right.

14 MR. HARVEY: Juan, did you have something you
15 wished to add before me move on?

16 MR. MIRELES: Just to clarify that the six-month
17 timeline, it's a time frame for school districts to come in
18 and request a conceptual approval meaning that at that point
19 they don't have to have plans approved by the Division of
20 State Architect or the Department of Education and they also
21 wouldn't need to have to have their local match.

22 They come in to get conceptual approval by the
23 Board. Then they get that approval. Then typically the
24 Board grants them up to 18 months to go out and get the plans
25 approved. So I just wanted to clarify that.

1 The six months is just for a conceptual approval to
2 come in.

3 MR. HARVEY: That's a big difference.

4 ASSEMBLY MEMBER BUCHANAN: Well, it isn't and it's
5 not. I mean -- I -- having been on the school board of the
6 one of the projects that was approved -- I think it's one of
7 the four projects that was approved. I mean until they were
8 going into modernize and the architect said I think we need
9 to look at this and we had to have a number of different
10 engineers including soils engineers and we found the
11 liquification and all those problems.

12 I mean you're assuming schools are ready to go in
13 and I think there's a significant amount of work that, you
14 know, leads up to that and I don't know exactly at what point
15 in that -- I mean the -- it took probably -- even to get to
16 the point where we knew the building had to be evacuated and
17 replaced, I'd say it took the better part of a year to get
18 there with all the different engineering studies.

19 MR. ZIAN: And that was a full scope project; is
20 that correct? That would be a larger --

21 ASSEMBLY MEMBER BUCHANAN: That ended up being --
22 well, it was a replacement project for a gym, but it was --

23 MR. ZIAN: Okay.

24 ASSEMBLY MEMBER BUCHANAN: -- but, you know, I mean
25 it's -- I guess my only point is, is that it's, you know,

1 determining the structural integrity of these buildings with
2 respect to, you know, potential seismic activity and maybe --
3 this is just my own -- it's not an easy -- it's not a really
4 simple task. It's not a matter of assigning a number and
5 looking at the kind of construction. I think it's more
6 complex.

7 MR. HARVEY: I say amen to that as we've had two or
8 three in-depth discussions about this. It's a very good
9 point. Lisa, did you wish to add something?

10 MS. SILVERMAN: Yeah. I would like to add too.
11 Just like Juan stipulated that, you know, I think six-months
12 window is -- it could be flexible. I mean I think we could
13 talk about -- if that's a concept that we want to be married
14 with, I think we could work on that timeline. Is it 6
15 months, is it 9 months, is it 12 months, but I think there's
16 still some viability there. I just want to throw that out.

17 MR. HARVEY: It's a step-down approach and we can
18 talk about the factors that make it work or not work. I will
19 jump to Option 3 unless either one of you have a compelling
20 interest to have Option 2 discussed. It's keeping the factor
21 at 1.68 until we make absolutely certain that everybody has
22 been identified, but it address your issue about is that a
23 good standard.

24 ASSEMBLY MEMBER BUCHANAN: Right.

25 MR. HARVEY: So if you don't have a compelling

1 reason here about Option 2, we'll go right into Option 3 and
2 maybe we'll have some questions about this incremental
3 approach and I would like to hear if appropriate from Seismic
4 Safety and/or DSA when we finish our Option 3 if they choose
5 to speak. Otherwise we appreciate you're here to answer our
6 questions. Option 3 then.

7 MR. ZIAN: Thank you. So before I get into
8 Option 3, I need to clarify one of the numbers we have in
9 here is the potential carve-out within this option. We just
10 had a -- one of the eight -- if you'll recall from last time,
11 there was a total of 38 buildings that were reviewed with our
12 uniform seismic template. 20 of them met all the criteria in
13 the program, so they're otherwise eligible in the program.
14 18 were not.

15 One of the 18 project buildings was reassessed and
16 we just found out the results of that late yesterday, so
17 there's now 21 buildings rather than 20.

18 ASSEMBLY MEMBER BUCHANAN: Rest my case.

19 MR. ZIAN: So some of the numbers here -- as of
20 this late, I didn't want to create confusion, so I just want
21 to clarify that we built in numbers associated with this 21st
22 one.

23 So the 114 million, if you could just jot a note
24 there, it's 104 million would be the amount that's left.
25 This is a very big building and this 21st building is 41,500

1 feet. It looks like a very big project, so we tried to
2 estimate costs for our carve-out to also take care of this
3 latest one we just discovered.

4 So with that said, the Option 3 is to discontinue
5 the current Seismic Mitigation Program that we have right
6 now, in essence try to open the thing up, make it more
7 flexible, maybe move away from some of the boxes that we
8 have, set boxes, and this is the only thing we'll look at.

9 It would provide more flexibility and we would be
10 seeking some clarity with regard to whether or not we -- if
11 we were to carve out instead of the 114 the 104 million, if
12 we in essence stopped the program, allow for a set-aside for
13 the 21 projects now in addition to the conceptual approval
14 that Juan mentioned for West Contra Costa County -- we have
15 one of those also -- allowing for all of those projects to
16 come forward under the old program, the old criteria, we have
17 104 million estimated left. So one of the questions would be
18 whether or not we provide for a carve-out, create a new
19 Seismic Mitigation Program, and actually separately account
20 for that 104 million that we in essence open up a new, more
21 flexible program with.

22 So that would be one decision point that I would
23 seek direction from you folks on.

24 The next one would be that I would strongly
25 recommend and also seek direction from you folks relative to

1 standards. What are the standards we would employ if we do
2 move this 104 million over into a facility hardship. In
3 essence, it's a newer, less restrictive Seismic Mitigation
4 Program but looks at other things.

5 You know, it would appear to me that you would need
6 to have some kind of a spectral acceleration threshold set,
7 maybe a variation on Option 1, maybe some kind of variable
8 rate that we look at periodically, but I believe that's
9 something that should be looked at and I will seek direction
10 on.

11 And also Category 2 buildings, there needs to be
12 some specificity in the regulations so districts know what
13 the heck the rules are if we are to change this, if we go
14 down this road. There should be some regulatory changes that
15 would specify, you know, what the processes are associated
16 with identifying these Category 2 buildings.

17 This would allow school districts to essentially --
18 this option -- to basically raise their hand and say, yeah, I
19 think I've got a Category 2 building and whether or not we
20 set a spectral acceleration zone or not, there needs to be
21 some clarity in direction standards associated with this in
22 order to make this thing continue to move forward as we are
23 now.

24 Perhaps if I can throw a suggestion out. One thing
25 we could look at to add clarity to this is maybe we have an

1 optional seismic template right now in use. It's not
2 required. It's not mandated, but, you know, if that's
3 something you wanted to maybe have as a standard template
4 that you have to go through this template process and use
5 that, that helps to identify rapidly whether you meet certain
6 criteria. We would amend it and, you know, require that as
7 maybe a standard way of assessing the building and whether
8 it's Category 2, that kind of thing.

9 And then lastly I touched on the regulations. I
10 believe that -- and I will seek direction whether or not you
11 folks agree that due to the urgency of trying to get the
12 money out, trying to aggressively move forward on this
13 program, I heard the Board loud and clear last time
14 especially with the establishment of this Subcommittee to
15 ferret out these issues and come back with proposals.

16 I would also think that emergency regulations to
17 come back to the Board at the appropriate time once we have
18 clear direction would be the next order also with your
19 approval on that and direction.

20 MS. MOORE: I have a couple questions on this.

21 MR. HARVEY: Absolutely. Any questions of course.

22 MS. MOORE: So first I just want to understand
23 the -- where we've arrived at residual funds and where we are
24 with the existing funds. Currently as I understand there
25 were four buildings -- four projects that qualified.

1 MR. ZIAN: Um-hmm.

2 MS. MOORE: Do we in this program do conceptual
3 approval?

4 MR. ZIAN: In the current program, we do conceptual
5 approvals, yes.

6 MS. MOORE: So the reservation of funds is at the
7 conceptual approval; is that correct or not?

8 MR. ZIAN: No. No. The conceptual approval like,
9 for instance, West Contra Costa County, we just have an
10 estimated number there that could up or down when -- and then
11 they have 18 months to come in with an actual funding
12 request --

13 MS. MOORE: So this --

14 MR. ZIAN: -- where the money would be reserved.

15 MS. MOORE: So our estimated amount here is simply
16 based on conceptual that we know at the time, but we are not
17 reserving these funds for these folks at this moment.

18 MR. ZIAN: Well, okay. Let's back up here for a
19 second. Three projects have been funded in the Seismic
20 Mitigation Program.

21 MS. MOORE: That went through DSA; right?

22 MR. ZIAN: They have been funded. The fourth
23 project in the Seismic Mitigation, the West Contra Costa
24 County, is a conceptual and no dollars are reserved. There's
25 nothing reserved.

1 Then these 21 projects which we carved out money
2 for estimated costs, there's no money reserved there. It's
3 just an estimated number we came up with as a carve-out if we
4 want to go down this road here to when these projects come to
5 fruition.

6 We've allowed enough money on the table there when
7 there's cash and so on.

8 MS. MOORE: Are we just -- are we carving out for
9 the --

10 MR. ZIAN: Authority.

11 MS. MOORE: -- purpose of discussion here today or
12 are we actually reserving funds for these projects?

13 MR. ZIAN: Well --

14 MS. MOORE: So, for instance, if I'm a project and
15 I think I have funding and lo' and behold everybody comes in
16 before me with a DSA approval and I was one of the 21, who
17 gets the money?

18 MR. HARVEY: I think that's what we're going to
19 recommend. I think that's our call.

20 MS. MOORE: Okay. So -- but currently we do not
21 have conceptual approval and we do not have reservation
22 funds. So --

23 MR. ZIAN: That's essentially correct.

24 MS. MOORE: -- the estimates here are simply
25 estimates of if someone wanted to perhaps come forward 18

1 months from now with a DSA-approved project.

2 MR. ZIAN: Or sometime sooner, yes.

3 MS. MOORE: Okay. That --

4 ASSEMBLY MEMBER BUCHANAN: Can I ask a clarifying
5 question before you ask your next question.

6 MS. MOORE: Sure.

7 ASSEMBLY MEMBER BUCHANAN: So is a conceptual
8 approval, is that basically a notice to the district that
9 their project qualifies or is that any kind of commitment of
10 funds?

11 MR. ZIAN: It isn't technically a commitment of
12 funds, but it is an approval of the project, that they meet
13 all program criteria, but they still have with -- 18 months
14 to meet all the criteria to come in.

15 Do you want to add anything, Juan, to that? I mean
16 it's -- that's the requirement.

17 MR. MIRELES: Just to answer that. To date, the
18 way the program works is that there has not been a
19 reservation of bond authority at the conceptual stage. It's
20 basically the project meets the criteria, but then when they
21 come in with the funding application, it's at that point that
22 the bond authority is reserved. That's the way the program's
23 been managed to date.

24 ASSEMBLY MEMBER BUCHANAN: So the conceptual
25 approval is notice to the district that their project is

1 eligible.

2 MR. MIRELES: Correct.

3 ASSEMBLY MEMBER BUCHANAN: And that they -- then
4 they have to go through the other additional steps before
5 they're actually funded. So it's not a guarantee of funding.
6 It's a notice that they -- the project is eligible and does
7 qualify.

8 MR. MIRELES: That's how it's worked so far.

9 MR. ZIAN: To go further into that, Assembly Member
10 Buchanan, without plans, without CDE approval of those plans,
11 DSA approval of the plans, the project's dead of arrival. So
12 obviously there are a lot of other steps beyond -- the
13 conceptual approval gives the district the assurances that
14 the project's eligible, but they still have to get the plans,
15 you know, meet all the requirements to go forward.

16 ASSEMBLY MEMBER BUCHANAN: Right. That's my point.

17

18 MR. ZIAN: And there are a whole series of
19 requirements for facility hardship that they have to meet --

20 ASSEMBLY MEMBER BUCHANAN: Right.

21 MR. ZIAN: -- for the project to be funded and
22 viable.

23 ASSEMBLY MEMBER BUCHANAN: That's exactly what I
24 wanted to clarify. Thank you.

25 MS. MOORE: Okay. Good. That was part for me too.

1 I think it actually is perhaps part of the puzzle here. I
2 mean it may be one that we have -- you know, that we can
3 discuss as a Subcommittee. I certainly have an opinion on it
4 as one Subcommittee member.

5 I'm aware -- am I correct that we have other
6 programs in our -- in the whole -- under the whole statute
7 that do receive conceptual approval and reservation of funds
8 at the time they come in? Is that correct? Like Critically
9 Overcrowded Schools or --

10 MR. ZIAN: COS, Charter.

11 MS. MOORE: -- Charter and Overcrowded Relief
12 Grant. So the idea of a conceptual approval and reservation
13 of funds has been one that we have utilized in other
14 programs.

15 MR. ZIAN: Yes.

16 MS. MOORE: Okay. And the reason I pursue this
17 line of questioning is because one of the issues that I hear
18 concern about is will there be funding there after I go
19 through all this due diligence and after I come and arrive at
20 my project and I actually do have to do it regardless if the
21 State is there at that point and that's a risk factor for the
22 district and a trust factor of the program. So it may be one
23 that we need to look at.

24 In essence today as you're giving us information,
25 you're actually thinking in that manner that there's only

1 104 million left. Well, that's really not true.

2 What's true is there's been 20 million accessed in
3 this program period and the fact that there's potential for
4 up to 104 that -- or potential for 114 or 104 more is a whole
5 different story I think because there's a long time between
6 that and actual access.

7 So perhaps one of the issues that we should be
8 discussing is a conceptual approval and reservation of fund
9 at the time we know that the project qualifies.

10 MR. MIRELES: If I could just -- through the Chair.
11 That's exactly correct, Ms. Moore. I think that the way
12 that Option 3 is currently structured it does take into
13 account the sort of reservation of bond authority for the
14 projects that have received an evaluation but don't
15 necessarily have plan approvals yet. So --

16 MS. MOORE: But it's not real.

17 MR. MIRELES: Correct.

18 MS. MOORE: It's just --

19 MR. MIRELES: Correct.

20 MS. MOORE: -- for purposes of discussion today.

21 MR. MIRELES: For purposes of discussion, yes.

22 ASSEMBLY MEMBER BUCHANAN: I sort of -- I keep
23 coming back to, you know, my thoughts originally and so I
24 just want to kind of walk you through my logic here; okay?

25 Prop. D funding was approved in 2006; right? So

1 we're five years into this and we've spent basically
2 \$20 million out of \$200 million and we've had legislation
3 passed asking to, you know, determine which schools are
4 eligible. We've had, you know, work that you've done which
5 even the most recent work only covered a fraction of the
6 school districts in California. And the only reason we spent
7 any money is because we lowered the SA factor by a couple of
8 points for them to qualify.

9 So that's sort of where we've been in the last five
10 years. In our previous SAB meeting, we had a school,
11 Morongo, that they had to evacuate; right? They showed us
12 the lines with all the faults. Their engineer said it's not
13 safe to have children in this school. The DSA agreed that it
14 wasn't safe to have children in that school, except they
15 didn't technically meet the seismic qualifications, so they
16 were caught between a rock and a hard spot and what we
17 ultimately did for that school is we approved a facilities
18 hardship grant where they got the same 50 percent they would
19 have gotten, allowing them to move forward.

20 We heard significant testimony at our last meeting,
21 but we heard about Piedmont where they talked about -- Mr.
22 Hancock talked about three schools and the two that qualified
23 they didn't feel were in as critical condition as the one
24 that didn't, but because of the criteria, they were unable to
25 get any funds for them.

1 So, you know, the way I'm looking at it is the
2 program guidelines right now, how don't care how we talk
3 about the numbers or whatever, but they're clearly not
4 working.

5 So I really think there are two questions we have
6 to answer. One question is what should the guidelines be for
7 qualifying schools for seismic funds. The other question has
8 to be in terms of how are we going to award the grant money.

9 And I'd like to see us tackle those two questions
10 separately because, you know, you could leave the seismic
11 program the way it is and have criteria that may be in my
12 mind make more sense. You could pull the seismic funds into
13 the facilities hardship which is where we funded the Morongo
14 which I think from my point of view ultimately makes sense,
15 even if you want to keep those funds segregated because
16 that's what happens or, you know, you could leave it the way
17 it is and when we go with the hopefully 2012 bond, come up
18 with a new program. But I think to the extent we simplify it,
19 the better.

20 Now from my perspective, I just want to talk about
21 what -- how do schools meet the criteria. Continually
22 lowering this -- the SA factor to me is not necessarily going
23 to get at the problem. Going -- I don't think we can afford
24 as a State to go out and inspect 10,000 schools to find out
25 which ones, you know, need work and which ones don't because

1 we have a State program that's really designed to complement
2 and support the building programs of school districts. And
3 school districts, their boards and the superintendent are
4 responsible for, you know, building and maintaining schools.

5 And so we need a program I think that works at that
6 and I'm going to go back to proposing that if you have
7 engineers at the local level who determine that a school is
8 not safe for children or staff to be in, to be housed, and
9 you have DSA that concurs with that and the reason is because
10 of potential seismic activity, I think that should be enough
11 to qualify them for seismic funds. I don't think this SA
12 factor with building type and how do you get into mixed and
13 whether you technically or not -- I'm not sure -- and I --
14 you know, or going out and trying to survey more schools, I'm
15 not sure that solves the problem.

16 I think the real question has to be, you know, is
17 it safe for children to be in the school.

18 Now, that's not to say that DSA shouldn't have some
19 kind of set of criteria which it uses, but clearly it used
20 some criteria when it agreed with the engineers on the
21 Morongo situation.

22 So I'd like to maybe see if it makes sense to
23 talk -- to separate this into two different issues there.

24 MS. MOORE: I just -- do you want to respond?

25 MR. HARVEY: Yes.

1 MS. MOORE: You can go first because we've both
2 talked.

3 MR. HARVEY: I think that is a nice way of
4 bifurcating our discussion and I think you've laid out a
5 coherent policy option for us to consider. I mean very
6 clearly we stick with what we have and lower the factors
7 therein incrementally or we do something that is a little far
8 reaching and a little more liberal ensuring that the finding
9 is safety and concurrence by DSA.

10 The bottom line is you move the money and I finally
11 agree that you don't necessarily have to make it a subset.
12 You can keep it the way it is and just redefine the standards
13 or you can move it over as a subset. But I for one believe
14 with the voters giving us the authority to set up to for
15 seismic, we owe it to them, we owe it to those that have
16 asked us to look at this issue to make sure we have integrity
17 for seismic mitigation.

18 ASSEMBLY MEMBER BUCHANAN: Right. Well, and even
19 if you moved it over to facilities hardship, you could still
20 have a seismic program as a subprogram within that because
21 one of the issues I believe is that what happens if all your
22 200 million gets used up because you're now going to replace
23 schools that are unsafe.

24 If someone comes -- if a school comes in after that
25 and they determine it's unsafe, are they not going to

1 qualify? I mean it's

2 SENATOR HANCOCK:

3 MS. MOORE: Isn't the seismic program already a
4 subset of the hardship program. So it already is a subset.

5 MR. MIRELES: The funding is separate.

6 MS. MOORE: Separate, but it's a subset of that
7 program.

8 MR. MIRELES: Yes. Yes.

9 MS. MOORE: Correct? I --

10 MR. ZIAN: And it's a subset because of Facility
11 Hardship Program stepping away from the Seismic Mitigation
12 Program deals with the potential for collapse versus an
13 actual health and safety issue right now in the present.
14 There's a little bit of a different way of looking at it.

15 MS. MOORE: I would just offer our thinking on
16 this. It's a little bit different, completely open to your
17 thought process on how we might approach it best, but here's
18 our thinking on it as well.

19 And the voters asked us to look at the most
20 vulnerable California school facilities and we've had
21 responses from our stakeholders as to why they have not
22 accessed those funds. And the responses that they indicated
23 that I think are quantified here for the May 6th, 2010,
24 Implementation Committee meeting were the lack of funding for
25 up-front costs for the structural evaluation. We've tackled

1 that a bit. We have not tackled that for the entire AB300
2 list and I'm interested in your further comments. I think
3 later, Dave, you said you would talk a little bit more about
4 what we might have in store from the Seismic Safety
5 Commission on those surveys.

6 But we've looked at that a little bit, but we have
7 not actually addressed that concern to its completeness from
8 school districts.

9 The second highest issue that districts indicated
10 to us was a lack of local match for school districts. I
11 think that actually is one of the larger issues that we're
12 dealing with here specifically in this era of where school
13 districts are grappling with their budgets regardless of
14 their capital budgets which we know are different than the
15 operational.

16 But the lack of local match for school districts,
17 we have not ever addressed that as a recommendation here to
18 the Committee and I'm wondering if there is something there
19 that we actually -- if we're -- if the voters have asked us
20 to look at the most vulnerable buildings and to take care of
21 them, if this is sitting in the way of that, then perhaps we
22 need to look at it and I don't know if we can legally. Maybe
23 if it's -- if it has to happen legislatively, tell me, but is
24 there a better scale. Is it 75 percent State/25 percent
25 district. Is it a hundred percent State, if we actually are

1 going to take care of the most vulnerable school buildings.

2 MR. ZIAN: At this point, all the legal analysis
3 says we need to change the law if we're going to move in that
4 direction towards --

5 MS. MOORE: What direction?

6 MR. ZIAN: Move in the direction of paying the
7 district's share if they're not financial hardship.

8 MS. MOORE: What about less than -- more than
9 50 percent?

10 MR. ZIAN: I still -- I'm of the opinion we'd have
11 to check with our legal counsel to verify it, but we need --
12 I think we need legislation to address --

13 MS. MOORE: I would like to know the definitive
14 answer to that, so as we need deliberate --

15 MR. ZIAN: The law talks about a 50-50 program.

16 MS. MOORE: -- this, I think that's an important
17 factor. It's the second highest issues that districts said
18 why they are not accessing the funding. Then the third issue
19 is lack of interim housing and I'm -- we're supportive of
20 interim housing and we're supportive of interim housing not
21 restricted. We're supportive of interim housing for the
22 seismic program.

23 Now, I do believe there's a reasonable factor in
24 that school districts should be required to look at the site
25 and if there's any existing space on that site, that is

1 utilized first, and in fact if they are the leaving the site
2 because of it's completely demolishing, if there's an empty
3 school nearby that that is interim housing and that we look
4 at those kinds of issues and then we provide an augmentation
5 for interim housing.

6 Again districts, since this program began, have
7 indicated to us that is the one of the impediments. So I'd
8 say we address it.

9 And then if we, you know, look at the building
10 types, I don't know. I think that if you address those three
11 issues, I don't know that you need to reduce criteria and
12 we're dealing with the -- you know, the vulnerable -- the
13 highest vulnerable school projects and we are taking care of
14 them. Another approach, so I don't know.

15 ASSEMBLY MEMBER BUCHANAN: So these criteria we
16 come up with at the Implementation Committee. So do we
17 actually survey school districts or are these -- I mean
18 how -- exactly how do we come up with these?

19 MS. MOORE: The -- it was the feedback that school
20 districts gave as to why they were not accessing the program.
21 I can't say. I don't know if it was through survey, through
22 testimony. It also has been indicated in each of our -- at
23 times so that we have looked at this issue as a school -- as
24 a Board, each of the agenda items, these are the issues that
25 have been raised and we never -- we have not taken any

1 further action on these items. They've always been raised to
2 the State Allocation Board, but they have not been acted upon
3 and I'm -- you know, perhaps it is time to act on those
4 items.

5 MR. HARVEY: A point of clarification. Actually we
6 have, you're right, heard the request and up to this point,
7 the Board has not agreed that those are eligible activities.

8

9 MS. MOORE: The Board has not added those in, I
10 would say.

11 MR. HARVEY: Correct.

12 MS. MOORE: And --

13 MR. HARVEY: They were recommendations and the
14 Board did not --

15 MS. MOORE: Well, one, I think it's slightly -- you
16 know, in March of 2009, it says no options were approved by
17 the Board and it had interim housing, it had the structural,
18 it an unfunded list, but as I went back and researched, it
19 was a report. So the Board can't take action on a report.

20 So it was a -- it was in a report mode that it came
21 to the Board. Now, whether in August it was -- it must have
22 been in an action mode because we did take action on a couple
23 of things.

24 But that's what I'm saying. It's been in the
25 reports and I'm -- I believe that if the stakeholders

1 continue to tell us this is why we're not accessing the
2 funds, if we are to try and make this program viable and
3 actually do what the voters have asked us to do, then we
4 should consider the stakeholders' input.

5 MR. ZIAN: Yeah. If I could -- just a point of
6 clarification. There's been a series of discussions. There
7 was a March 2009 discussion. It was a report. No action
8 item. There was an action item in August of 2009 when the
9 Board did make decisions, so a point of clarification.

10 A couple other things real quick, the -- as far as
11 the local match, again if I can hit on the incremental we
12 believe doesn't fully access that or deal with that, but it
13 does allow for the local matching share to shrink
14 dramatically to the point where maybe a district can
15 financially afford a much smaller -- you go from a 30 million
16 project down to a million, if I can use that example.

17 You know, sharing 15 million and costs in a
18 30 million project versus -- which is daunting, versus
19 sharing 500,000 of a million dollar, much smaller incremental
20 approach is much less daunting from a financial perspective.

21 And as far as the most vulnerable Category 2
22 buildings, the proposal in Option 3, just so we don't lose
23 sight of that, that's what was in the original approval by
24 the voters was that Category 2 buildings are the most
25 vulnerable buildings. That was kind of enumerated in the law

1 so we don't get too far away from that.

2 MS. MOORE: And I wasn't saying getting far away
3 from that.

4 MR. ZIAN: Okay.

5 MS. MOORE: I was saying the impediments that have
6 been advised to the Board are costs sharing, are interim
7 housing, and are -- what's the third one -- the structural
8 evaluation and I am interested in hearing more about what the
9 expansion of the structural evaluation particularly to as
10 many AB300 identified buildings as possible.

11 MR. HARVEY: Tom, if you would, you may be able to
12 stay right there, but I did indicate -- I'd like to have an
13 opportunity for either the Seismic Safety Commission
14 representative and/or DSA to say something they wish to
15 before we hear from the stakeholder community.

16 MR. DUFFY: And I'll sit down, but I only wanted to
17 give you some data that we recently acquired that is in
18 direct support of what Ms. Moore just identified. It was
19 from a --

20 MR. HARVEY: And we'll hear that during your
21 testimony.

22 MR. DUFFY: Okay.

23 MR. HARVEY: Thank you.

24 MR. DUFFY: Thank you. Just want to have a
25 placeholder for that.

1 MR. HARVEY: You -- absolutely. We always enjoy
2 hearing from you.

3 MR. DUFFY: Okay. Thank you. Thank you.

4 MR. HARVEY: And you don't have to move too far
5 perhaps because --

6 MR. DUFFY: All right.

7 MR. HARVEY: -- DSA and/or Seismic Safety do not
8 wish to say anything but only remain for our questions and
9 that's fine too. Do either one of these agencies wish to
10 state anything for the record at this point? I see heads
11 going negative, so we appreciate you're here. Excuse me.

12 MR. TURNER: There is one clarification that --

13 MR. HARVEY: For the record, if you'd identify
14 yourself and give the clarification.

15 MR. TURNER: Sure. Thank you. I'm Fred Turner
16 with the staff of the Seismic Safety Commission. We don't
17 have any prepared statement, but maybe just to correct, for
18 the record, Dave Zian's statement about Option 1. I think
19 you said .3G as a next step increment. I believe the term is
20 .03G --

21 MR. ZIAN: 3 -- yes.

22 MR. TURNER: -- just so the record can be
23 corrected. Thank you.

24 MR. HARVEY: Appreciate that. It is correctly
25 written in the agenda item as .03, but it's nice to have it

1 on the record. Thank you for that clarification.

2 Any other Committee questions or statements before
3 we hear from the stakeholder? Trying to respect the fact that
4 we only do have a half hour left unless we wish to go longer,
5 but I'm respectful of people's person time. We will give an
6 update of where we are at the Board meeting next week. We
7 have a --

8 MS. MOORE: Tomorrow.

9 MR. HARVEY: Tomorrow. My how time flies. It's
10 tomorrow. We have a goal of giving a Committee
11 recommendation to the May Board meeting that may necessitate
12 another committee meeting, but we'll take it as it comes.
13 But that was our direction: try to do something by May with
14 an update at the Board meeting.

15 Okay. Now we are open for statements from those of
16 you in the audience who have been so very patient.
17 Mr. Duffy, I knew you would be back.

18 MR. DUFFY: Thank you, Mr. Chairman and members,
19 Tom Duffy for the Coalition for Adequate School Housing. We
20 had a seminar on -- or a webinar on AB300 just recently and
21 this went for about an hour and 15 minutes. It was attended
22 online and by phone by a hundred people and the -- at the
23 conclusion, we had some survey questions for them that I
24 think may inform your discussion and, Ms. Moore, directly in
25 line with some of your comments about discussion at the

1 Implementation Committee that you mentioned from 2010.

2 Now, it's important to recognize that in the field
3 AB300 and the seismic program are linked in the minds of
4 school districts because of the Category 2 projects and what
5 has been identified especially recently in the press about
6 AB300, the seismic program, and other issues. In the minds
7 of school districts, if you're on the AB300 list, you have a
8 building that has been identified as being at risk in some
9 form. Not sure what level, but that there is a
10 recommendation from DSA that you should look at that building
11 in depth with an engineer.

12 So that's in the minds of districts. So during
13 this -- and I don't have the document with me, but I do have
14 it on my handheld. And this was the question. If you have
15 not attempted to remove buildings from the AB300 list, is the
16 cost of the engineering review an impediment?

17 Okay. There were a hundred and one people on this.
18 61 percent said yes. So in direct support of that cost of
19 the engineering review.

20 Another question: If you have not attempted to
21 remove buildings from the AB300 list, is temporary housing an
22 impediment? 83 percent said yes.

23 So those two issues that we have long discussed as
24 being impediments were identified and we didn't manipulate
25 this. It was simply the questions and probably if we'd

1 worked longer on the questions, we may have shortened them up
2 and maybe asked some more, but we were trying to gather
3 information not so much for this hearing, but in order to
4 basically understand and to be able to inform policymakers.

5 ASSEMBLY MEMBER BUCHANAN: So did those districts
6 have money for their 50 percent match just not for interim
7 housing?

8 MR. DUFFY: We don't know. That could be a further
9 question, but I think to the three items that were brought up
10 by Ms. Moore as being issues, I think, Ms. Moore, if I
11 understood you that you believe that if the structural
12 engineering report -- some question about dealing with local
13 match and then the interim housing issue, if those three
14 things were dealt, it'd seemed that you were saying that the
15 issues of being able to qualify based upon the current
16 eligibility -- and that 1.68 and those kinds of buildings
17 that are identified -- that that may resolve itself.

18 I think that this information informs that. We
19 don't know precisely the answer, but I would say that both
20 interim housing and -- which is a cost. You know, Mr. Zian
21 was saying earlier that you can certainly use your funds for
22 interim housing if you have enough of those. If districts
23 don't have enough for their match, they're not going to have
24 enough for interim housing and interim housing is clearly an
25 issue as I think we testified two weeks ago at the other

1 hearing of this Subcommittee.

2 ASSEMBLY MEMBER BUCHANAN: And so how would you
3 deal with the Piedmont situation where the shake factor was
4 what, 1.8 something?

5 MR. DUFFY: For the third building?

6 ASSEMBLY MEMBER BUCHANAN: Right. Yeah. I mean if
7 the program's adequate and there were a school which exceeds
8 the shake factor, doesn't qualify, how would you deal with
9 fixing that school?

10 MR. DUFFY: I wouldn't argue that what exists today
11 is the best. We know that it began at 1.7 and that it's been
12 reduced to 1.68. Two years ago -- I have a document in my
13 stack of documents here. Two years ago, we made a
14 recommendation to the Allocation Board to reduce it to 1.5
15 thinking that's a significant drop.

16 We have seen documents since that time within about
17 the last month that a recommendation from DSA sometime ago
18 was to begin at 1.25. So those are maybe academic exercises.

19 At the real level as you know in Piedmont, the question was
20 really what do we do with these children because we believe
21 we have a problem. Whether or not we can get funding or not,
22 we've got to do something with this building.

23 ASSEMBLY MEMBER BUCHANAN: I think there's another
24 real question and another real question is is our goal to
25 just keep lowering the number or is our goal to replace

1 schools that are unsafe. And if a school's unsafe for a
2 child or staff to be in due to seismic conditions, it needs
3 to be replaced.

4 And so the question is, is -- does the SA number
5 adequately reflect that or is there a better way of
6 determining whether or not the school is safe because these
7 factors I think apply whether -- regardless of which method
8 you have, but I point to the Morongo and I point to the
9 Piedmont situation and say if you lower the numbers to 1.5,
10 it still wouldn't have funded schools when their engineers,
11 DSA -- Piedmont it wasn't -- but agree that the schools
12 weren't safe and there -- so in my mind, you've got how do we
13 determine what schools are safe and we've been told that the
14 engineers haven't come up with better numbers. I mean --
15 because it's something you can't quantify.

16 I mean we've been told that. That's come up at
17 several meetings now. So if you can't quantify that,
18 lowering numbers doesn't necessarily mean that you're
19 replacing schools that are -- you know, that are more safe --
20 or less safe particularly we're trying to get the most
21 vulnerable schools.

22 MR. DUFFY: I agree with you.

23 ASSEMBLY MEMBER BUCHANAN: So I think it's -- what
24 is the best way for determining whether or not a school is
25 safe.

1 The next is certainly is terms of how you fund in
2 the impediments and I guarantee you if we provided full
3 funding for engineering, full funding for the replacement,
4 full funding for interim housing, we would probably have
5 demand for over a billion dollars.

6 So, you know, the program requires a 50 percent
7 match, but again second criteria was, you know, what is
8 that -- you know, how do we make the funding -- to make --
9 provide that and then the last one is where do we house the
10 money [sic] and the last one's probably the easiest to deal
11 with.

12 MR. DUFFY: Well, if I may just take a couple of
13 more minutes. We recommended to the Board a couple of years
14 ago what has been discussed here today and that is if a
15 district has a report from an engineer that says this
16 building is a problem building, that it may collapse because
17 of ground shaking, that that's significant.

18 If anybody in this room has worked with a
19 structural engineer to sign off on the structural integrity
20 or lack thereof of a building, you know it's a difficult
21 thing to get.

22 What I testified to at your last hearing was that
23 it appears to be easier -- and certainly I've done this. It
24 appears to be easier to get to a facility hardship than it is
25 to a seismic project.

1 And what is it in the facility hardship arena that
2 gets you there? It's that structural engineer's report that
3 says the building does not meet the code for the time that it
4 was approved. It has a structural deficiency or, as Mr. Zian
5 was saying, a health and safety risk in issue, confirmed by
6 and agreed to -- supported by DSA.

7 Why can we not do this with this program? If a
8 district is willing to take the risk of going to an engineer
9 and the engineer says yes, you've got a building that may
10 collapse, it may be damaged, people may be hurt if it happens
11 during the school day and they come to DSA and DSA agrees
12 with them, why would we not -- especially if that building is
13 on the AB300 list but maybe it's not there -- why would we
14 not seek to support the district's endeavors.

15 It -- we have -- you identified, Ms. Buchanan, just
16 a few minutes ago that we've been dealing with this for
17 almost five years and we don't have a solution. What we keep
18 talking about is reducing now over time this 1.7 factor when
19 in reality, we have -- I think we're down to about 4,500
20 buildings on the revised AB300 list and if a district is --
21 one more time to repeat myself -- is willing to take that
22 risk, for a superintendent to say to the Board we got to get
23 kids out of that building and apply to DSA for their review
24 and potential concurrence, why would we not support them in
25 the structural engineer's report, at least allowing that to

1 be part of their match or giving it to them if they're
2 hardship and then -- and I agree with your comments and
3 Ms. Moore's comments, I think at the last meeting, that if
4 the district's making some special endeavor to house children
5 and they say we need more, give them some criteria for coming
6 up with interim housing.

7 This is not an easy --

8 ASSEMBLY MEMBER BUCHANAN: And how does that --
9 AB300 list first of all I'm not sure how accurate that whole
10 list is because I know you went to San Ramon and they didn't
11 participate, but they didn't because there were still schools
12 on that list that had been replaced five years ago. So I --
13 so that may or may not be the whole list.

14 But -- so that shouldn't be in conflict with if you
15 went to approach like that with the AB300 list, is it?

16 MR. DUFFY: I don't think in conflict at all. I
17 keep mentioning AB300 because there is now this common belief
18 that if you've got a building on the list, that building is a
19 danger to children. So we've got to face that.

20 And I think this program needs to begin to help to
21 face that.

22 ASSEMBLY MEMBER BUCHANAN: Well, the AB300 list is
23 a potential; right? I mean like I said --

24 MR. ZIAN: Can I just --

25 ASSEMBLY MEMBER BUCHANAN: -- I know that there was

1 an article in our local papers and there, like I said,
2 schools that have been torn down and replaced within the last
3 five years that have been -- that were on that list.

4 MR. ZIAN: Maybe the State Architect can speak to
5 it better, but just as a general rule of thumb, the AB300
6 list was established in 1999. Okay. There was no Seismic
7 Mitigation Program.

8 ASSEMBLY MEMBER BUCHANAN: Right.

9 MR. ZIAN: So being on an AB300 list which was the
10 paper survey --

11 ASSEMBLY MEMBER BUCHANAN: Right.

12 MR. ZIAN: -- Chip can speak to this much more
13 eloquently than I can, but there was -- you know, these
14 buildings may have been demolished, sold --

15 ASSEMBLY MEMBER BUCHANAN: Right.

16 MR. ZIAN: -- retrofitted. A lot of things could
17 have happened. There -- you know, that list may not be
18 accurate first of all, but just being on that AB300 list does
19 not constitute eligibility.

20 ASSEMBLY MEMBER BUCHANAN: Right.

21 MR. ZIAN: I want to just be real clear and I don't
22 think Tom was saying this either.

23 ASSEMBLY MEMBER BUCHANAN: Right.

24 MR. ZIAN: But just being on that list doesn't mean
25 you immediately come in the door and you're eligible for

1 Seismic Mitigation Program.

2 ASSEMBLY MEMBER BUCHANAN: I fully understand that,
3 but I want --

4 MR. ZIAN: Okay.

5 ASSEMBLY MEMBER BUCHANAN: -- to be sure the public
6 understands that because a whole lot of buildings have been
7 modernized or replaced since 1999 and so, you know, the
8 public needs to understand that every building on that list,
9 many of them the work has been done and others may or may not
10 qualify depending on the engineering of course.

11 MR. DUFFY: Absolutely correct. Just to make sure
12 that I responded to a comment Mr. Zian made. Dave, the
13 reason for the seismic program in AB -- in 127 --
14 Proposition 1D is because of the AB300 list.

15 We went to Ellen Corbett. In 2003, she authored a
16 bill for us. She was the author of AB300.

17 ASSEMBLY MEMBER BUCHANAN: Right.

18 MR. DUFFY: She authored a bill for us. I have a
19 copy of it right here. It was AB1790. It identifies the
20 things that we're talking about here --

21 ASSEMBLY MEMBER BUCHANAN: Right.

22 MR. DUFFY: -- to create a program to resolve the
23 issues of the AB300 list. That bill never made it out of
24 Senate Education because of what? It was we don't have bond
25 funds for that. So it ended up in 1D and in 1D, we couldn't

1 get that project or that program going well.

2 We went to Loni Hancock. She authored Senate
3 Bill 375. 375 identifies the things that we're talking about
4 here, if you look at 375 from 2009.

5 So we've been discussing this without resolution
6 for some time. It's -- the AB300 list is totally imperfect
7 and I agree with you, but the public and now some school
8 districts believe that in fact if you're on that list, you --
9 and the building still exists, then you've got a problem
10 building.

11 That may be a place to begin, but I think making
12 sure that the structural engineer's report is a cost that is
13 included in your project cost if you're a 50-50 project and
14 that you have interim housing costs and that if you're a
15 hardship district that both those costs could be dealt with
16 and then if you open the door to allowing a structural
17 engineer to identify in a report that they sign their name
18 and they've got their license on and they take that to DSA
19 and DSA says we agree with you, why is that not enough
20 because it's enough under the Facility Hardship Program.

21 So thank you very much. I appreciate your --

22 MS. MOORE: If we may on that issue?

23 MR. HARVEY: Yeah. And I have a follow-up. Please
24 go ahead.

25 MS. MOORE: I'm wondering, we heard from our State

1 Architect at the last meeting concerning, you know, the
2 criteria and that issue. I would be interested to hear from
3 our representative from the Seismic Safety Commission about
4 their thoughts on criteria and/or structural engineer reports
5 if they could address us.

6 MR. HARVEY: That'll be up to them, but let me make
7 a comment. Tom, I'm going to respectfully request that you
8 do all you can in your publications to delink AB300 from what
9 this discussion is all about because it is indeed an
10 imperfect document.

11 When we did our first update of it, a number of
12 schools came off. For the very reasons that Assembly Member
13 Buchanan alluded to, districts said why was this on here to
14 begin with. It no longer houses kids. We've demolished it.
15 We've already retrofitted it and the number began to drop
16 dramatically when we did our first iteration for funding at
17 1.7.

18 So I hope anybody who has the mighty pen continues
19 to make the case with us that this was an exercise that
20 helped frame the need -- potential gross need for a bond. It
21 did that, but it does not constitute a building at risk
22 necessarily nor does it constitute eligibility and we need to
23 continue to say those things. Please.

24 MR. TURNER: Sure. Just for the sake of history,
25 I'm Fred Turner with the staff of the Seismic Safety

1 Commission. I'm a structural engineer. We also have Henry
2 Reyes here from our staff as well.

3 The Commission sponsored AB300 and so we're well
4 aware of all the history behind that as well as we have been
5 advised and kept abreast of your efforts and also DSA's
6 efforts over the years and we were instrumental advising the
7 State Allocation Board on its recent changes -- most recent
8 changes to these regulations.

9 And so we have been monitoring and where
10 appropriate helping advise your office over the years and
11 we're basically supportive of the direction that you're going
12 and we are concerned about whether or not you might be not
13 able to meet the most vulnerable criteria if you were to go
14 with Option 3 unless you continued to somehow restrict
15 eligibility to some level that would provide some reasonable
16 level of ranking in most vulnerable buildings.

17 And I think -- perhaps another bit of history: the
18 Commission has been around for over 35 years. We've dealt
19 with this issue for State-owned buildings and if I could give
20 you a little vignette, we had similar problems with State-
21 owned buildings in the 1980s when the Department of Finance
22 and the Legislative Analyst refused to fund any State-owned
23 buildings until the first most vulnerable building was
24 retrofitted and that happened to be a bicycle shop at U.C.
25 Berkeley. And U.C. Berkeley didn't want to retrofit that

1 building and that was holding up hundreds of retrofit
2 projects because the most vulnerable building was not being
3 addressed.

4 MS. MOORE: How was the most vulnerable building
5 determined?

6 MR. TURNER: We had a ranking at that point that
7 was developed by a very low cost, a hundred dollars per
8 building evaluation, probably much less intensive than the
9 current AB300 inventory and it too was quite flawed in many
10 respects.

11 And we went back to the experts that developed that
12 inventory and they acknowledged that really you could lump
13 the buildings, given all the uncertainties, into categories
14 of three. The top third, clearly if you retrofitted any of
15 those, you would be pretty well advised that you're doing a
16 decent job, must like managing stocks in a mutual fund. A
17 stock manager cannot be a hundred percent accurate or batting
18 a thousand in all of the projects.

19 The same kinds of principles would apply when we're
20 dealing with a large building stock. So I think in essence
21 you're stuck here trying to split hairs when in fact the
22 problem is quite large and we know that it's quite large.

23 So I would suggest you do find ways. Option 1 is
24 clearly a reasonable approach from our standpoint. We
25 recommended that informally. I believe it was Option 2 about

1 two years, if I -- if my recommendations are correct. And
2 that recommendation was not pursued at the time.

3 But clearly Option 1 now is something that we've
4 identified in the past as a reasonable approach.

5 Option 3 unfortunately opens you up to all sorts of
6 variables and given the time constraints, I'm not sure you
7 have time to deal with Option 3 without a lot more
8 specificity and study. So that's essentially where we're at.

9 If you want a summary of how we arrived at the
10 category vulnerable building types, we did look at the
11 relative risks of Category 2 buildings and we parsed out the
12 ones that are substantially at greater risk and granted that
13 too is subject to all sorts of simplifications and quite
14 often many buildings don't fit some of these categories.

15 So it is unfortunately an imperfect approach as
16 well, but it's better than nothing. So some form of lowering
17 your seismic hazard threshold such as in Option 1 still to us
18 appears to be your best alternative.

19 MS. MOORE: What is your thought on the proposed
20 solution of if you don't meet those criteria and you have an
21 engineer's report that says it's an imminent -- that it is a
22 threat that it be considered?

23 MR. TURNER: Well, I suspect that if you open up
24 the floodgates, you will be opened up criticism as to whether
25 or not you're really addressing the most vulnerable building

1 types. That's the only risk that you face.

2 So you could actually have buildings that are in
3 low to moderate seismic zones where an engineer happens to
4 write a report and they happen to submit it, so without any
5 threshold, you may end up having to retrofit buildings that
6 in hindsight are going to be criticized as really not being
7 that risky.

8 They may very well be theoretically collapse risks
9 in their particular area, but relatively speaking there may
10 be far more buildings elsewhere that are at much greater
11 risk.

12 ASSEMBLY MEMBER BUCHANAN: But if an engineer tells
13 you that it's not safe right now for students to be in that
14 house -- housed in that building --

15 MR. TURNER: We have potentially thousands of
16 buildings --

17 ASSEMBLY MEMBER BUCHANAN: -- and you agree with
18 that --

19 MR. TURNER: -- in that area. Right.

20 ASSEMBLY MEMBER BUCHANAN: -- I mean you'd have to
21 agree with it --

22 MR. TURNER: I'd say in essence you do have to face
23 this anyways and I think this fear of having a waiting list
24 is something we don't quite understand. We do have a waiting
25 list, so why don't we just get on with it, set a high

1 threshold, and acknowledge that you will have a waiting list
2 and dole out the money on a first come, first served basis
3 given that lower threshold.

4 MS. MOORE: Can I just ask then, when you addressed
5 this in the '80s with the State buildings --

6 MR. TURNER: Um-hmm.

7 MS. MOORE: -- so you created the list --

8 MR. TURNER: Right.

9 MS. MOORE: -- in a sense and you --

10 MR. TURNER: And we could provide the list to your
11 staff --

12 MS. MOORE: -- and you funded down it. We don't
13 have a list. Really.

14 MR. TURNER: Right.

15 MS. MOORE: Correct, Dave? Do we -- we don't
16 really have a list. We have the AB300 projects, but we don't
17 have a list by risk.

18 ASSEMBLY MEMBER BUCHANAN: Right.

19 MR. ZIAN: We actually -- what we have that we've
20 been working on with the current program criteria, the 1.68
21 and the Category 2 buildings that have been identified, we
22 have a list that was eventually -- it was created from
23 looking at the AB300, templating on those criteria, the
24 spectral acceleration zone, and the building types, and
25 that's where that list of 48 came from. That was the genesis

1 of it.

2 MS. MOORE: So --

3 MR. ZIAN: Beyond that, there is no other list
4 beyond that.

5 MR. TURNER: Plus we're --

6 MS. MOORE: But in our own --

7 MR. TURNER: I mean we're dealing with a much
8 smaller building stock at the time of only 1,300 buildings,
9 whereas your building stock is much, much larger.

10 MS. MOORE: In our situation, our risk list is
11 voluntary because we had some districts that chose not to
12 participate in those structural evaluations.

13 MR. ZIAN: Yes.

14 MS. MOORE: So we could have a situation where
15 there may be one in a -- or a building in a school district
16 that didn't participate in the evaluation that would be of
17 higher risk category than another potentially because we
18 didn't -- we haven't created an all-encompassing list with
19 structural knowledge and funded down the risk factors.

20 MR. TURNER: Yeah. If I could put that into
21 perspective, Board Member Moore, I think actually what we
22 don't know about earthquakes, about half of our earthquakes
23 in California occur on previously unknown faults, so there's
24 a lot of uncertainty in the SA values anyways and it's quite
25 likely we'll have future earthquakes that also occur on

1 previously unknown faults in areas that have relatively low
2 SA values anyways.

3 So given that uncertainty, I think it's best that
4 you consider lowering the SA threshold and sticking with your
5 current list of eligible building types and developing
6 what -- you know, living with the risk of a waiting list and
7 in doling out the money as efficiently and quickly as you
8 can.

9 ASSEMBLY MEMBER BUCHANAN: I think it would be
10 wonderful if we had a waiting list. That's our problem. We
11 have \$108 million and we have no waiting list and we have a
12 criteria that set so that some of the schools that have the
13 greatest need don't get funded and the beauty of applying a
14 program to State buildings is that basically you're
15 overseeing all of them, so you can take -- you can inspect
16 those buildings, do the engineering, do whatever you need,
17 and come up with a list.

18 Now theoretically that should be happening within
19 school districts; right? You've got school boards. You have
20 superintendents.

21 MR. TURNER: Correct. That should be good
22 practice.

23 ASSEMBLY MEMBER BUCHANAN: You've got people in
24 charge of their facilities and they should be assessing the
25 safety of those because I don't -- you know, I don't see

1 where it's realistic for the State of California to go out
2 and inspect every single school in this State --

3 MR. TURNER: It's clearly not.

4 ASSEMBLY MEMBER BUCHANAN: -- and do the
5 engineering and figure out what needs to be done. So we rely
6 on school districts to do that.

7 And if -- you know, so the question becomes -- I
8 still get back -- I know I'm beating a dead horse here -- to
9 the criteria because clearly if the criteria worked, we
10 wouldn't be here talking. So the criteria is not working.

11 So the question in my mind is do we need an
12 alternative criteria and if I have -- if I'm on the school
13 board -- and I've had this happen to me on more than just the
14 San Ramon High gym -- and I have an engineer that says you've
15 got a problem and I ask that engineer is it safe to house
16 kids and that engineer tells me no or I wouldn't house my
17 kids there or whatever, you know, and I've got to close that
18 building, I've got a problem.

19 If you agree with me at the State that yes, the
20 engineer's report is correct and you shouldn't be housing
21 kids, I don't understand why that -- and you're going to use
22 maybe some of these criteria you have in terms of type of
23 construction or anything else, I -- it just -- I'm still
24 beyond words in terms of --

25 MR. TURNER: Right.

1 ASSEMBLY MEMBER BUCHANAN: -- why then --

2 MR. TURNER: I'd say the only impediment is the
3 most vulnerable criteria you have in statute right now --

4 ASSEMBLY MEMBER BUCHANAN: But I --

5 MR. TURNER: -- as to whether you'd actually be
6 able to meet that threshold.

7 ASSEMBLY MEMBER BUCHANAN: But the -- if we want to
8 wait till -- for the most vulnerable, when you take a look at
9 that whole AB300 list, we'll have your problem. Where you've
10 got a high-rise building that needs some retrofitting, but
11 until you can replace the bike whatever it is -- the bike
12 storage place at Berkeley, you can't do anything.

13 So I don't know if we could ever absolutely
14 guarantee that we're replacing or fixing the most vulnerable
15 school first because we might not know that and we might know
16 that for another decade, but in the meantime, we have schools
17 that have need, that aren't safe to house kids --

18 MR. TURNER: Yeah.

19 ASSEMBLY MEMBER BUCHANAN: -- that -- where we
20 should be contributing. Now, some of these problems, I mean
21 we can discuss more. You've got a situation where, you know,
22 if a district doesn't have 50 percent of the funding and
23 that's the program, we've got to make some decisions there,
24 but I -- if this program worked the way you're describing, we
25 wouldn't be here, you know, trying to figure out how to get

1 the money out to schools.

2 MR. TURNER: If I could offer a suggestion, if
3 that's all right with the Board. A happy medium might be to
4 direct the State -- the Division of the State Architect to
5 reconvene its expert committee. We had several commissioners
6 and other experts around the State to advise them -- and ask
7 them to come back to you with a lower threshold that would
8 still be considered highly seismically active regions and
9 collapse risk buildings in those regions and anything within
10 that category could be deemed as part of a large group of
11 buildings that would otherwise be considered most vulnerable.

12 And then you would have that discretion and then
13 dole out the money on a first come, first served basis for
14 all those buildings that might meet that lower threshold. It
15 could be 1.2G, 1G.

16 We would have to have that kind of debate I think
17 for you to allow to do that and that would eliminate this
18 fear of a school district in trying to do their best, coming
19 in with a school that really is in a moderate to low seismic
20 area.

21 They're concerned about it, but clearly their risk
22 is far lower than perhaps should be eligible.

23 ASSEMBLY MEMBER BUCHANAN: But unless I'm mistaken,
24 with the material we've been given for the last meeting and
25 this, the engineers can't come up with a rock solid criteria.

1 In other words, they can't tell us --

2 MR. TURNER: Of course not. Right.

3 ASSEMBLY MEMBER BUCHANAN: Right. They can't tell
4 us that if you have a lower number that that means the
5 district is in imminent threat --

6 MR. TURNER: Right.

7 ASSEMBLY MEMBER BUCHANAN: -- or more vulnerable.
8 So if we can't do that, it seems to me we're going to study
9 this thing to death and the money's going to be still sitting
10 in the bank and there are going to be school districts where
11 engineers agree that we have classrooms or buildings --

12 MR. TURNER: Yes.

13 ASSEMBLY MEMBER BUCHANAN: -- that need to be
14 replaced.

15 MR. TURNER: The analogy with State-owned
16 buildings, we basically advised the State that the top third
17 on the list is really the area where you should target
18 investments and --

19 ASSEMBLY MEMBER BUCHANAN: But then --

20 MR. TURNER: -- any of those buildings within the
21 top third is more than --

22 ASSEMBLY MEMBER BUCHANAN: But with the State-owned
23 buildings --

24 MR. TURNER: -- as a reasonable investment.

25 ASSEMBLY MEMBER BUCHANAN: -- you have a list. We

1 will never have a list because we're relying on a thousand
2 school districts to do the engineering.

3 MR. TURNER: Correct. But we do have a way of
4 segregating the buildings by geotagging and telling you which
5 buildings are in the top third area of seismicity in
6 California. We can do that within minutes.

7 MR. HARVEY: You know, one of the things that
8 crossed my mind and I'm going to go way out on this, we have
9 the freedom perhaps to maintain faith with what the voters
10 ask and the statute which says we must address the most
11 vulnerable by regulations stating that we define most
12 vulnerable to mean anytime an engineer makes a finding that a
13 building is unsafe for students or faculty so long as -- and
14 then maybe put some standards in.

15 MR. TURNER: Correct. Yeah. I think that's a good
16 way to go.

17 MR. HARVEY: And I get back to standards because I
18 was interested in tickling out of you if I could, you were
19 apparently -- not maybe personally, but the Seismic Safety
20 Commission apparently met with OPSC staff and talked about
21 this incremental improvement approach.

22 MR. TURNER: Yeah. We met last week.

23 MR. HARVEY: What were you thinking would be the
24 standards in the incremental approach? It appealed to be
25 because you were perhaps getting at more at-risk schools.

1 You were doing it a surgical strategic way. You were doing
2 it perhaps in the summer so you're not facing some of these
3 other interim housing and other issues.

4 What standards were you thinking in this concept?

5 MR. TURNER: Well, DSA could also speak to this
6 perhaps better than I, but I'll try to suggest that there is
7 some recently made amendments to State regulations that allow
8 for voluntary seismic retrofits that are incremental.

9 As long as you don't make the building any more
10 unsafe that it was before, that leaves much more discretion
11 and flexibility to the individual school districts and their
12 design professionals to design partial retrofits for
13 buildings that are only going to incrementally address
14 portions of the vulnerability.

15 The only downside of that is you may not
16 necessarily be reaching a defined performance objective for
17 that building. There may be other parts of the building that
18 could still pose risks nevertheless.

19 MR. HARVEY: And you could still do -- you could do
20 this incremental approach getting after what ideally is the
21 most salient thing, but in a horrible catastrophe, the
22 building could still collapse --

23 MR. TURNER: Right. And I think --

24 MR. HARVEY: -- because you haven't done everything
25 you need to do.

1 MR. TURNER: -- from OPSC staff's standpoint and
2 the SAB's standpoint, I believe there are ways of tailoring
3 your constraints such that you strongly encourage that
4 approach by school districts.

5 ASSEMBLY MEMBER BUCHANAN: Couldn't you do an
6 incremental approach where you meet the engineering standards
7 to make a building safe, but you're not necessarily going
8 through and doing all the ADA, all the other work that adds
9 up --

10 MR. TURNER: And that would require --

11 MR. HARVEY: That's exactly what we're talking
12 about.

13 MR. TURNER: -- statutory changes I believe.

14 ASSEMBLY MEMBER BUCHANAN: Yeah.

15 MR. HARVEY: Yes. That's what we're talking about.

16

17 ASSEMBLY MEMBER BUCHANAN: So you could -- but he
18 was saying it would -- the building would be safe, but you --

19 MR. TURNER: We also have federal laws that
20 restrict us on disabled access, so I'm not sure we can go
21 that entire route. But there are projects that involve
22 partial retrofits that won't necessarily trigger a lot of
23 fire and life safety and disabled access, and I think there
24 can be ways that the State Allocation Board and OPSC staff
25 can encourage that approach and perhaps some education is

1 necessary as well because unfortunately there are a lot of
2 school districts that feel it's an all or nothing venture and
3 they're looking at these as largely replacement projects in
4 many respects and perhaps a more surgical approach is prudent
5 given the limited availability of funds.

6 MR. HARVEY: Well, I think there may be some merit
7 there. I'm going to poll the Committee. We're after
8 5:00 o'clock. I'm trying to be respectful of what
9 commitments you all may have after hours. I'm willing to go
10 until at least 5:30, but I want to find out what your
11 parameters and constraints are.

12 ASSEMBLY MEMBER BUCHANAN: That's fine.

13 MS. MOORE: I'm fine.

14 MR. HARVEY: You're okay to 5:30?

15 MS. MOORE: Um-hmm.

16 MR. HARVEY: Do we have anybody in the audience --
17 let me ask, Mr. Smoot, who has a time constraint, a plane to
18 catch, that would need to right now; otherwise we'll simply
19 take you in order. Lyle, you're up.

20 MR. SMOOT: Thank you. Lyle Smoot of Los Angeles
21 Unified School District and I want to commend this -- you for
22 this discussion today. We do not believe or agree maybe is
23 the proper term that the most vulnerable building is the one
24 that's in the worst ground shaking area.

25 We believe the most vulnerable building is the one

1 that's going to fall down under an earthquake that can happen
2 in that area based on the ground shaking of that area. So
3 the problem with the current program and the reason it
4 doesn't work is that you can't create that funnel based on
5 funding availability and expect it to work. You have to base
6 it on what's the problem and how do you address the problem.

7 So we would like to see you take off the ground
8 shaking and just base it on a structural engineer's analysis,
9 you know, and of course the structural engineer has to
10 conclude that it's going to have a problem -- a fall-down
11 problem based on the earthquake shaking potential of that
12 area and as in the current program, DSA has to concur that
13 the structural analysis is a reasonable one that actually
14 fits the bill.

15 So we'd like to see that happen and we commend you
16 for that conversation.

17 Just quickly, obviously we don't like the
18 recommendation that is actually a note here saying if you
19 don't file some period of time, you can't file. We don't
20 think that's a reasonable thing for all kinds of reasons that
21 you've already covered.

22 We'd like to see the money stay in the current
23 program. Don't have any major objection if you want to
24 transfer it over to the other one. We'd just like to see
25 separate seismic safety -- Seismic Mitigation Program that

1 addresses these specific issues and putting it on the other
2 one is okay as long as you still maintain that integrity of
3 the seismic safety or Seismic Mitigation Program.

4 So I just want to thank you for that and --

5 MS. MOORE: I have a question.

6 MR. SMOOT: Yes, ma'am.

7 MS. MOORE: How did Los Angeles determine its most
8 vulnerable buildings?

9 MR. SMOOT: I'm sorry?

10 MS. MOORE: How did Los Angeles Unified determine
11 its most vulnerable buildings?

12 MR. SMOOT: Well, most vulnerable -- if you define
13 most vulnerable as being at risk of falling down -- and I
14 think you have the ability to do that. Now I don't know
15 about this Category 2 stuff, but you don't -- I don't
16 remember anything in the law or any place that says it has to
17 be on a 1.68 or a 1.7 or any other shaking.

18 It just has to be at risk of falling down. And if
19 that's what you just come out and say that the building has
20 to be at risk of falling down, there you are. If it's at
21 risk, it's at risk. And that's most vulnerable -- pardon me
22 for putting it this way, but a student that gets hurt in a
23 building of 1.68 or a student that gets hurt in a building of
24 1.25, they're both hurt, you know, and I don't think you're
25 going to be able to as a school district stand there and say,

1 well, you shouldn't have got hurt in that building because it
2 was a 1.25.

3 MS. MOORE: Maybe you don't know, Lyle, but I'm
4 aware that Los Angeles has a list of their seismic buildings
5 and that they are -- that they would address because they
6 indicated to me that only one of their buildings qualified
7 under the current program. So I was just curious and I'm --
8 you know, you're more prepared. I was just curious how they
9 created their list.

10 MR. SMOOT: How many would we have on the list?
11 I'm sorry. I'm really hard of hearing.

12 MS. MOORE: How Los Angeles created its list of
13 buildings that they're working down concerning seismic
14 issues.

15 MR. HARVEY: What criteria did LAUSD --

16 MS. MOORE: What criteria --

17 ASSEMBLY MEMBER BUCHANAN: Did they have engineers
18 or --

19 MR. HARVEY: -- use to establish your most
20 vulnerable list. You apparently have a list at some rank
21 order. How was that determined?

22 MS. MOORE: Thank you for interpreting.

23 MR. HARVEY: I guess he couldn't hear it.

24 MR. SMOOT: Pretty much -- I'm sorry, Kathleen, I
25 just can't --

1 MS. MOORE: Can't hear me?

2 MR. SMOOT: For some reason, your voice is --

3 MR. HARVEY: It's your voice --

4 MR. SMOOT: -- in that range where I can't hear it.

5

6 MS. MOORE: Okay. Sorry.

7 MR. HARVEY: I'll speak for Kathleen, yes.

8 MR. SMOOT: Oh, boy. That was dangerous, wasn't
9 it. The criteria we use is what are -- exactly what I just
10 said. If we have reason to believe that there is a problem
11 with it and we sent a structural engineer out to look at it
12 and he said hey, this is a problem and for these reasons in
13 this zone, that's how we put them on our list and that's how
14 we started addressing them.

15 And we don't have knowledge of -- I'm not saying
16 they're aren't there, but we don't have knowledge of vast
17 numbers of buildings. We do though of several buildings that
18 if there was -- if that was the criteria, we could probably
19 qualify for several buildings.

20 MR. HARVEY: Seeing no other questions, do we have
21 any other member of the audience --

22 MR. SMOOT: Thank you.

23 MR. HARVEY: Thank you, Mr. Smoot -- any other
24 member of the audience who wishes to inform, enlighten, and
25 help. Seismic Safety Commission is back. I love this. Yes,

1 please. For the record.

2 MR. TURNER: This is Fred Turner. If I could help,
3 the Commission has provided some funds to OPSC and we've
4 provided a template through the use of those funds that uses
5 a national standard for the seismic evaluation of buildings.

6 And I believe that's a well recognized approach for
7 establishing whether buildings are in fact at risk of
8 collapse.

9 It's based on a national standard called the
10 American Society of Civil Engineers 31, the national standard
11 for the seismic evaluation of buildings.

12 MR. HARVEY: Does it use -- excuse me.

13 MS. MOORE: Go ahead.

14 MR. HARVEY: Does it use criteria like most
15 vulnerable, imminent threat? What terms does it use to
16 establish that ranking?

17 MR. TURNER: If the building does not meet a
18 life-safety performance objective, it's considered not to
19 comply with that standard.

20 MS. MOORE: Is imbedded in a ground shaking --

21 MR. TURNER: Yes.

22 MS. MOORE: -- number?

23 MR. TURNER: Correct.

24 MS. MOORE: What is the number?

25 MR. TURNER: And we now have a uniform template

1 that can be applied to all schools and we've tried it out on
2 30 some odd schools and it works.

3 MR. ZIAN: Yeah. It's 1.68 right now, the current
4 criteria.

5 MS. MOORE: So you use the number that the -- that
6 we had established as a Board, but --

7 MR. TURNER: Right. But frankly you could use any
8 number that the Board wishes to establish and run with that
9 template.

10 MS. MOORE: What are other things in the template
11 besides seismic? I'm sorry.

12 MR. TURNER: There are a lot of qualitative and
13 judgmental considerations such as whether parts of buildings
14 are connected to each other, whether there are load paths in
15 the building that will resist earthquakes. If there is not a
16 load path, the building is considered to be at risk and so
17 engineers are required through this standard to evaluate all
18 of those qualitative aspects that are not necessarily
19 connected directly to a numerical value as -- in addition to
20 the numerical values.

21 So it's both a judgmental as well as a numerical
22 approach in the seismic evaluation of existing buildings.

23 ASSEMBLY MEMBER BUCHANAN: So, you know, my problem
24 is, is I -- as an SAB member, I don't want to pick a number
25 because that number to me should be based on some kind of

1 scientific data and if the number they have is 1.68, that's
2 fine.

3 The -- but you're saying that that's not the only
4 number. See, the problem is for us right now that is the --
5 the number that we've established is the number, you know,
6 and is a hard criteria.

7 So when you agreed with the engineers for Morongo
8 schools that it wasn't safe to house students, did you use
9 that criteria?

10 MR. TURNER: I was not involved personally.

11 MR. HARVEY: He was not -- he's not DSA.

12 ASSEMBLY MEMBER BUCHANAN: Okay. DSA. Okay.

13 MR. HARVEY: This is Seismic Safety.

14 ASSEMBLY MEMBER BUCHANAN: Was that -- all right.

15 Was that criteria used?

16 MR. HARVEY: If we could have Mr. Chip Howard Smith
17 address this question.

18 MR. ZIAN: I can tell you Morongo did not meet the
19 1.68 threshold. I can --

20 MR. HARVEY: We know that.

21 ASSEMBLY MEMBER BUCHANAN: I know that.

22 MR. HARVEY: She's asking --

23 ASSEMBLY MEMBER BUCHANAN: But that's my point is
24 you -- it didn't meet the threshold to qualify for seismic,
25 so we funded it under the facilities hardship, but at the

1 time when it was presented to us, DSA agreed that the school
2 was unsafe. So I'd just like to know --

3 MR. HARVEY: What that criteria was.

4 ASSEMBLY MEMBER BUCHANAN: -- what that criteria
5 was.

6 MR. SMITH: That -- I think there were of events
7 regarding DSA. The first event occurred where we actually
8 did agree that the --

9 ASSEMBLY MEMBER BUCHANAN: Right.

10 MR. SMITH: -- building was unsafe and that was --
11 more or less a subjective concurrence based on the building
12 code.

13 ASSEMBLY MEMBER BUCHANAN: Right.

14 MR. SMITH: Not based on a seismic standard. The
15 second step that occurred was we disagreed and that's
16 because -- and I think the context wasn't the seismic
17 program. It was the --

18 ASSEMBLY MEMBER BUCHANAN: It was that it met the
19 code at the time it was constructed.

20 MR. SMITH: Yes. Yes.

21 ASSEMBLY MEMBER BUCHANAN: Which -- I mean you're
22 going to have probably -- hopefully you've got -- all your
23 buildings have met the code at the time they were
24 constructed.

25 MR. SMITH: Right. So -- and that issue with

1 Morongo wasn't a shaking concern. It was a faulting concern.

2 ASSEMBLY MEMBER BUCHANAN: Right.

3 MR. SMITH: And the reason that the current
4 criteria is predicated on a shaking number not faulting
5 issues, in working with CGS, they've indicated that strong
6 shaking is by far and away the most dominant hazard as
7 opposed to faulting or landscape, liquefaction, tsunami, that
8 strong shaking on a -- say on an order of magnitude or ten
9 times more so than any other hazard -- is the dominant hazard
10 to consider from a statewide perspective.

11 So that's why the spectral acceleration criteria
12 was used as opposed to say location with regards to an
13 earthquake fault. So it was just that simple.

14 Now -- as a matter of fact for that particular
15 case, they did sit on a hazard, it was significant, but the
16 program and the criteria were developed for a statewide
17 application noting the most prevalent hazard not all of the
18 hazards.

19 ASSEMBLY MEMBER BUCHANAN: Right.

20 MR. SMITH: Right.

21 ASSEMBLY MEMBER BUCHANAN: I think that's --

22 MR. SMITH: Because --

23 ASSEMBLY MEMBER BUCHANAN: -- the point I've been
24 trying to make.

25 MR. SMITH: -- in a general sense, we're mixing

1 concepts. I think risk represents vulnerability and hazard,
2 but we're using that term vulnerable or most vulnerable in
3 the context of risk, that risk is actually derived from both
4 vulnerability, building system --

5 ASSEMBLY MEMBER BUCHANAN: In my mind -- and I will
6 tell you -- when I go to the polls is if I'm voting based on
7 vulnerable, I'm thinking is -- I'm thinking of the school
8 that is in danger of collapse and --

9 MR. SMITH: Risk.

10 ASSEMBLY MEMBER BUCHANAN: Well, right. But I mean
11 it's --

12 MR. SMITH: Two different things.

13 ASSEMBLY MEMBER BUCHANAN: It may be two different
14 things, but I -- I'm --

15 MR. SMITH: Right.

16 ASSEMBLY MEMBER BUCHANAN: I find it hard to
17 believe that vulnerable doesn't tie to risk in that way. I
18 mean if --

19 MR. SMITH: It's -- risk is --

20 ASSEMBLY MEMBER BUCHANAN: Right.

21 MR. SMITH: -- a function of vulnerability --

22 ASSEMBLY MEMBER BUCHANAN: Right.

23 MR. SMITH: -- and hazard or shaking --

24 ASSEMBLY MEMBER BUCHANAN: Right. Okay.

25 MR. SMITH: -- faulting, so on.

1 ASSEMBLY MEMBER BUCHANAN: Right.

2 MR. HARVEY: Thank you, Chip. The interesting
3 thing -- I want to editorialize for a minute -- is
4 constraining as our program is, as little dollars as we've
5 gotten out, the system worked for Morongo. They didn't
6 initially get the response they wanted. They appealed to the
7 Board and we granted the dollars.

8 So there is a safety valve no matter what we do
9 with this or other programs. It's called the appeal process
10 and a district has the right to say wait a minute and the
11 Board holds the ultimate card. So I just wanted to note that
12 in this case the system worked.

13 Mr. Duffy, is this on point?

14 MR. DUFFY: It is hopefully because I was going to
15 make a recommendation to you. I think that Ms. Moore hit on
16 something very important earlier and I didn't comment on that
17 and that is the reservation of funds.

18 If we reserve funds for critically overcrowded
19 schools and for charter schools, it seems that this program
20 would trump those kinds of issues at least the charters at
21 this point in time because we're talking about potential
22 at-risk buildings, and since you really don't have funds
23 today, you have authority, maybe taking into consideration
24 those projects that are in the queue at this point in time,
25 those that are identified by Mr. Zian. But maybe

1 identifying -- taking the idea that you have used so
2 successfully with the priorities in funding.

3 If you identified as a pilot \$20 million in your
4 authority to say come in the door and we'll cover the cost of
5 the structural engineer's report. We'll fuss with you over
6 interim housing, but we'll give you interim housing if you
7 actually need that, and we will -- we'll make sure that
8 you -- that we review all of the hardship issues that you may
9 bring before the -- Mr. Zian or whoever it be, but that if
10 you come in the door and you qualify that you get first
11 funding when we have funding in the fall when we have a bond
12 sale or when we have funds that are recovered because
13 districts do not access their -- up through the 18 month, the
14 funds that have been reserved for them -- the point being
15 that going the direction I think you were going,
16 Ms. Buchanan, that if indeed a structural engineer identifies
17 this building is at risk and that there's imminent danger
18 there -- the term that was utilized was I think imminent
19 collapse, but I think what was used by the Board in its
20 discussion sometime ago was imminent danger.

21 So if there's imminent danger and there's a
22 structural engineer's report that supports that and DSA
23 confirms it, why not create a pilot that says see if we can
24 encourage districts with these kinds of projects to come in
25 and allow them to have the interim housing, the structural

1 engineer's report, and the other things we just talked about.

2 It seems to me that that would be challenging very
3 much like you challenge with the priorities in funding. You
4 would say we're going to guarantee you that as soon as we
5 have some funds, we'll give it to you if you take the risk to
6 impugn your buildings.

7 ASSEMBLY MEMBER BUCHANAN: My only comment on that
8 is I would like to see if we change the criteria if we had
9 districts that could come in under the 50 percent match
10 because I think that would maximize the number of buildings
11 that we're addressing under the program because ultimately my
12 own goal is to fix as many buildings as possible.

13 So the question in my mind is, is it the criteria
14 or is it the funding. I mean I started out talking about
15 criteria and how we fund the money. I came around to saying
16 okay, it's criteria, it's what do we fund, and then it's --
17 and what program or, you know, do we house or release the
18 funding and I wonder if we change the criteria to say, you
19 know, engineer, DSA concurrence based on whatever there is,
20 if that is going to result -- because if we gave \$20 million
21 and paid a hundred percent of the cost, I don't think -- I
22 think we would be over subscribed by tenfold or whatever
23 because, you know, you have all kinds of districts there. I
24 don't know how you then pick and choose.

25 MR. DUFFY: And I wasn't suggesting that you move

1 away from 50-50 funding or 60-40 funding unless there was a
2 significant fiscal issue with the district, trying to go in
3 the direction I think that Ms. Moore was going and that is
4 if -- and the hardship statute basically says if you have a
5 facility issue and you have no funds to meet that issue,
6 that's the very first part of the hardship statute.

7 If that indeed is something that needs to be looked
8 at because of a seismic issue, I think then directing OPSC to
9 look at that is important to do. But in the main, what I was
10 suggesting was guarantee funding to those projects that come
11 in, give them that allowance or support the allowance for a
12 structural engineer's report and give them something for
13 interim housing.

14 And we'll do, Mr. Harvey, what you had asked. We
15 will try to publicize and write to not only make sure that
16 there's a difference between the seismic program and the
17 AB300, although that's going to be quite a challenge because
18 this is now mushroomed to a large degree because of the
19 press, but we would publicize -- if indeed you would take
20 this kind of action, we'd publicize that and say come in the
21 door.

22 But I think the guarantee, as Ms. Moore was saying
23 before, is significant. Thank you very much for your time.

24 MR. HARVEY: Thank you. We're getting close to
25 5:30. I'm going to suggest that we meet one more time and

1 let me list what I think we've -- we need from staff and if
2 you two would add to it. If I'm missing, I'd appreciate it.

3 Some of the dangling modifiers, if I can use that
4 term, that we need to cull out and then ultimately make a
5 recommendation is the -- are the question of if we have a
6 set-aside, do we want to do a reservation of funds.

7 On interim housing, we need to go up or down on
8 interim housing. On the question of match, we need some
9 guidance. If we wanted to change the 50-50, do we need to do
10 it legislatively or is there another mechanism to do that.
11 And I would ask that OPSC and Seismic Safety staff get
12 together and take a stab at this concept that defines most
13 vulnerable in a way that you have a structural engineer that
14 makes some kind of initial finding of vulnerability, risk,
15 unsafeness.

16 You may want to recommend some standards if
17 appropriate. DSA would have to concur in that finding and
18 again if there are recommendations for what standards DSA
19 should use, I think we would appreciate it.

20 But given our conversation today, I think those
21 were the major issues that were raised as concerns and we
22 haven't had time to give any Committee recommendations on
23 those.

24 Would you add anything to that list or do a subset
25 of anything there on?

1 MS. MOORE: I think you covered everything that we
2 discussed that I'm aware.

3 ASSEMBLY MEMBER BUCHANAN: Excellent. Excellent.

4 MR. HARVEY: Then we will ask if staff understands
5 it. I see some finger waving over here and again we
6 respectfully ask that you find a time before the May Board
7 meeting that we might meet.

8 I will say by disclosure if the Subcommittee wishes
9 to meet in my absence because that's the only time you can
10 meet, I think you should. I've got a longstanding family
11 reunion commitment that will take me out of State from
12 May 4th to the 14th. So if we could do something after the
13 14th that works, that would be fine, but if you need to do it
14 before then, two people create a quorum and I would trust my
15 colleagues to wrestle with these issues and I would voice my
16 concerns and vote at the full Board meeting.

17 But you had your hand --

18 MS. SILVERMAN: Just one point. Set-aside
19 reservations of funds and bond authority, is that where you
20 were going at, Kathleen? I know Tom was speaking of funds as
21 relation to a bond sale.

22 MS. MOORE: I was more conceptual about bond
23 authority.

24 MS. SILVERMAN: Okay.

25 MS. MOORE: I think he was speaking to CASH. I was

1 speaking to --

2 MR. HARVEY: That was my idea.

3 MS. MOORE: -- bond authority.

4 MS. SILVERMAN: Okay. I just wanted that point
5 cleared up.

6 MR. HARVEY: I agree. I agree. Do you agree?

7 ASSEMBLY MEMBER BUCHANAN: Um-hmm.

8 MR. HARVEY: Yeah. Any other issues for staff
9 seeking clarification before we adjourn this meeting? I
10 guess I should ask one last time is there anything anyone
11 wants to say that has not been on this agenda? We usually
12 have a comment -- public comment period.

13 Seeing none, thank you for your participation.
14 Until next time, we're adjourned.

15 (Whereupon, at 5:26 p.m. the proceedings were recessed.)

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