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CALIFORNIA STATE ALLOCATION BOARD  
PUBLIC MEETING

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

DATE: WEDNESDAY, AUGUST 26, 2009  
TIME: 4:16 P.M.

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

THOMAS L. SHEEHY, Chief Deputy Director, Policy, Department of Finance, designated representative for Michael Genest, Director Department of Finance.

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

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

SENATOR ALAN LOWENTHAL

SENATOR LONI HANCOCK

SENATOR MARK WYLAND

ASSEMBLY MEMBER JEAN FULLER

ASSEMBLY MEMBER JULIA BROWNLEY

ASSEMBLY MEMBER TOM TORLAKSON

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

ROB COOK, Chief Executive Officer

LISA SILVERMAN, Chief of Fiscal Services

JUAN MIRELES, Program Services Policy Manager

SUSAN RONNBACK, Interim Assistant Executive Officer

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

TERESA BORON-IRWIN, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON SHEEHY: We're going to convene the State Allocation Board. We are still lacking a quorum, so we'll have to get started as a subcommittee. And so as a subcommittee, I thought we could start with our reports which won't require votes and then if we still don't have a quorum but we think we're going to get one, we could even go into the items that require votes and have the discussion and then have members add on.

We have a lot on this agenda and we should try to get as much done as we can. So we're going to spare the roll call since we know we don't have a quorum. Let's go right -- first of all, let me just ask the members of the committee here and the public, are there any questions, comments, corrections, or concerns for the **Minutes** that we have. We'll check again with our Board members before we vote on anything, but is there anybody here that had any concern with the Minutes today? Okay. Ms. Moore.

MS. MOORE: Do you want us to move approvals and then leave the roll call open or what's the pleasure?

CHAIRPERSON SHEEHY: We can't make motions until we have a quorum.

MS. MOORE: Okay.

CHAIRPERSON SHEEHY: Wish we could, but we can't.

1 **Executive Officer's Statement**, Mr. Cook.

2 MR. COOK: Thank you. I have a couple of items  
3 for the Board today. First of all, at our last meeting,  
4 Dick McCarthy of the Seismic Safety Commission addressed the  
5 Board regarding an early earthquake warning system. The  
6 Board directed that we draft a letter in support of their  
7 grant proposal for an ARRA grant for that system. That  
8 letter was issued to the Seismic Safety Commission in  
9 support of their grant application.

10 Also current bond rating for the State of  
11 California, I would say the good news for the current bond  
12 rating of the State of California is that it's stabilized in  
13 the wake of the budget. The bad news is it's stabilized at  
14 the lowest level in the nation for a state.

15 The Treasurer's Office will soon be out looking  
16 for billions of dollars in cash flow borrowing and then when  
17 that is settled and we'll see how successful that is, plans  
18 are to access the credit markets for general obligation  
19 bonds in the coming months. But we're talking a wait and  
20 see attitude on how on what they can do.

21 Also the first Audit Subcommittee meeting was held  
22 on August 11th to discuss the Office of Public School  
23 Construction's audit authority. Presenters included the  
24 State Auditor Elaine Howle, OPSC staff, a representative  
25 from the California Department of Education as well as a

1 number of stakeholders. And just a note, recent  
2 improvements to our audit procedures include additional  
3 audit staff training and incorporation of field audits into  
4 our audit program.

5 And then lastly, touch on furloughs. This is the  
6 first Board meeting after a full cycle of the three furlough  
7 days per month. We are still coming to grips with the loss  
8 of productivity that comes in the wake of that. We're  
9 losing 36 workdays a year. Senator Ducheny described it  
10 yesterday as well, if you work through Halloween, you take  
11 the rest of the year off is basically the impact of that.

12 And our internal deadlines, we're king of getting  
13 crunched on --

14 CHAIRPERSON SHEEHY: Rob, I don't want you getting  
15 any ideas.

16 MR. COOK: Um-hmm. We were thinking of throwing a  
17 heck of a Halloween party, but anyway -- but we're still  
18 trying to figure out how we -- we have fairly aggressive  
19 internal deadlines that we try to meet to put together  
20 Board -- these -- all the items that you have before you and  
21 we're -- they're pretty -- under the furlough condition,  
22 they're pretty tough to meet. We're going to have to  
23 reassess those, so --

24 CHAIRPERSON SHEEHY: There may be some Board  
25 member comment on this. I'd like to go first and just say

1 that I think -- the Board members come from different  
2 institutions. We have members from the Assembly, from the  
3 Senate, from the Superintendent of Public Instruction, the  
4 Department of General Services, the Department of Finance,  
5 and from the general public.

6           And I just want to say that I'm quite aware of the  
7 impact of the furloughs and I think we all need to be very  
8 sensitive to the fact that the furlough impact is real.  
9 It's not just that the staff does the same amount of work in  
10 less days for less pay. I mean there really is an impact on  
11 workload.

12           I know at the Department of Finance we're still  
13 struggling with how to manage it. It's not easy and I know  
14 that -- you know, for the Legislative members and the  
15 Superintendent, they're not -- they don't have the furlough  
16 situation yet, so they may not be facing that directly with  
17 their staffs, but I would urge you to be sensitive to that  
18 issue with the state staff that are subject to the furlough.  
19 I think that it is a real management challenge to try to  
20 move this work forward and also meet the furlough  
21 requirements which of course are a great burden on  
22 everybody, but this is the situation we find ourselves in.

23           So I appreciate that, Rob, and please let your  
24 staff know that we appreciate the work that they do. We  
25 want them to do as much work as they can to move this agenda

1 forward, but I'm going to ask all my colleagues to try to  
2 understand that we can't get as much done as we might like,  
3 that, you know, we do have some new limitations.

4 Mr. Harvey.

5 MR. HARVEY: Thank you, Mr. Chair. I too am  
6 sensitive to what you must be confronting, Rob, and  
7 something that we did when I was on the City Council in a  
8 Southern California city and to a lesser degree when I  
9 served on the Teacher Credentialing Commission was for the  
10 chief executive officer of those institutions to present to  
11 us as a policy board a 90-day calendar. And that calendar  
12 was a way of saying over the next three meeting dates, here  
13 are the kinds of things we want to accomplish. Here's what  
14 staff believes are the priorities of your body. And it was  
15 a working document. The board got to make comment on it.

16 It seems to me that maybe one of the things you  
17 might consider doing is having something like that for us.  
18 I know you have an internal document that you must use as  
19 your guidance to prepare things for Board consideration, but  
20 it may be that here is what we think is a reasonable number  
21 of items to get through in the next month meeting and if the  
22 Board wants to move things around, let's do so, but to move  
23 you got to take something off the one you're impacting and  
24 replace it with something else. And it gives us a sense not  
25 only of what you're trying to do, it gives us the validation

1 of the priorities, but it may also in the case of furloughs  
2 be something that says this is it and if you really want to  
3 change the agenda, you got to take something off and move it  
4 to an out agenda. I mean that's one way of helping to  
5 preserve the integrity of the agenda and be respectful of  
6 your time. It's just a suggestion.

7 CHAIRPERSON SHEEHY: Thank you, Mr. Harvey. Are  
8 there other comments from Board members this afternoon?

9 MS. MOORE: I just have a --

10 CHAIRPERSON SHEEHY: Ms. Moore.

11 MS. MOORE: I would support that and I think that  
12 that can be a document that the Board then is helping with  
13 the priorities. To me the items such as appeals and  
14 regulatory change that seem to have a large impact, there's  
15 a large impact of the agenda that we don't see all the work  
16 behind because it moves so easily, I think as we approve  
17 the Consent Calendar which has a tremendous amount of work.

18 But the -- how we prioritize our time and staff  
19 time I think would be a very valid thing to do at the Board  
20 level.

21 CHAIRPERSON SHEEHY: Thank you, Ms. Moore. Okay.  
22 Seeing no --

23 ASSEMBLY MEMBER TORLAKSON: I had --

24 CHAIRPERSON SHEEHY: Oh, yes, Senator Torlakson,  
25 please.

1 ASSEMBLY MEMBER TORLAKSON: Question regarding the  
2 funding sources behind the staff. Just to -- not to go into  
3 detail today, you know, is there any of it that's  
4 non-general fund that you could go forward without taking  
5 furlough days.

6 CHAIRPERSON SHEEHY: Rob, do you want to go ahead  
7 and respond to Mr. Torlakson. Then I'd like to add  
8 something to that.

9 MR. COOK: We are subject to the Executive Order  
10 which simply institutes furlough days across the board.

11 ASSEMBLY MEMBER TORLAKSON: So that you have --  
12 how much of your budget is fee based or non-general fund  
13 based?

14 MR. COOK: Virtually most -- almost every dollar  
15 of our budget is actually funded from the bonds. There is a  
16 very small component of the general fund that's there for  
17 the Williams' -- the emergency repair program. The rest of  
18 it is out of the bonds itself. There is almost no impact on  
19 the general fund.

20 CHAIRPERSON SHEEHY: Senator Torlakson, may I  
21 also -- with your permission, I'd like to also respond. I  
22 know your question was addressed to Mr. Cook and OPSC, but  
23 in my capacity, I've had this question come up a number of  
24 times from some -- both from other legislators and from  
25 other stakeholders in different state programs and the

1 question is why is -- has the furlough been extended to all  
2 state departments under the Governor's control including  
3 those that are special funded.

4           And there's two very important reasons why it has.  
5 The first one is that it becomes a distortion in the  
6 employment marketplace issue. If we had associate  
7 government program analysts at the Department of Social  
8 Services that get 14 percent less than the associate  
9 government program analysts at the Department of  
10 Transportation because Caltrans is funded from the state  
11 highway account not the general fund, then we create this  
12 incentive for experienced program analysts to leave DSS, and  
13 we need them there, to go over to Caltrans.

14           So we create these employment distortions. And so  
15 that's one issues.

16           From a financial standpoint -- exclusively a  
17 financial standpoint, a much more important issue in my mind  
18 obviously being from Finance, is that the state's problem as  
19 we all know is not just a severe budget problem, but it's  
20 also a severe cash problem. In fact our cash reserves are  
21 the lowest in the state -- consistently lowest in the state  
22 that they have been in seven decades. In fact I checked the  
23 cash balance in the general fund before I came here today  
24 and it was about negative \$14 billion.

25           In fact if you asked John Chiang, our State

1 Controller, he'll tell you that the State of California has  
2 not had a positive cash balance since July of 2007. So it's  
3 now been 25 months since we've actually had a positive cash  
4 balance in our state general fund.

5           So that begs the obvious question, if the general  
6 fund's in a negative cash balance, how are we operating and  
7 the way we're operating is mostly on borrowed money. We're  
8 borrowing from the highway account, the motor vehicle  
9 account. All of the different special funds that exist in  
10 state government, we're borrowing their money to pay the  
11 day-to-day bills for the vendors that we need to pay. Of  
12 course, the Controller hopes to stop issuing IOUs. He had  
13 to actually start issuing IOUs because even that wasn't  
14 enough money to meet the cash needs.

15           But in order to meet payroll and the day-to-day  
16 cash requirements of state government, we've had to borrow  
17 internally every single cent that's not nailed down.

18           And so on that level, the furlough is saving a  
19 tremendous amount of money in special funds which then makes  
20 itself available for borrowing for cash management purposes.  
21 And that does tie directly back to the state budget because  
22 the more money we can borrow internally means the smaller  
23 RAN that we have to issue.

24           Eventually if we can get our credit rating good  
25 enough to RANs, then the smaller the RAN that we issue, the

1 less interest we pay and that comes directly out of the  
2 general fund budget. So it is all connected and I  
3 appreciate your frustration with it and I know there are  
4 many people outside of government that are frustrated that  
5 the agencies they have to deal with are closed on three  
6 Fridays a month, but that is the reason why we're doing it  
7 is total cash management as well as personnel issues related  
8 to the employment distortions I talked about and I'd fully  
9 respect that constitutional officers have their own view on  
10 this and we are trying to resolve those issues in a  
11 different venue and they'll play themselves out eventually.

12 ASSEMBLY MEMBER TORLAKSON: That was a very  
13 thorough explanation and I appreciate it. I'm sure we all  
14 have our various levels of frustration over it. When I was  
15 on the County Board of Supervisors, we faced economic hard  
16 times and there was a distinction between departments that  
17 were fee based and departments that weren't. Public works  
18 kept going ahead because we wanted to keep construction jobs  
19 going and keep those projects going.

20 That could be done in this situation. There could  
21 be a distinction. It's not being done. The cash flow issue  
22 is a new overlay dimension and at some point, there's  
23 probably a calculus. Don't know where it is and whether Rob  
24 can find it and you in Finance could help find it -- where,  
25 you know, slowing down construction projects versus speeding

1 up the construction projects has a calculus on the budget  
2 too in terms of revenues that could come from the jobs, the  
3 income tax, the turnover in the economy.

4           So I don't know to what degree that it's being  
5 looked at, but once we get through the next borrowing,  
6 perhaps in the next couple of months, we'll see it  
7 clearly -- more clearly where the calculus is and where  
8 there may be able to be some distinctions of allowing some  
9 of the fee-based agencies to keep going and maybe Rob could  
10 keep an eye on to what degree is the slowdown, the lack of  
11 time that results in less projects going out the door.

12           CHAIRPERSON SHEEHY: I think that's an excellent  
13 suggestion. Let's be prepared to report back on any changes  
14 in the status quo, Rob.

15           MR. COOK: Um-hmm. That's fine. Thank you.

16           CHAIRPERSON SHEEHY: Welcome, Senator Hancock.

17           SENATOR HANCOCK: Thank you.

18           CHAIRPERSON SHEEHY: So we are -- we have a  
19 quorum. Excellent. Ms. Genera -- did I get that right?

20           MS. GENERA: Genera.

21           CHAIRPERSON SHEEHY: I'm sorry. Ms. Genera, will  
22 you please call the roll.

23           MS. GENERA: Senator Lowenthal. Senator Hancock.

24           SENATOR HANCOCK: Here. And let me just say  
25 Senator Lowenthal and I were both in a very long, protracted

1 environmental quality meeting. I'm sure he'll be here soon.  
2 Here.

3 MS. GENERA: Senator Wyland.

4 Assembly Member Fuller.

5 Assembly Member Brownley.

6 ASSEMBLY MEMBER BROWNLEY: Here.

7 MS. GENERA: Assembly Member Torlakson.

8 ASSEMBLY MEMBER TORLAKSON: Here.

9 MS. GENERA: Scott Harvey.

10 MR. HARVEY: Present.

11 MS. GENERA: Kathleen Moore.

12 MS. MOORE: Here.

13 MS. GENERA: Rosario Girard.

14 Tom Sheehy.

15 CHAIRPERSON SHEEHY: Here.

16 MS. GENERA: We have a quorum.

17 CHAIRPERSON SHEEHY: Great. Thank you,

18 Ms. Genera. Okay. So Senator Hancock and I believe  
19 Assembly Member Brownley, before you walked in, I asked the  
20 Board members -- the subcommittee if they had any questions,  
21 corrections, or comments about the Minutes and seeing none  
22 and the public already had a chance to weigh in, is there a  
23 motion to approve our Minutes.

24 MR. HARVEY: So move.

25 MS. MOORE: Second.

1 CHAIRPERSON SHEEHY: All in favor.

2 (Ayes)

3 CHAIRPERSON SHEEHY: Minutes are approved. We've  
4 had our Executive Officer's statement. We have a quorum  
5 here. Let's move to the **Consent Calendar**.

6 MR. COOK: The Consent Calendar is ready for your  
7 approval.

8 CHAIRPERSON SHEEHY: Are there any questions or  
9 comments about the Consent Calendar? Any comment from the  
10 general public. Ms. Brownley.

11 ASSEMBLY MEMBER BROWNLEY: Thank you for calling  
12 on me right away, Mr. Chair.

13 CHAIRPERSON SHEEHY: I'm working on it, but keep  
14 me honest.

15 ASSEMBLY MEMBER BROWNLEY: I just noticed on the  
16 Consent Agenda, there's an emergency repair for a swimming  
17 pool at Sacramento Charter High School. And it just -- you  
18 know, my staff or I have not seen a swimming pool in an  
19 emergency repair program and just wondered if that was  
20 typical or not.

21 CHAIRPERSON SHEEHY: Rob?

22 MR. COOK: I'll ask Masha Lutsuk to come up and --

23 CHAIRPERSON SHEEHY: Better not be funded with  
24 ARRA monies. Vice-President Biden said no swimming pools.

25 MS. LUTSUK: Thank you. Masha Lutsuk, Office of

1 Public School Construction. We did -- we have had a couple  
2 more swimming pool projects that the Board has previously  
3 approved and typically the health and safety on those  
4 projects that makes them eligible is related to deteriorated  
5 plumbing associated with the pools and bad surfaces.

6 The ERP does not limit funding to any type of  
7 facilities as long as these are the facilities at the school  
8 site that the pupils are using and this is actually a very  
9 good program for districts to get funding for swimming pools  
10 for because other programs have restrictions on funding that  
11 particular type of facility.

12 ASSEMBLY MEMBER BROWNLEY: So that is the case in  
13 this particular item? It is piping and health and safety  
14 issue is the emergency?

15 MS. LUTSUK: There -- I think there was more than  
16 one, but I think piping was one of them. The plumbing for  
17 the swimming pool.

18 ASSEMBLY MEMBER BROWNLEY: Thank you.

19 CHAIRPERSON SHEEHY: All right. Were there other  
20 questions from Board members or any requests from Board  
21 members to take anything off the Consent Calendar?

22 MS. MOORE: I just want to note for the record  
23 that I will be voting for the Consent Calendar with the  
24 exception of the Elk Grove item that I think we'll need --  
25 require another vote.

1           CHAIRPERSON SHEEHY: Is it okay, Ms. Moore, if we  
2 separate the question?

3           MS. MOORE: Yes.

4           CHAIRPERSON SHEEHY: Okay. Is there a motion to  
5 approve the entire Consent Calendar minus any projects that  
6 impact the Elk Grove Unified School District?

7           SENATOR HANCOCK: So moved.

8           MR. HARVEY: Second.

9           CHAIRPERSON SHEEHY: We have a motion and a  
10 second. All in favor.

11           (Ayes)

12           CHAIRPERSON SHEEHY: Okay. Is there a motion to  
13 approve the projects on the Consent Calendar that impact the  
14 Elk Grove School District.

15           MR. HARVEY: So move.

16           CHAIRPERSON SHEEHY: Second. Roll call vote.

17           MS. GENERA: Senator Lowenthal.

18           CHAIRPERSON SHEEHY: Well, we can't approve it.  
19 We've only got six --

20           MR. COOK: Yeah. You can't --

21           CHAIRPERSON SHEEHY: We're not going to have six  
22 votes. Okay.

23           MR. COOK: We can hold that open.

24           CHAIRPERSON SHEEHY: Let's -- okay. We're going  
25 to hold the roll open on the Consent Calendar for the Elk

1 Grove Unified School District issues. I apologize. Let's  
2 call the roll. I'm sorry. I'm sorry, yes, Counsel.

3 MS. BORON-IRWIN: There is an exception to that if  
4 there is a necessity.

5 CHAIRPERSON SHEEHY: I'm sorry.

6 MS. BORON-IRWIN: There is an exception to that  
7 rule of the quorum if there is a necessity to -- there's an  
8 exception to that rule that, you know, you can't normally  
9 vote on something that you feel that you have a conflict  
10 with, but if it is necessity in order to go forward with it,  
11 you can. However, in this instance, I understand Senator  
12 Lowenthal -- so it's the Board's pleasure.

13 MS. MOORE: Can we wait until -- towards the end  
14 of the meeting and then if it becomes apparent that it can't  
15 be approved without that necessity vote, then I would do so.

16 CHAIRPERSON SHEEHY: Ms. Genera, can you call the  
17 roll and then we'll hold the item open for an add-on.

18 MS. GENERA: Senator --

19 ASSEMBLY MEMBER BROWNLEY: What are we voting on?

20 CHAIRPERSON SHEEHY: We're voting on the portion  
21 of the Consent Calendar that had Elk Grove Unified School  
22 District projects on it. Ms. Moore did not want to vote on  
23 those because she has a conflict.

24 ASSEMBLY MEMBER BROWNLEY: So we just voted for  
25 the entire Consent Calendar --

1 CHAIRPERSON SHEEHY: Minus the --

2 ASSEMBLY MEMBER BROWNLEY: -- minus that. Now  
3 we're voting on --

4 CHAIRPERSON SHEEHY: Correct. Correct.

5 MS. GENERA: Senator Hancock.

6 SENATOR HANCOCK: Aye.

7 MS. GENERA: Assembly Member Brownley.

8 ASSEMBLY MEMBER BROWNLEY: Aye.

9 MS. GENERA: Assembly Member Torlakson.

10 ASSEMBLY MEMBER TORLAKSON: Aye.

11 MS. GENERA: Scott Harvey.

12 MR. HARVEY: Aye.

13 MS. GENERA: Kathleen Moore.

14 MS. MOORE: Abstain.

15 MS. GENERA: Tom Sheehy.

16 CHAIRPERSON SHEEHY: Aye. Okay. That has five  
17 votes. We'll leave the roll open and, Ms. Genera, please  
18 make sure we come back to that before this meeting's over  
19 preferably when Mr. Lowenthal arrives. Okay.

20 Now, we've got the Consent Calendar passed. Now,  
21 two meetings ago, the Board requested that we have the  
22 **Inspector General, Laura Chick** -- the new Inspector General,  
23 Laura Chick, come talk to the Board about her roll in state  
24 government and with ARRA and talk about audits to the extent  
25 that we want to get into the weeds, we can get in the weeds

1 with Ms. Chick or we can stay at a policy level, but we do  
2 have her here and I think since we have a quorum, it would  
3 be appropriate now for her to come forward. So, Laura,  
4 could you please come forward.

5 MS. CHICK: Do these all work?

6 MR. YOUNG: Button that's on your right. There  
7 you go.

8 MS. CHICK: Okay. Thank you.

9 CHAIRPERSON SHEEHY: Welcome.

10 MS. CHICK: Thank you. Thank you, Chairman  
11 Sheehy, and I want to take this opportunity to thank all the  
12 members of the State Allocation Board for inviting me here  
13 today.

14 I know you all know that government often operates  
15 in silos where we don't talk across lines and over  
16 departments to each other. So I really welcome the  
17 opportunity to engage in a discussion with you today.

18 My mission is very simple. It is to deter -- to  
19 detect, deter, and disclose waste, fraud, or abuse in the  
20 expenditure of any recovery dollars here in the State of  
21 California. We are, as you probably already know, receiving  
22 over \$50 billion dollars in recovery dollars here in  
23 California. Our local school districts have already  
24 received approximately \$3.7 billion of recovery money.

25 Unfortunately the FBI has pointed out to me

1 multiple times that we are likely to experience or could  
2 experience anywhere between 7 to 10 percent fraud. That's  
3 not counting mistakes or waste. And I know for all of us  
4 it's a totally unacceptable figure.

5 My focus right now is on the deterrence phase, on  
6 the prevention, and to that end, first I went to Washington  
7 and met with all of the Federal Inspectors General of  
8 departments that are distributing recovery dollars. I've  
9 met with the four California U.S. Attorneys, local District  
10 Attorneys, mayors, local auditors and controllers to  
11 coordinate our oversight. None of us want to be bumping  
12 into each other or replicating or spending one dollar more  
13 than we need to on oversight.

14 To that end, we have put together I think the  
15 first in the nation, very comprehensive fraud detection and  
16 prevention training. We put that training on here in  
17 Sacramento several weeks ago. I want to thank the Board for  
18 sending some of your staff to it. We had about 400 state  
19 employees in that training and we're now taking it on the  
20 road to San Diego, San Francisco, Los Angeles for both state  
21 employees and for local employees and recipients of recovery  
22 dollars.

23 What else. I think that's about it for now in  
24 terms of what I'm up to and I'm here ready to answer  
25 questions if you have them.

1           CHAIRPERSON SHEEHY: Laura, I'd like to break the  
2 ice with the first question. Could you talk a little bit on  
3 how you see your role intersecting if at all with the state  
4 school facilities program given that we're using state bond  
5 funds? Could you comment on that?

6           MS. CHICK: Yeah. I actually at this point don't  
7 see an overlap. I mean the final verdict is still out in  
8 terms of the Build America bonds and what accountability and  
9 overlap there might be with the transparency and reporting  
10 rules of the Recovery Act, but I'm leaving that up to the  
11 lawyers and it's very unclear at this point.

12           So I don't see really an overlap other than I  
13 think we all care about transparency an accountability of  
14 public dollars.

15           CHAIRPERSON SHEEHY: Questions of the Board.  
16 Ms. Brownley.

17           ASSEMBLY MEMBER BROWNLEY: No, I was just  
18 interested in the statistic that you gave that the FBI said  
19 7 to 10 percent in waste, fraud, and abuse. And is that --

20           MS. CHICK: Fraud only.

21           ASSEMBLY MEMBER BROWNLEY: Oh, fraud.

22           MS. CHICK: Yeah.

23           ASSEMBLY MEMBER BROWNLEY: So is that a statistic  
24 that comes from government agencies only?

25           MS. CHICK: No. It comes from private sector and

1 government when there are large infusions of federal  
2 dollars. Unfortunately the aftermath of Katrina and  
3 Louisiana, the figure was a heart-stopping 17 percent fraud,  
4 but I think they're looking at large defense contracts, you  
5 know, during time of war and military confrontation and, you  
6 know, I'm -- I think just in general that's the number that  
7 both U.S. Attorneys and FBI keep quoting to me, 7 to  
8 10 percent.

9 ASSEMBLY MEMBER BROWNLEY: And is there a  
10 breakdown between corporations, government, difference in --

11 MS. CHICK: You know, I don't know that, Assembly  
12 Member, exactly, but, you know, based on other information  
13 I'm getting, I really think it's predominantly with  
14 contractors and vendors rather than inside government --

15 ASSEMBLY MEMBER BROWNLEY: Um-hmm.

16 MS. CHICK: -- that the predominant amount of  
17 fraud takes place and maybe we in government can deal with  
18 some of the inefficiency stuff. But, you know, I'm looking  
19 everywhere and anywhere for where it might occur so we can  
20 stop it.

21 ASSEMBLY MEMBER BROWNLEY: Great. Thank you very  
22 much.

23 CHAIRPERSON SHEEHY: Mr. Harvey.

24 MR. HARVEY: Very quickly. I know you had a  
25 conflict when our subcommittee discussing audits at OPSC at

1 its August 11th hearing. We had a -- I think a wonderful  
2 opportunity to kind of get a picture of what audits are  
3 supposed to accomplish, kinds of best practices and audits,  
4 role audits play in transparency and objectivity and  
5 independence, those kinds of things, but if you have just a  
6 few comments about what you see the value of audits and why  
7 there are audits because frankly there is a healthy tension  
8 between OPSC and local school districts on what we do and  
9 how we do it and Rob alluded to the fact that we are  
10 changing our template if you will. Any guidance or comment  
11 you would have about what audits should include.

12           And I know you have a wealth of experience from  
13 the local level where you conducted audits when you were in  
14 LA as the controller and how you're charged with doing ARRA  
15 specific, but I'd appreciate hearing briefly from you what  
16 you have to say about audits.

17           MS. CHICK: I'd be happy to and I also heard some  
18 of the conversation going on around the audits of local  
19 school districts. Certainly in my experience, I've heard  
20 lots of complaints from the entities being audited and in my  
21 role now, I'm very sensitive to hearing from state  
22 departments who are groaning under the weight of furloughs,  
23 hard financial times, and Recovery Act dollars coming in and  
24 lots of audits. But I think almost from my standpoint, it's  
25 better to have -- to be overaudited than underaudited. That

1 under the lead of our government in Washington and our  
2 newly-elected President, I believe we're entering an era of  
3 increased accountability and transparency, that that's what  
4 the public wants and if anything, here at state government,  
5 we should be hard at work trying to rebuild the public's  
6 trust and confidence that government can do things right.

7           One way to show them that we can do things right  
8 is through audits that deliver on transparency and  
9 accountability and assure the taxpayers that their dollars  
10 being spent wisely and well. That's a very general  
11 statement, but, you know, I have heard that there's -- well,  
12 no.

13           First of all, there's always resistance to change.  
14 And I understand that the Office of Public School  
15 Construction after recommendations from entities such as  
16 outside auditors, the Department of Finance Office of Audits  
17 and Evaluations, the Little Hoover Commission, which has  
18 done two reports, one on bond accountability and one several  
19 years ago of SAB, call for exactly what OPSC is doing, which  
20 is to have a more robust audit shop and to look more closely  
21 at local school districts in terms of what they've been  
22 doing with state bond money and in particular with the  
23 excess money.

24           So I applaud their efforts and I think it's going  
25 to go a long way towards ensuring that these dollars which

1 are in the multiple billions are being spent in the way  
2 intended and are delivering important things to our  
3 children, our teachers, our families, and our taxpayers.

4 MR. HARVEY: Thank you.

5 CHAIRPERSON SHEEHY: Ms. Moore.

6 MS. MOORE: Ms. Chick, thank you very much for  
7 being here today. I just wanted to ask you to follow up a  
8 little bit on the -- where you see no overlap. Does that  
9 mean that as we're functioning with our program here today  
10 that you don't see and that the Inspector General would be  
11 involved in that? What do you mean by no overlap?

12 MS. CHICK: Well, that until there's clarification  
13 on the Build America bonds, I do not think it's yet in my  
14 purview to be exercising oversight of the dollars that  
15 you're expending because they're state bond dollars.

16 But let me, you know, inject a caveat in that.  
17 When people come to me with issues or concerns or problems,  
18 I certainly will seek to turn to the proper authorities to  
19 address those concerns. So if somebody brought an issue to  
20 me about something to do with state bond school construction  
21 dollars, I would want to make sure that their concerns got  
22 addressed by the proper authorities.

23 MS. MOORE: And would that be bond funds that were  
24 done under the Build America bond piece because we have a  
25 number of bond funds that --

1 MS. CHICK: No, not only. I mean in my role here  
2 if concerns and problems about public dollars are brought to  
3 me, I would want to hook that concerned party up with the  
4 proper authorities, whether it's Build America bonds or  
5 state school construction bonds or -- I can't think of other  
6 examples because I'm here today, but any public dollars, I  
7 would want to direct them to the right source.

8 So I'll give you an example. I heard some  
9 concerns about the fact that the Office of School  
10 Construction auditors were for the past two years having  
11 difficulty proceeding with an audit of state bond dollars  
12 inside a school district and I picked up the phone and  
13 called the superintendent of that school district to say is  
14 this the case that your folks are not letting in state  
15 auditors. That would be an example.

16 MS. MOORE: So the Inspector General position is  
17 more than the American Recovery and Reinvestment Act dollars  
18 in the State of California?

19 MS. CHICK: No. I don't think that's what I said.

20 MS. MOORE: Well, I'm aware of that situation, but  
21 was that -- I don't think that was American Recovery and  
22 Reinvestment Act dollars.

23 MS. CHICK: No. What I just explained was if I  
24 hear a concern from someone about public dollars -- public  
25 state dollars, I want to make sure that that concern gets

1 communicated to the right source and that call to the school  
2 superintendent was exactly that. I would be remiss as a  
3 public official if I had not conveyed that.

4 MS. MOORE: I think I also as a member of the  
5 State Allocation Board believe that it's our responsibility  
6 too that our bond funds are expended correctly.

7 MS. CHICK: Oh, I -- I agree and I very much look  
8 to work closely with you to that end.

9 CHAIRPERSON SHEEHY: Ms. Moore, did you have more?

10 MS. MOORE: There was one question -- oh, yes.  
11 The fraud issue. I just wanted to -- you know, I've been  
12 involved in this system for over 20 years both as a  
13 practitioner and now I'm at the Department of Education  
14 representing the Superintendent.

15 I have not been aware of a fraud case that has  
16 been brought before in the school facilities program and I  
17 was interested, Rob, if you are aware of any fraud cases  
18 that we have had before this Board in any of the school  
19 facility programs?

20 MR. COOK: Well, I can name one case in particular  
21 where the Board itself directed staff to alert the Attorney  
22 General as well as the local DA on a district that had  
23 conducted activities that were in --

24 MS. MOORE: Did we find -- was there fraud found  
25 there?

1           CHAIRPERSON SHEEHY: Excuse me. I want to  
2 interject one second. Since I don't know the background on  
3 this and the other Board members don't --

4           MS. MOORE: Okay.

5           CHAIRPERSON SHEEHY: No, that's okay. We can have  
6 the discussion, but I would ask you not to name names. I  
7 have no idea who you're talking about and if it's that  
8 important, we could also -- we could always set up a closed  
9 session agenda, but since we don't know who it is in the  
10 background, just don't name names. But go head, Rob.

11           MR. COOK: No, and nor was I intending to. But  
12 there was a district that had engaged in a pattern of  
13 behavior completely disregarding statute regulations in this  
14 program that ultimately the Board itself -- and this goes  
15 back some years, but the Board directed staff to contact the  
16 Attorney General, contact the local DA and ask them to  
17 investigate the matter.

18           MS. MOORE: Okay. Thank you.

19           MS. CHICK: Yeah. I do want to reiterate that in  
20 terms of my purview over recovery dollars, I'm not just  
21 looking for fraud. Waste, inefficiency, mistakes, abuse,  
22 anything that's not promoting spending money wisely and well  
23 and according to rules and regulations.

24           CHAIRPERSON SHEEHY: Ms. Moore.

25           MS. MOORE: Well, I think what school districts

1 will want to know is kind of how does that process work and  
2 how do we tell them, you know, this is an additional layer  
3 or not -- we don't know yet. I think you said that you're  
4 really looking at the legal piece of the Build America bonds  
5 and, you know, consulting with attorneys on that.

6 But ultimately I always know school districts  
7 would like to know what -- how does that process look and  
8 what can they expect and what are the perhaps rules of the  
9 road ahead for them so that they can properly be prepared  
10 beyond I guess where they are prepared now in terms of the  
11 audit procedures and process that they go through and the  
12 approval processes that they go through before the State  
13 Allocation Board.

14 So any information about that would be I think  
15 great for school districts and other local education  
16 agencies that participate in this program.

17 MS. CHICK: Absolutely. And I would say at this  
18 point school districts are receiving Recovery dollars. The  
19 school construction dollars and the Build America is the  
20 question mark, but the 3.7 billion figure that I quoted are  
21 Recovery dollars and those do come under the jurisdiction of  
22 my office and in terms of any rules and guidelines, the  
23 number one thing that I would say for school districts right  
24 now is the U.S. Department of Education is issuing and has  
25 issued guidelines and -- so those are the ones to very much

1 pay attention to and follow.

2           The Office of Inspector General of the School of  
3 Education is very active already as you now as is the GAO  
4 looking at education in California, and in terms of my  
5 office as well, on construction, I will upon receiving  
6 clarification communicate immediately with the School  
7 Allocation Board.

8           CHAIRPERSON SHEEHY: That's great. Ms. Brownley,  
9 did you have follow-up questions?

10           ASSEMBLY MEMBER BROWNLEY: Well, I was just  
11 concerned, Mr. Chair, when you spoke about closed session  
12 for a fraud case, I just wanted to make sure that only a --  
13 you know, a closed fraud case does not have to be discussed  
14 in closed session, only if it's an open case and we're in  
15 the middle of it and in front of the Inspector General, I  
16 just wanted to make that clarification.

17           CHAIRPERSON SHEEHY: I -- Ms. Brownley, I rely on  
18 you for your leadership on those matters. That's good.  
19 Okay. Are there other questions from Board members?

20           Ms. Chick, thank you very much for coming. We  
21 appreciate it.

22           MS. CHICK: Thank you for having me.

23           CHAIRPERSON SHEEHY: We're going to have more  
24 discussions here about audit procedures, audit authority,  
25 audit related. May we call you back in a few months if --

1 MS. CHICK: Please.

2 CHAIRPERSON SHEEHY: -- it makes sense and maybe  
3 you can at that time give us an update on any -- as things  
4 become more clear about the Build America bonds. I'm hoping  
5 that there's no additional audit requirements above and  
6 beyond what state law already calls for.

7 MS. CHICK: Yeah.

8 CHAIRPERSON SHEEHY: But if there is, we'll -- you  
9 would be a great resource to turn to and I know your time's  
10 slight, but if we can call you back in at some point if it  
11 would be helpful, we'd like to do that.

12 MS. CHICK: I'd be happy to. I'm very much  
13 looking forward to any involvement or cooperation I can give  
14 this Board as we all move to this higher level of  
15 accountability and transparency

16 CHAIRPERSON SHEEHY: Great. Thank you so much.

17 MS. CHICK: Thank you.

18 CHAIRPERSON SHEEHY: Now, while we're on the  
19 subject of audits, Ms. Ronnback, were you successful in  
20 contacting the Board member's office as we discussed  
21 earlier?

22 MS. RONNBACK: I did put in the call, but I have  
23 not communicated with the office.

24 CHAIRPERSON SHEEHY: Oh, there was nobody there at  
25 all in the office?

1 MS. RONNBACK: There was, but it wasn't --

2 CHAIRPERSON SHEEHY: It wasn't the right person to  
3 talk to.

4 MS. RONNBACK: Wasn't the person -- the person  
5 wasn't available to speak at that moment.

6 CHAIRPERSON SHEEHY: Okay. Very good. Well,  
7 that's -- it is what it is. Let's see what's next.

8 MR. COOK: Status of Fund Releases -- 7 on the  
9 agenda.

10 CHAIRPERSON SHEEHY: You know what, why don't we  
11 hold those -- we've got a quorum here which we could lose at  
12 any minute.

13 MR. COOK: Um-hmm.

14 CHAIRPERSON SHEEHY: Why don't we come back to  
15 Ms. Silverman's reports. We've got some other reports. Our  
16 next section of the agenda are **Consent Special** items and I  
17 understand with the exception maybe of one of them they are  
18 noncontroversial. We might be able to get items 7 through  
19 12 take care of rather quickly.

20 On Item No. 7 which is the **Glendale** item, I am  
21 going to ask for a roll call vote and we're probably -- you  
22 know, we may not actually have enough votes today to put  
23 that item out unless we get two more members to show up in  
24 which case it may have to be held over to the next meeting  
25 because the Chair's going to ask Mr. Harvey to vote with the

1 Chair. I'm not going to support that one because that goes  
2 back to the Glendale item which we both voted no on. But I  
3 think that our other Board members were all supportive of  
4 that.

5 So we could take a vote on that today and leave  
6 the roll open, but I'm not sure we're going to get enough  
7 members here to close that item out.

8 Does the staff know whether in addition to Senator  
9 Lowenthal we're going to have any other members today show  
10 up? Do we know about Assemblywoman Fuller?

11 MR. COOK: Right. We only had two that, you know,  
12 RSVP'd no and that's Senator Wyland and Rose Girard.

13 CHAIRPERSON SHEEHY: Is Ms. Fuller's staff here?  
14 Do we know if she's going to make it? Okay. Well, just so  
15 that Glendale folks know that if we open the roll on your  
16 item and you don't get enough votes, since we don't have any  
17 rules and procedures established with this body, you're not  
18 going to be harmed in any way, so I don't want you to panic;  
19 okay? So --

20 MS. MOORE: Could I just make a comment to --

21 CHAIRPERSON SHEEHY: Sure.

22 MS. MOORE: -- that as well?

23 CHAIRPERSON SHEEHY: Yeah.

24 MS. MOORE: This appears to me to be the second  
25 time that we've had an issue like this and I would like to

1 see maybe the Rules and Procedures Committee look at this  
2 because it appears to me we're taking a second vote on an  
3 item that we already voted on and that this is the second  
4 time that this has happened.

5           And so either the funding item should come forward  
6 with the item that is on appeal and it is all voted on at  
7 once, but this seems to my mind to have another vote on the  
8 funding component of an item that the Board has already  
9 approved and it appears that a project could, you know, get  
10 one approval and not the other, and to me that doesn't seem  
11 right, so --

12           CHAIRPERSON SHEEHY: I would like Mr. Cook to  
13 respond to Ms. Moore's question, but I want to say something  
14 for the record. I have done and will do everything in my  
15 power that I can because my power's limited to make sure  
16 that this item gets closed out.

17           A majority of the Board members voted in support  
18 of the Glendale item and I will do everything in my power to  
19 get this item closed out. So let me just -- if anybody has  
20 any questions or wondering, even though I'm not supporting  
21 it, that doesn't mean I'm going to anything to keep this  
22 from happening, but I got to have all the Board members here  
23 and we've got one Board member that's missed three meetings  
24 in a row and we've got two other Board members that aren't  
25 here right now, so we can only do what we can do with the

1 votes that we have.

2 Rob, can you respond to Ms. Moore.

3 MR. COOK: There have been three instances where  
4 this has been the case and in all those -- some of these  
5 cases, it's been very difficult to determine what the  
6 funding should be and what the funding item should be when  
7 the Board takes up the actual appeal itself because frankly  
8 the Board can take some twists and turns sometimes that  
9 staff does not anticipate and we could well do quite a bit  
10 of work to prepare what we think the funding item ought to  
11 be if the Board approves something only to have nothing that  
12 the Board can really act on at that time.

13 So -- but this has occurred -- this is the third  
14 time. It's certainly not a normal circumstance, but I --

15 MS. MOORE: I appreciate your comments on -- the  
16 Chair, of this, but I just had a concern there if there's --  
17 if you feel that because of how the appeals get heard that  
18 it persists, I'd like to probably avoid -- you know, I think  
19 we would like to avoid it in the future because it does  
20 appear like a second vote. So given your comments,  
21 hopefully we won't have a problem.

22 CHAIRPERSON SHEEHY: Okay. Well, in the event --  
23 well, we're pretty sure that we're going to have at least  
24 one more Board member and we might have two. So I -- if  
25 it's okay with the Board members, I think we should go ahead

1 and open the roll on this item and then that way if we get  
2 the other two members, we can close it out and dispense with  
3 it.

4 So if we could have a motion to approve Item  
5 No. 7, which is the --

6 MS. MOORE: I'll move approval.

7 CHAIRPERSON SHEEHY: We have a motion.

8 ASSEMBLY MEMBER BROWNLEY: I'll second, but I just  
9 want one clarification and that is --

10 CHAIRPERSON SHEEHY: Yes.

11 ASSEMBLY MEMBER BROWNLEY: -- to make sure by the  
12 Board rules that if two more members don't show up that we  
13 can remove the motion and hold it over --

14 CHAIRPERSON SHEEHY: Absolutely. Absolutely.  
15 Let's make that part of the motion. If we don't get two  
16 more Board members to show up, the motion will be removed  
17 and we'll hold it over till the next meeting.

18 ASSEMBLY MEMBER BROWNLEY: Thank you.

19 CHAIRPERSON SHEEHY: Okay. We have a motion and a  
20 second. Ms. Genera, please call the roll.

21 MS. GENERA: Senator Hancock.

22 SENATOR HANCOCK: Aye.

23 MS. GENERA: Assembly Member Brownley.

24 ASSEMBLY MEMBER BROWNLEY: Aye.

25 MS. GENERA: Assembly Member Torlakson.

1 ASSEMBLY MEMBER TORLAKSON: Aye.

2 MS. GENERA: Scott Harvey?

3 MR. HARVEY: No.

4 MS. GENERA: Kathleen Moore.

5 MS. MOORE: Aye.

6 MS. GENERA: Tom Sheehy.

7 CHAIRPERSON SHEEHY: No. Okay. So that four aye  
8 votes, two no votes, and we'll hold the roll open. Now,  
9 unless any of the members want to have discussions on  
10 Items 8 through 12, my understanding is, is that there's no  
11 controversy over the staff recommendations and perhaps we  
12 could approve those six items -- or five items as one block.

13 ASSEMBLY MEMBER BROWNLEY: I'll more 8 through 12.

14 CHAIRPERSON SHEEHY: All right. We have a  
15 motion --

16 MS. MOORE: Second.

17 CHAIRPERSON SHEEHY: -- and a second. All in  
18 favor.

19 (Aye)

20 CHAIRPERSON SHEEHY: Any opposed? No. None  
21 opposed. So Items 8 through 12 have been approved. Okay.  
22 Which takes us to Item 13. Item 13 is I think similar to  
23 the Glendale issue in that we've already had one vote on the  
24 **San Bernardino** appeal and then I guess they're still unhappy  
25 with some of the details here.

1           My sense of this item is that there's some  
2 confusion over this and one of our Board members who's from  
3 the Inland Empire, who's probably the closest to us --  
4 closest to this issue is not here.

5           We can take this item up now, but I'm not sure  
6 we're going to be able to resolve it and we might be able to  
7 move forward and have a more successful discussion on some  
8 other items. So I'm asking my colleagues if you want to  
9 take this item up now. I would be fine with putting it  
10 over.

11           ASSEMBLY MEMBER BROWNLEY: Until the next meeting?

12           CHAIRPERSON SHEEHY: Till the next meeting. But  
13 we'll take it up now if you -- you know, the pleasure of the  
14 committee.

15           MR. HARVEY: Is there a compromise which says we  
16 at least trail it to see what happens later in this meeting  
17 and then if necessary put it over until the next month?

18           SENATOR HANCOCK: I would be happy to move that.  
19 I think that's a good idea. If Senator Lowenthal -- I'm not  
20 sure if it's his or is it Assemblywoman Fuller's district?

21           CHAIRPERSON SHEEHY: It's neither.

22           ASSEMBLY MEMBER BROWNLEY: Neither.

23           SENATOR HANCOCK: Oh.

24           CHAIRPERSON SHEEHY: Neither -- nobody's got --  
25 none of the legislators have this district. But Rose

1 Girard, who's not here today, is from Inland Empire. She's  
2 closest to it. She's not from San Bernardino, but she's a  
3 neighbor.

4 ASSEMBLY MEMBER BROWNLEY: So are you recommending  
5 to hold it over or to hear it?

6 SENATOR HANCOCK: Oh, I would like to hear it and  
7 clear the calendar if we could.

8 CHAIRPERSON SHEEHY: I don't think we've got the  
9 votes to clear the calendar. We don't have a full Board  
10 here and I don't think we're going to get to a unanimous  
11 decision. There's only six of us here right now.

12 We could do it if you'd like to.

13 SENATOR HANCOCK: Well, I guess I would -- I  
14 thought Mr. Harvey was suggesting that we just move it to  
15 the end of the agenda. We see if we get more members.

16 CHAIRPERSON SHEEHY: Fine. That's fine. Is that  
17 agreeable to the Board members to just skip over it for  
18 right now.

19 ASSEMBLY MEMBER BROWNLEY: That's fine.

20 CHAIRPERSON SHEEHY: Okay. All right. Items 14  
21 and 15, Rob, can you -- who's presenting those?

22 MR. COOK: Lisa will -- Lisa Silverman will be  
23 presenting those items.

24 SENATOR HANCOCK: They are interconnected, aren't  
25 they?

1 MR. COOK: Absolutely.

2 SENATOR HANCOCK: Okay. So we could present both  
3 of them? Maybe we could vote on the package. Yeah.

4 MS. SILVERMAN: Good afternoon. Members of the  
5 State Allocation Board, if I can get you attention to turn  
6 over to Tab 14, page 133. Today I'll be presenting  
7 **recommendations to prior bond fund transfer.**

8 Currently, we have authority right now to transfer  
9 any available prior lease purchase funds and we have the  
10 authority to transfer those funds to an active SFP program.

11 And today we have \$5.5 million available for  
12 transfer to our program. Prior to the freeze, the Board  
13 apportioned \$2.4 billion in state apportionments and in  
14 March and April, the Treasurer's Office was successful to  
15 sell nearly \$2 billion in bond proceeds.

16 However, the State Allocation Board prior to that  
17 freeze had allocated \$2.4 billion in apportionments, and we  
18 haven't touched base on this issue, but there is a shortfall  
19 of funds available and that's shown in Tab 5 in the Status  
20 of Funds Release Report that there's \$445 million that is  
21 short to provide funding to all the projects apportioned.

22 And notably last month, Rob reported that we had  
23 \$1.2 billion in unfunded approvals that have been approved  
24 by this body. So the issue before today, we wanted to  
25 highlight, our recommendations are different from the

1 options that -- from the item that wasn't presented last  
2 month and we think that there's better outcomes with the  
3 recommendations we have today.

4           So the issue before us is really bond authority  
5 versus cash. The issue here involves joint use program. We  
6 have \$9.5 billion in joint-use bond authority. However, we  
7 have projects presented in Tab 15 that represents  
8 10.3 million in unfunded approvals.

9           But the issue raises here is we're oversubscribed  
10 in our bond authority by \$755,000. In addition, we also  
11 wanted to reconcile a clerical error for rescission of a  
12 project for Santee Elementary School District and it was a  
13 joint-use project that previously was on the funding list.

14           But correcting this error and adding this project  
15 back to the list, we have a deficit in our authority, which  
16 the deficit, if you add the Santee project in addition to  
17 being oversubscribed by 755,000 and that oversubscribed --  
18 by providing Lake Tahoe a full funded project.

19           So in order to reconcile that, if this Board  
20 chooses to move the motion of staff's recommendation, this  
21 Board will be able to provide full unfunded approval at Lake  
22 Tahoe Unified School District and also provide a full  
23 unfunded approval -- excuse me -- a full approval for Santee  
24 Elementary school for their joint-use project.

25           And what we've provided is a creative solution to

1 address this bond authority versus cash issue. And the  
2 options that we're going to present today is present  
3 \$1.1 million to school facility joint-use program as an  
4 as-needed basis.

5 In an as-needed basis, we're going to secure it as  
6 a credit line. So the cash available would be secure as a  
7 credit for that oversubscribed program and in turn we do  
8 have an understanding that we have some joint-use projects  
9 that potentially could be rescinded and once those projects  
10 do rescinded -- and that could potentially happen sometime  
11 in December -- we would credit that authority to the  
12 program; ergo, we have the cash available and we can ask you  
13 provide full funding for this joint-use project.

14 So if this Board elects to reserve any funds for  
15 that purpose -- again it's critical for districts to  
16 understand that these are estimates of funding that would  
17 not constitute a commitment or an obligation on behalf of  
18 the State Allocation Board and those potential applicants  
19 who would be solely responsible for any local decisions and  
20 investments.

21 So our options today is to secure on an as-needed  
22 basis a credit line for that cash of \$1.1 million to the  
23 joint-use program and transfer the balance of the 5.5 which  
24 is 4.4 to the next eligible project that submits a fund  
25 release.

1           And we believe those are options that are being  
2 presentable and we're hoping that the Board will accept  
3 those options.

4           CHAIRPERSON SHEEHY: Okay.

5           MS. MOORE: I have a question.

6           CHAIRPERSON SHEEHY: Ms. Moore.

7           MS. MOORE: I'm wondering if there is the  
8 possibility for consideration by the Board members of the  
9 transfer of the amount to make the joint-use projects whole,  
10 as you suggest, which I'm very appreciative that you worked  
11 that creatively to do so so that we can fund the entire  
12 list.

13           My concern is on facility hardships and that those  
14 by their very definition are supposed to be -- facility  
15 hardship, usually an emergency type situation and that we  
16 have the funding for those. They seem to be a higher  
17 priority than the regular program funding, and I'd like to  
18 see that -- the remainder reserved for those types of  
19 projects.

20           I understand there may be a cash flow issue with  
21 that. Could you talk about that.

22           MS. SILVERMAN: Right. Well, the issue that we  
23 presented is obviously prior to the freeze, you know, there  
24 was some health and safety projects that obviously had  
25 apportionments, but during that freeze, you know, obviously

1 we worked closely with Department of Finance and we had  
2 allocation of funds and so we were able to provide funding  
3 for health and safety projects that were shovel ready at  
4 that time.

5           And the issue is with reserving monies for these  
6 health and safety projects, there are reserves for projects  
7 that have received an unfunded approval and that creates a  
8 problem by trapping the cash because I know --

9           MS. MOORE: Is this hard cash, so --

10          MS. SILVERMAN: Yeah, this is real cash.

11          MS. MOORE: -- do we have 4.4 million to spend?

12          MS. SILVERMAN: Correct. Correct.

13          MS. MOORE: Can the Board consider health and  
14 safety projects a priority for that funding?

15          MS. SILVERMAN: Correct. But then the Board would  
16 have to get into a discussion of whether or not they want to  
17 constitute -- provide these health and safety projects that  
18 are on the unfunded list to an active apportioned status and  
19 that's how we're able to achieve that.

20               However, the problem is we're still \$440 million  
21 short for those active apportioned projects prior to the  
22 freeze. So in essence, you're creating a disadvantage for  
23 those folks who are still waiting in line to get funding  
24 approvals.

25          MS. MOORE: The 440 million is regular program

1 projects --

2 MS. SILVERMAN: Right.

3 MS. MOORE: -- correct?

4 MS. SILVERMAN: Right.

5 MS. MOORE: And so are there any on the  
6 440 million that are financial -- facility hardship  
7 projects?

8 MS. SILVERMAN: No.

9 MS. MOORE: We clear the list of those projects?

10 MS. SILVERMAN: Yes.

11 MR. COOK: Yes.

12 MS. MOORE: So if someone comes in to us with a  
13 facility hardship project --

14 MS. SILVERMAN: They receive --

15 MS. MOORE: -- in essence right now they go to the  
16 end of the line and they wait for their funding like all  
17 others.

18 MS. SILVERMAN: Well, they're receiving an  
19 unfunded approval --

20 MS. MOORE: I mean an unfunded approval.

21 MS. SILVERMAN: Right. Correct.

22 MS. MOORE: Correct?

23 MS. SILVERMAN: Correct.

24 MS. MOORE: So if -- I guess for future I'd like  
25 to consider is there any way that we can assist emergency

1 situations during this funding freeze and this seemed one  
2 way that we could, but perhaps we're not able to because of  
3 the cash flow issue.

4 MS. SILVERMAN: Correct. And the other issue we  
5 should also be considered is that reservation of funds, that  
6 4.4 million, if it's sitting there until we're able to  
7 provide active apportionments, then what we also create is  
8 another problem, is the problem of being in post federal  
9 arbitrage penalties for sitting on those prior bond funds.  
10 So that's another component that, you know, you may set  
11 aside \$4.4 million today, but every six months, the IRS will  
12 review the treasury's account and determine whether or not  
13 those penalties should be posed because we're not  
14 relinquishing the cash. And so that fund may be -- the  
15 reserve may be dipping every six months. So that's --

16 MS. MOORE: Are you saying that Option 2 is not  
17 really an option? I mean it's presented here for facility  
18 hardship, but --

19 MS. SILVERMAN: Right.

20 MS. MOORE: -- are we saying that really isn't an  
21 option?

22 MS. SILVERMAN: Well, it's an option but for this  
23 Board for discussion. However, the issue is our risk is  
24 sustain the cash that we can't provide funding for projects  
25 right now. But that's the issue.

1           MR. COOK: The short answer, it's a bad option  
2 because as Lisa said, the IRS will diminish that account if  
3 it's sitting there for a period of time and instead of being  
4 able to fund a project with the full 4.4 million, that  
5 money's going to dwindle over time.

6           MS. MOORE: I'm prepared to move Option 1 with the  
7 stipulation that if we are -- could you make us aware of any  
8 facility hardship projects that seem to be of grave  
9 emergency just so that the Board's aware if those projects  
10 occur and we can maybe consider any options we might have at  
11 a future date to deal with those.

12           CHAIRPERSON SHEEHY: Okay. So we're going to have  
13 more discussion on this, but Kathleen Moore has moved the  
14 staff recommendation. Is there a second on that motion?

15           ASSEMBLY MEMBER TORLAKSON: Second.

16           CHAIRPERSON SHEEHY: All right. We have a second  
17 by -- was that Mr. Torlakson? Okay. We have Scott Harvey  
18 and then Assemblywoman Brownley.

19           MR. HARVEY: All right. I'll jump in. There's  
20 another public policy question because normally, Ms. Moore, I  
21 would be right behind you because to me funding those kinds  
22 of things that are more health and safety oriented, people  
23 are at risk, I would certainly say we should do that.

24           And I think this Board -- I would like the  
25 opportunity to do that, but the second bullet caught my

1 attention too on the cons which is this line jumping issue.

2 We tend to have a practice that says first in,  
3 first out and I'm very willing to work with you on finding  
4 ways to move projects this Board deems more significant for  
5 whatever reason, whether it's public health and safety or  
6 otherwise, but I want us to recognize that we may be pushing  
7 against this time-honored issue of first in, first out.

8 CHAIRPERSON SHEEHY: Okay. Assemblywoman  
9 Brownley.

10 ASSEMBLY MEMBER BROWNLEY: Thank you. I just  
11 wanted a quick explanation about the amount of the  
12 administrative fees. And the item, it talks about the  
13 balance having declined from 6.6 million to 5.5 million due  
14 to administrative fees paid to the State Controller,  
15 Treasurer, Department of Ed, et cetera.

16 CHAIRPERSON SHEEHY: Lisa.

17 MS. SILVERMAN: Those are routine charges that  
18 give offsets to our account on a regular basis, so at times  
19 you can -- we can have these offsets or these -- they're  
20 actually budget line items that are in our annual budget ads  
21 far as administrative costs.

22 So if you have funds in a particular account, then  
23 obviously those are charges that we incur and so they are  
24 normal charges, interest costs, you know, admin costs for  
25 processing our fund release, other overhead charges.

1           So those are standard costs and again the more we  
2 retain these funds, those funds could also be subject to  
3 additional costs. So I mean those funds could be dwindling  
4 as we speak.

5           ASSEMBLY MEMBER BROWNLEY: Right. And is there a  
6 formula for that in some sense? I mean is there a way to  
7 predict what those costs are based on a particular bond  
8 amount? I mean is there a rate, a formula, or is it just as  
9 the bill comes and there it is.

10          MS. SILVERMAN: Right.

11          ASSEMBLY MEMBER BROWNLEY: It's as the bill comes.

12          MS. SILVERMAN: As the bill comes, yeah, and then  
13 sometimes the bill comes quarterly. Sometimes it comes  
14 monthly, so I mean it all depends.

15          ASSEMBLY MEMBER BROWNLEY: And do you have some  
16 way of, in the spirit of transparency, knowing whether  
17 that's the appropriate amount?

18          MS. SILVERMAN: We validate the charges, compare  
19 that to our appropriations every year, so, yeah, we do  
20 reconcile that.

21          ASSEMBLY MEMBER BROWNLEY: Okay. All right.

22          CHAIRPERSON SHEEHY: Okay. Was that it,  
23 Ms. Brownley?

24          ASSEMBLY MEMBER BROWNLEY: Yes. Thank you.

25          CHAIRPERSON SHEEHY: Okay. Look, Scott, you --

1 hold on one second. Did Senator Hancock or Senator  
2 Lowenthal have any questions at this time?

3 SENATOR HANCOCK: No. I would be willing to move  
4 the staff recommendation.

5 CHAIRPERSON SHEEHY: All right. We have a motion  
6 and a second on the staff recommendation. Mr. Harvey.

7 MR. HARVEY: I wanted to follow up on Assembly  
8 Member Brownley's comments because what you didn't say was  
9 the reasonableness of the assessment. Do we have the  
10 opportunity to ever look at how those overhead charges or  
11 administrative charges stack up against other entities which  
12 make those assessments? Do we have the opportunity to  
13 negotiate them?

14 In this budget time, DGS has gone out and very  
15 aggressively gone to every contractor, whether it is for  
16 personal services or public works and said given the state's  
17 condition, will you give us a break, and in many cases,  
18 we're getting 5 and 15 percent reduction in our contract  
19 amounts.

20 So I am sympathetic to the fact that if they're  
21 simply adjusting their overhead every year and we're not  
22 having any opportunity to probe or to question, maybe we  
23 should. Are the fees reasonable?

24 MR. COOK: We're not prepared to address whether  
25 the fees are reasonable at this point in time and at the

1 risk of being impolitic, if the Controller's Office took a  
2 three-day furlough, we might be able to reduce their charges  
3 to us by 15 percent.

4 CHAIRPERSON SHEEHY: We're working on that, Rob.  
5 Okay. Are there other questions from Board members? And  
6 welcome, Senator Wyland.

7 SENATOR WYLAND: Thank you.

8 SENATOR HANCOCK: Are we going to vote on this  
9 item now?

10 CHAIRPERSON SHEEHY: Well, if everybody's had  
11 their questions answered, we have a motion and a second to  
12 the staff recommendation on Item 14. Rob, is there a  
13 conforming action on Item 15 or is there not a conforming  
14 action on Item 15?

15 MR. COOK: If staff recommendation is moved on  
16 Item 14, then staff recommendation on Item 15 is taken care  
17 of.

18 CHAIRPERSON SHEEHY: Yes.

19 MR. COOK: And -- there is --

20 CHAIRPERSON SHEEHY: So if we take this vote right  
21 now and the motion passes, then we're done with 14 and 15?  
22 Is that right?

23 MR. COOK: We are -- well, they're separate items,  
24 but if the Board were to move staff recommendation on  
25 Item 14 and 15 together, then --

1 CHAIRPERSON SHEEHY: The motion was on Item 14.

2 SENATOR HANCOCK: Well, it's on 15 too.

3 CHAIRPERSON SHEEHY: Okay. So I think Ms. Moore  
4 was the maker of the motion. Would you be willing to amend  
5 your motion to move the staff recommendation on both?

6 MS. MOORE: Absolutely.

7 CHAIRPERSON SHEEHY: And Ms. Hancock seconds. So  
8 then we're moving the staff recommendation on both Items 14  
9 and 15. All right. All in favor.

10 (Ayes)

11 CHAIRPERSON SHEEHY: Any opposed? Hearing none.

12 Now, we left the **roll open** on the **Glendale** item.  
13 There were four aye votes. There were two no votes and we  
14 have two members that have shown up. So, Ms. Genera, could  
15 you please lift the -- could you please -- somebody help me.  
16 What tab number was that?

17 MR. HARVEY: 7.

18 CHAIRPERSON SHEEHY: Could you please call the  
19 roll again on Tab No. 7. Call the absent members, please.

20 MS. GENERA: Senator Lowenthal.

21 SENATOR LOWENTHAL: Aye.

22 MS. GENERA: Senator Hancock.

23 SENATOR HANCOCK: Aye.

24 SENATOR LOWENTHAL: She already voted.

25 SENATOR HANCOCK: I already voted. Actually I

1 think you mean Senator Wyland.

2 MS. GENERA: Oh, I'm sorry.

3 CHAIRPERSON SHEEHY: Vote early -- that comes  
4 under vote early and vote often, Senator.

5 MS. GENERA: Senator Wyland.

6 SENATOR WYLAND: Aye.

7 MS. GENERA: Okay.

8 CHAIRPERSON SHEEHY: Okay. Do we have six aye  
9 votes on that?

10 MS. GENERA: Yes.

11 CHAIRPERSON SHEEHY: Okay. So Tab No. 7, the  
12 Glendale item, has been approved. Okay.

13 SENATOR HANCOCK: Chairman Sheehy.

14 CHAIRPERSON SHEEHY: Yes, Senator Hancock.

15 SENATOR HANCOCK: Could I just say I believe that  
16 Senator Wyland has to leave in a minute and I just wondered  
17 if we could take Item 21, Seismic Mitigation up out of order  
18 while he's here.

19 CHAIRPERSON SHEEHY: Okay. Hold on --

20 SENATOR HANCOCK: And also San Bernardino,  
21 Item 13.

22 CHAIRPERSON SHEEHY: Sure. Sure. Hold on one  
23 moment though. We still have another item that's on call.  
24 When we approved the agenda calendar -- when we approved the  
25 agenda -- the consent calendar -- this is my fifth board

1 meeting today. I'm a little punchy.

2           When we did the **Consent Calendar**, we left the **Elk**  
3 **Grove Unified School District** items open to accommodate  
4 Ms. Moore and we had four aye votes. And so could you  
5 please call the roll on the absent members for the -- this  
6 is for the Consent Calendar.

7           MS. GENERA: Senator Lowenthal.

8           SENATOR LOWENTHAL: Aye.

9           MS. GENERA: Senator Wyland.

10          SENATOR WYLAND: Aye.

11          CHAIRPERSON SHEEHY: Okay. That has six votes.  
12 Okay. So the Consent Calendar has been approved. Do we  
13 need to do anything on the Minutes? The Minutes are okay?

14          Okay. Now we have a request on Item 13; is that  
15 right?

16          SENATOR LOWENTHAL: Yes.

17          CHAIRPERSON SHEEHY: And also -- and on Item --

18          SENATOR HANCOCK: 21.

19          CHAIRPERSON SHEEHY: -- 21. Now my sense is both  
20 of those are going to take some time. What's the pleasure  
21 of the committee? We skipped over 13. Maybe we should  
22 start with that.

23          SENATOR WYLAND: Maybe I should just do this  
24 without pressing the button.

25          CHAIRPERSON SHEEHY: Senator Wyland, would you

1 like to move to this spot here by Ms. Moore?

2 SENATOR WYLAND: Well, if we can pick me up like  
3 this -- does this work?

4 SENATOR HANCOCK: Yeah.

5 SENATOR WYLAND: What I'd appreciate the committee  
6 doing is allowing me to vote on these even if we hadn't had  
7 a discussion because I've examined it because I have to  
8 leave.

9 CHAIRPERSON SHEEHY: Well, if we're going to  
10 extend that courtesy to you, Senator, then I think we need  
11 to extend that courtesy to everyone and some of us are going  
12 to be here for the whole meeting. So what's the pleasure of  
13 the Board? Do we want to open up every item so everybody  
14 can cast votes right now?

15 SENATOR LOWENTHAL: Well, only people who request  
16 it.

17 CHAIRPERSON SHEEHY: Only people that request it.  
18 Do we have any other requests besides Senator Wyland? And  
19 that -- would that be on Items 13 and 16, Senator -- for 13  
20 and 21?

21 SENATOR WYLAND: On 13 and 21.

22 SENATOR HANCOCK: The motion I'm going to make  
23 will be on Item 21, Option 1A, which I believe discussed --

24 CHAIRPERSON SHEEHY: It's the staff recommendation

25 SENATOR HANCOCK: Yes, the staff recommendation

1 with the additional language that the State Architect's  
2 Office will develop a process for looking at situations that  
3 may not fall into any of the building types, but where there  
4 is an engineering report that indicates that the building  
5 would be in imminent danger of collapse in an earthquake and  
6 that they would then be able to make -- go through the  
7 process with any applications like that we might get and  
8 either reject them or decide that we could in fact fund them  
9 at their discretion.

10 In the meantime, while they're developing this  
11 process that would take three to six months, we would move  
12 ahead with Option 1A and hope very much that we would get  
13 additional applications coming in so we can spend the money  
14 since we know the need is out there.

15 CHAIRPERSON SHEEHY: Okay. Senator Hancock,  
16 that's great. I think -- my sense is on the seismic issue,  
17 we're going to need to have a little fuller discussion and  
18 we may want -- we may find some language that refines the  
19 second part of your motion a little bit. That was a lot to  
20 take in. I don't have any problem with that.

21 Senator Wyland, if you're going to have to leave  
22 and you want to support Senator Hancock on her item --

23 SENATOR WYLAND: Well, I'm familiar with the  
24 amendment that she plans on introducing.

25 CHAIRPERSON SHEEHY: Okay.

1           SENATOR WYLAND: And I do support that.

2           CHAIRPERSON SHEEHY: I can't guarantee you that  
3 when we finish up that that's where we're going to end up.

4           SENATOR WYLAND: I understand. I understand and I  
5 think as much as I may support that, I don't -- I  
6 probably -- I don't know that I can -- well, actually this  
7 is not like a (indiscernible) committee. I don't know that  
8 perhaps I couldn't since we've -- I'm familiar with the  
9 intent. The question becomes --

10          CHAIRPERSON SHEEHY: Just turn your mic off I  
11 think.

12          SENATOR WYLAND: The question becomes can I -- and  
13 I don't know that the committee actually has rules -- our  
14 legislative committees do. Can I make a vote --

15          SENATOR LOWENTHAL: If we -- often in legislative  
16 committees, we'll open the roll if the bill has been --  
17 there's been a motion on it -- we will open the roll to  
18 those who can't stay if there's been a motion and I would  
19 move 1A with the amendment suggested by Senator Hancock on  
20 1A.

21          CHAIRPERSON SHEEHY: Okay. And, Mr. Lowenthal,  
22 I'll second your motion on the proviso that we have some  
23 flexibility to work on Senator Hancock's language.

24          SENATOR LOWENTHAL: Absolutely.

25          CHAIRPERSON SHEEHY: I think that -- my sense is,

1 is there's probably going to be enough support here today to  
2 approve that motion, but I'd like to have the ability to  
3 talk about it a little bit, maybe tweak the language.

4 SENATOR LOWENTHAL: I think we should talk about  
5 it, but just to -- in -- to --

6 CHAIRPERSON SHEEHY: Give Senator Wyland a chance  
7 to vote. I think that's great.

8 SENATOR WYLAND: Yeah. I --

9 CHAIRPERSON SHEEHY: So would you like to be -- so  
10 will you support Ms. Hancock's motion even if we tweak the  
11 language a little bit?

12 SENATOR WYLAND: I do because I've examined it and  
13 I think the underlying intent I support.

14 CHAIRPERSON SHEEHY: All right. So we do have a  
15 motion and a second to approve staff recommendation with a  
16 slight modification offered by Senator Hancock on Item  
17 No. 21. And rather than calling the roll and going through  
18 all that right now because I don't want to truncate the  
19 discussion, Mr. Wyland, how are you going to vote on that  
20 item?

21 SENATOR WYLAND: I will vote aye.

22 CHAIRPERSON SHEEHY: Okay. Very good.

23 SENATOR WYLAND: And the other thing --

24 CHAIRPERSON SHEEHY: So we'll put that item on  
25 call.

1           SENATOR WYLAND:  -- I would like to do is proceed  
2 to the San Bernardino issue.

3           CHAIRPERSON SHEEHY:  Well, that was next on the  
4 list, so I think that's where we --

5           SENATOR LOWENTHAL:  But he needs to leave also, so  
6 I'll make a motion on -- to approve the San Bernardino  
7 appeal if we're moving to that and then the --

8           CHAIRPERSON SHEEHY:  To approve the San  
9 Bernardino -- well, first of all, which tab are we going to?

10          SENATOR WYLAND:  We're doing Tab 13 and the motion  
11 to refine it a little bit would be to grant the project of  
12 February 2009 unfunded approval date.

13          CHAIRPERSON SHEEHY:  I'm sorry.

14          SENATOR WYLAND:  The motion would be to grant the  
15 project in February 2009 unfunded approval date.  In other  
16 words, that --

17          CHAIRPERSON SHEEHY:  Somebody write that down so  
18 we can come back to that.

19          MS. JONES:  Got it.

20          CHAIRPERSON SHEEHY:  Because I'd like to have a  
21 full discussion of this item so I can understand what  
22 that -- the implications.

23          SENATOR WYLAND:  That's fine.

24          CHAIRPERSON SHEEHY:  So we do have a motion by  
25 Senator Wyland to move that.  We have a second by

1 Mr. Lowenthal.

2 SENATOR WYLAND: Well, and the motion has a second  
3 which is to reduce the district's liability in two ways.

4 Number one --

5 CHAIRPERSON SHEEHY: I'm sorry. This is still  
6 part of the motion?

7 SENATOR WYLAND: It's part of the same motion.

8 CHAIRPERSON SHEEHY: Okay. Do you have something  
9 written out for us?

10 SENATOR WYLAND: I do.

11 CHAIRPERSON SHEEHY: Did you want to pass it out?

12 SENATOR WYLAND: I don't have it in a form in  
13 which I can pass it out.

14 CHAIRPERSON SHEEHY: Okay. No problem. Go ahead.

15 SENATOR WYLAND: But I believe the district can  
16 put it in a form in which they can pass out.

17 CHAIRPERSON SHEEHY: I'm a little bit  
18 uncomfortable with a member making a motion and leaving and  
19 then having a district passing out what they -- who's the  
20 entity before us -- well, passing out what they think it is  
21 you're willing to support. That to me strikes as being a  
22 little bit of a conflict of interest.

23 SENATOR WYLAND: Well, what if then I make this  
24 motion. We can copy the motion that I am making here and  
25 so -- because all you're really doing is -- what you're

1 saying is if the motion is not perfectly clear, it simply  
2 makes it clear. In other words, I could make the motion and  
3 someone can write it down.

4 CHAIRPERSON SHEEHY: Well -- yeah.

5 MS. JONES: I may --

6 SENATOR WYLAND: Yeah.

7 MS. JONES: I'm with him.

8 CHAIRPERSON SHEEHY: Do you want to repeat what  
9 you think the motion is, Ms. Jones.

10 MS. JONES: Sure.

11 CHAIRPERSON SHEEHY: Ms. Jones thinks she's got  
12 your motion down, Senator. Let's see what she says.

13 MS. JONES: First part of your motion, February  
14 2009, unfunded approval date, and then the second part was  
15 reduce the district's liability and you haven't gotten to  
16 your two points yet.

17 SENATOR WYLAND: Correct.

18 CHAIRPERSON SHEEHY: Are the two points part of  
19 the motion?

20 MS. JONES: Yes.

21 CHAIRPERSON SHEEHY: Okay. Please continue,  
22 Senator.

23 SENATOR WYLAND: There would be 81 grants reduced  
24 from the district's new construction eligibility and 324  
25 grants reduced from the district's ORG eligibility.

1 ASSEMBLY MEMBER BROWNLEY: This in essence is the  
2 approval of the district's request?

3 SENATOR WYLAND: It's in essence approval of the  
4 district's request. I'm just --

5 CHAIRPERSON SHEEHY: You're covering the motion.  
6 Okay. So you got that, Lisa?

7 MS. JONES: I got it.

8 CHAIRPERSON SHEEHY: Okay. We'll have a  
9 discussion on how that impacts all the other districts that  
10 are in line for the same funding and then we'll see if  
11 you've got support for your motion. We got a motion and a  
12 second, so we'll have a vote on that motion.

13 SENATOR WYLAND: And that's what I'd like is just  
14 a vote and --

15 CHAIRPERSON SHEEHY: And you were going to -- so  
16 Senator Wyland, how do you vote on your motion.

17 SENATOR WYLAND: I vote aye.

18 CHAIRPERSON SHEEHY: Okay. So we have you down as  
19 an aye and we'll call the roll on the rest of the members.

20 SENATOR WYLAND: Correct and if subsequently that  
21 turns out differently, it true, but I would be recorded as  
22 an aye vote on this motion as it's made.

23 CHAIRPERSON SHEEHY: Yes. Senator you are  
24 recorded as an aye vote. So we're good? So is there  
25 anything else?

1           SENATOR WYLAND: Thank you.

2           CHAIRPERSON SHEEHY: While we have Senator Wyland  
3 here, was there any other item that -- you know, we've got  
4 seven members here. Was there some other item that somebody  
5 wanted to take up? Scott Harvey.

6           MR. HARVEY: Actually I have a request for the  
7 Senator. As a member of your Rules and Procedures  
8 Committee, I think this discussion underscores the need for  
9 us to have rules and procedures.

10          CHAIRPERSON SHEEHY: Rules and procedures.

11          MR. HARVEY: So I'm hoping that when your schedule  
12 allows we can have a robust discussion so that we don't have  
13 this awkwardness.

14          SENATOR WYLAND: I agree absolutely. I think all  
15 of us agree that we need that and if in the course of that  
16 this procedure is not part of the rules, I accept that  
17 completely.

18          CHAIRPERSON SHEEHY: Okay. Well, it won't have  
19 any bearing on what we do today. What we do today is going  
20 to be under our existing --

21          SENATOR WYLAND: What we're doing today is within  
22 the framework of what does happen.

23          ASSEMBLY MEMBER BROWNLEY: What are our rules at  
24 the moment?

25          CHAIRPERSON SHEEHY: We have none. We have none.

1 ASSEMBLY MEMBER BROWNLEY: We don't say we apply  
2 by the Brown Act or Robert's Rules or nothing?

3 MS. MOORE: Well, in the past --

4 CHAIRPERSON SHEEHY: Well, we do. We generally  
5 use Robert's Rules for parliamentary issues, but, for  
6 example, you could have an item that comes up on appeal five  
7 times and never get enough votes to pass and it's never  
8 dead. It just keeps coming back. There's not like a  
9 legislative committee where a bill granted reconsideration  
10 and then it has up or down vote. So we don't have that.

11 So, Senator Wyland, thank you and we'll look  
12 forward to the Rules and Procedures Subcommittee meeting  
13 real soon.

14 Okay. So I think we're on Item 13 and I think it  
15 would be helpful for the Board to have a full discussion of  
16 Item 13. Rob, could you please have the staff present  
17 Item 13.

18 MR. COOK: Yeah. Rick Asbell will present this  
19 item.

20 MR. ASBELL: Good evening, Mr. Chair and Board  
21 Members. We are at Tab 13, stamped page 129  
22 *[San Bernardino]*. The purpose of this report is to present  
23 the district's request for overcrowding relief grant for a  
24 project that previously received new construction site and  
25 design funds under the school facility program.

1           This item touches upon three critical issues. One  
2 of them is duplication of funding, funding date and status  
3 of the ORG project, and the district bridge financing  
4 request.

5           So at the February 2009 State Allocation Board,  
6 the Board approved the district's appeal to request ORG  
7 funding for a project that received site and design funding  
8 as a new construction project provided that there is no  
9 duplicate funding.

10           This project is being funded from two different  
11 funding sources, ORG and new construction, with two very  
12 different types of eligibility. The one common funding line  
13 item shared by the new construction and ORG projects is the  
14 design apportionment.

15           For the new construction project, the district  
16 received a design apportionment and funding equaling 81  
17 pupil grants. Therefore they must have their new  
18 construction eligibility reduced by that 81 pupils.

19           This standard is applied to all districts.  
20 Without this reduction in eligibility, districts could  
21 receive an endless amount of state funding because their  
22 eligibility would never drop.

23           It should be noted that the district continues to  
24 retain all the new construction design funding it has  
25 received. Because the district received and retained the

1 design funding for the new construction project, receiving  
2 design funding again for the ORG project would be  
3 duplicative.

4           Also because the district is replacing 15 ORG  
5 portables with this project, the corresponding 405 ORG pupil  
6 grants -- and that is calculated by taking 15 classrooms,  
7 multiplying them by the loading standard for 9 through 12 of  
8 27 pupils each -- that must be charged to the ORG baseline  
9 to account for the portables being replaced.

10           As for the funding date and the status for the ORG  
11 project, the district has previously requested a December  
12 2008 apportionment. However, Department of Finance letter  
13 dated December 18, 2008, advised all departments to cease  
14 authorizing new grants or bond obligations for bond  
15 projects.

16           The letter also discusses that any expenditure not  
17 in compliance with the budget letter could result in a  
18 department's or agency's operating budget being obligated to  
19 pay that expenditure.

20           As a result of this language, the SAB does not  
21 have the authority to make apportionments without  
22 potentially impacting OPSC's operating budget.

23           The district has provided an alternative proposal  
24 if the SAB is unable to provide a December 2008 or any other  
25 apportionment for this project. The district would request

1 a February 2009 unfunded approval date for that project.  
2 The district's proposal is based on the SAB's approval of  
3 the district's appeal in February 2009.

4 After the appeal was granted in February, the  
5 district resubmitted its ORG application. The OPSC  
6 processed the application under accelerated timelines  
7 compared with other projects received on that date and  
8 prepared the item for the July 2009 SAB.

9 The OPSC is recommending a July 2009 unfunded  
10 approval date as this was the earliest date at which the  
11 district's application was presented.

12 Finally, the district has made a couple requests  
13 concerning bridge financing: first, authorization that  
14 bridge financing be allowed on unfunded approvals and the  
15 bridge financing not be considered district contribution --

16 CHAIRPERSON SHEEHY: I'm sorry. Stop. What does  
17 that mean, bridge financing? What does that mean? What are  
18 they asking for? I don't understand what that means.

19 MR. COOK: Those are loans that the district would  
20 take out on its own accord, usually --

21 CHAIRPERSON SHEEHY: Why are they asking us for  
22 that?

23 MR. COOK: They're not asking us for the loans  
24 themselves. They're asking for an exception to the Board's  
25 policy on those loans.

1           CHAIRPERSON SHEEHY: Our policy is to not allow  
2 bridge financing --

3           MR. COOK: No, that's not correct.

4           CHAIRPERSON SHEEHY: Okay. Then what --

5           MR. COOK: Our policy is to allow bridge financing  
6 and that it be applied to the specific projects that have an  
7 unfunded approval or an apportionment.

8           CHAIRPERSON SHEEHY: Okay.

9           MR. COOK: And that the -- when the district  
10 receives funding for those specific projects, they close out  
11 the financing, that they use the funds that we give them to  
12 repay and pay off the debt.

13           CHAIRPERSON SHEEHY: So what's different about  
14 what they're asking?

15           MR. ASBELL: Well, I think it's just more of a  
16 clarification. It was really spelled out in a Board item or  
17 the policy that the Board approved and there are steps and  
18 if the district follows those steps, then we can accommodate  
19 their request.

20           CHAIRPERSON SHEEHY: Okay. I'm sorry, Mr. Asbell.  
21 I just wanted to understand that. Please continue.

22           MR. ASBELL: Okay. Secondly -- second one's a  
23 little bit more complicated, but we'll give it a try here.  
24 Okay. Secondly, the district requests the ability to use  
25 state funds received on apportioned projects for other

1 inactive or unfunded projects and not be required to retire  
2 the bridge financing with the received state funds until the  
3 state is in a position to release funds for all projects  
4 that have been apportioned or on the list of inactive  
5 funding.

6 CHAIRPERSON SHEEHY: Let me see if I've got this  
7 straight because I didn't get the briefing on this because I  
8 didn't -- I wasn't available and then OPSC staff wasn't  
9 available to brief me till about 15 minutes before this  
10 meeting. So it's just the way it is.

11 They want to be able to do bridge financing, but  
12 then take that money and use it for a totally different  
13 project?

14 MR. ASBELL: That's correct.

15 CHAIRPERSON SHEEHY: That's what they want. They  
16 don't -- they want bridge financing for a specific project,  
17 but then they want to use the money for something else.

18 MR. ASBELL: They want to be able to roll it over  
19 to another project.

20 CHAIRPERSON SHEEHY: And then what was the second  
21 part of that? And then they pay the bridge financing off at  
22 some future date when we do what? Provide additional funds  
23 for some other project?

24 MR. ASBELL: Let's see. With the state funds  
25 until the state is in a position to release funds for all

1 district projects.

2 CHAIRPERSON SHEEHY: What does that mean?

3 MR. ASBELL: Apparently they have some other ones  
4 that are sitting out there and they want those to be taken  
5 care of also.

6 CHAIRPERSON SHEEHY: I want to understand -- maybe  
7 we need to hear from the district. I want to understand  
8 what they mean when they say when the state releases funds  
9 for all other projects. What does that -- Rob, do you  
10 understand what they're asking for?

11 MR. COOK: I can only assume, but I'd just as soon  
12 hear from the district.

13 CHAIRPERSON SHEEHY: Sure, please. Go right  
14 ahead.

15 MR. ELATAR: Good evening, Wael Elatar from  
16 San Bernardino City Unified School District. Thank you very  
17 much for hearing our appeal today.

18 What OPSC staff were referencing is that we have  
19 multiple projects on the apportioned list and the unfunded  
20 list and we cannot borrow the entire amount of dollars  
21 because of the condition that we have out there. So we  
22 borrow for the priority projects that we believe that they  
23 are priority and then if we receive funding from the state  
24 for these projects, we can roll over that for the next  
25 priority project that the state already apportioned but they

1 are not able to release the fund for.

2 CHAIRPERSON SHEEHY: I'm sorry. I'm sorry. I  
3 don't understand.

4 MR. ELATAR: Okay.

5 CHAIRPERSON SHEEHY: I don't get it. Can you try  
6 explaining that again.

7 MR. ELATAR: Sure. The district has multiple  
8 projects in the apportionment list and also have multiple  
9 project in the unfunded list.

10 CHAIRPERSON SHEEHY: So when you say on the  
11 apportionment list, sir, you mean that full and final  
12 apportionments that this body had made in the past; is that  
13 right?

14 MR. ELATAR: Prior to December --

15 CHAIRPERSON SHEEHY: But which we were unable to  
16 fund because we didn't have the bond funds? That's what you  
17 mean by the --

18 MR. ELATAR: Correct. Prior to December 17th.

19 CHAIRPERSON SHEEHY: Okay. And then in addition  
20 to that, you also have projects that were approved and put  
21 on an unfunded list; is that --

22 MR. ELATAR: Correct.

23 CHAIRPERSON SHEEHY: Okay.

24 MR. ELATAR: After December 17th.

25 CHAIRPERSON SHEEHY: All right.

1 MR. ELATAR: Since we are not able to borrow  
2 enough to cover all the projects --

3 CHAIRPERSON SHEEHY: On both lists.

4 MR. ELATAR: -- on both lists, we are able only to  
5 borrow for a specific number of projects initially.

6 CHAIRPERSON SHEEHY: Okay.

7 MR. ELATAR: So if we are able to borrow that fund  
8 and we apply for fund release --

9 CHAIRPERSON SHEEHY: You unable to borrow which  
10 fund?

11 MR. ELATAR: If we're able to borrow --

12 CHAIRPERSON SHEEHY: Yeah.

13 MR. ELATAR: -- and we apply for fund release for  
14 those projects that we borrow against.

15 CHAIRPERSON SHEEHY: Uh-huh.

16 MR. ELATAR: Now we are asking if we can use that  
17 money to other projects in the list -- the apportionment  
18 list and the unfunded list rather than retire the bridge.

19 CHAIRPERSON SHEEHY: I don't know what -- the  
20 other Board members, what your level of understanding is,  
21 but I don't understand why you're asking for authority from  
22 us to borrow money against one project but then take the  
23 proceeds and fund a bunch of other different projects. What  
24 do those other projects have to do with the appeal that was  
25 before us? I'm just not -- I'm not connecting the dots.

1 MR. PETTLER: Chairman Sheehy, thank you. My  
2 name's Matt Pettler with School Facility Consultants.  
3 Hopefully I can clarify it a little bit.

4 CHAIRPERSON SHEEHY: Great.

5 MR. PETTLER: The OPSC and the Board adopted a  
6 policy allowing districts to go out to the market and borrow  
7 money on the market. That policy has some procedures in  
8 place and one of those procedures is that you go out and  
9 borrow for a project -- \$10 million project. You borrow  
10 \$10 million, but as soon as you get the money back from the  
11 state on that \$10 million project, you have to immediately  
12 retire the debt.

13 CHAIRPERSON SHEEHY: Okay.

14 MR. PETTLER: So what the district is asking is  
15 instead of having to do that because they have multiple  
16 projects and can't access borrowing for all of those  
17 projects, could they rather than retire the debt, when they  
18 receive that funding back use that money towards their next  
19 project.

20 CHAIRPERSON SHEEHY: Okay. I have a question of  
21 staff. Is that a Board policy or is that a regulation?

22 MR. COOK: It's a Board policy that was adopted in  
23 January --

24 CHAIRPERSON SHEEHY: Okay. So that's --

25 MR. COOK: -- and is a continuation of a --

1           CHAIRPERSON SHEEHY: That's a policy that could be  
2 changed by the Board. Fine. Okay.

3           MR. PETTLER: Right.

4           CHAIRPERSON SHEEHY: So then the question is --  
5 seems to me then the question is if that's what we want to  
6 do in this case, Board members, why wouldn't we want to make  
7 that same option -- I mean why are we having this -- I guess  
8 the question is -- let me finish.

9           MR. PETTLER: Yeah, sure.

10          CHAIRPERSON SHEEHY: -- in my mind -- and I'm open  
11 to all of your input, if we're going to having this  
12 discussion, does it make sense just to have it in the  
13 context of San Bernardino in terms of the flexibility on  
14 this borrowing. Or if this is something that's good for San  
15 Bernardino, perhaps it would be good for other school  
16 districts and are there policy or programmatic concerns that  
17 come out of it that we need to know about? Is this an issue  
18 that we should be talking about in a more global context  
19 because there could be other school districts and rather  
20 than doing these as a one after another after another, if it  
21 makes sense to do this, maybe we could take care of the  
22 request but do it so that if other school districts are in  
23 this situation that they be able to benefit too.

24           That's my question. I'd love to hear either from  
25 the district or staff or both on that point I'm raising.

1 Oh, I'm sorry. Well, okay. Well, that's only the first  
2 time today, so I'm doing better.

3 ASSEMBLY MEMBER BROWNLEY: That's better.

4 CHAIRPERSON SHEEHY: I'm sorry. We're going to  
5 hear from Ms. Brownley first.

6 ASSEMBLY MEMBER BROWNLEY: Well, I just want to  
7 say that I was briefed on this particular item and I thought  
8 that there were two issues. One was the date stamp of the  
9 approval issue --

10 MR. PETTLER: Um-hmm.

11 ASSEMBLY MEMBER BROWNLEY: -- and the pupil grants  
12 eligibility issue. I don't -- I wasn't briefed on, you  
13 know, this loan issue and so forth. So I don't know when  
14 and where that sort of came up. It seems like this --

15 CHAIRPERSON SHEEHY: Well, that wasn't part of  
16 Mr. Wyland's motion, was it?

17 ASSEMBLY MEMBER BROWNLEY: -- is a third issue to  
18 me. I was only briefed on two issues.

19 MR. HARVEY: No. It wasn't part of the motion  
20 either.

21 CHAIRPERSON SHEEHY: Okay. So --

22 ASSEMBLY MEMBER BROWNLEY: So I --

23 CHAIRPERSON SHEEHY: And it wasn't part of  
24 Mr. Wyland's motion, but -- so --

25 MR. COOK: Um-hmm.

1           CHAIRPERSON SHEEHY: I'm sorry. Was there other  
2 Board member comment? Mr. Harvey?

3           MR. HARVEY: Well, I don't want to be too  
4 redundant, but I agree. I question its nexus to the appeal.  
5 I think you made a strong point that it begs a broader  
6 discussion because it has to with a policy separate from the  
7 appeal and I would prefer that we set it aside and have a  
8 separate discussion at a future agenda on this question and  
9 take the two items that we all thought were the issue --

10          CHAIRPERSON SHEEHY: Okay. Is there any  
11 disagreement on the comments Mr. Harvey just made?

12          SENATOR LOWENTHAL: And -- or Ms. Brownley.

13          CHAIRPERSON SHEEHY: Anybody -- okay. So  
14 Mr. Brownley and Mr. Harvey --

15          ASSEMBLY MEMBER BROWNLEY: Ms. Ms.

16          CHAIRPERSON SHEEHY: I'm sorry. I apologize.  
17 Ms. --

18          MS. MOORE: Could we also in the interest of that  
19 expand that out as you said, Tom, to include how this may  
20 impact and/or benefit all districts so when this issue comes  
21 back before us, it's in the context of all school districts.

22          CHAIRPERSON SHEEHY: Rob, we have a lot of work to  
23 do with this committee over the next few months, but if this  
24 is an issue that's important enough to San Bernardino to  
25 bring forward, I have to believe it's important to other

1 school districts. So somehow in the list of priorities, can  
2 we try to work this one in to hear it sooner rather than  
3 later so that we can have a discussion about it because I  
4 think that would be very helpful.

5           And all due respect to San Bernardino, we're going  
6 to set that issue aside for a larger policy debate which  
7 you'll have ample opportunity to comment and participate in.

8           So your understanding, Ms. Brownley, was on the  
9 date stamp and the --

10           ASSEMBLY MEMBER BROWNLEY: The pupil grant  
11 eligibility.

12           SENATOR LOWENTHAL: Right. And the charges to  
13 each.

14           CHAIRPERSON SHEEHY: Okay. I know just enough  
15 about this I guess to be a little dangerous, so I'm not  
16 going to weigh in too much. I just want to make sure -- or  
17 I'd like to hear staff comment on it. I just want to make  
18 sure whatever we're doing we're not somehow creating a  
19 disadvantage for any other districts if we were to -- if  
20 there's -- the motion that Mr. Wyland made that -- I just  
21 want to make sure that we're not cutting in line and we're  
22 not disadvantaging any other districts because the reality  
23 is, is that the bond funds are going to come in dribs and  
24 drabs. We hope they come in in a big gusher, but right now  
25 we're not seeing that. So we don't know how the fund

1 releases are going to work going forward and so I think it's  
2 going to become more and more of a sensitive subject with  
3 all the school districts that are cued up on the unfunded  
4 list.

5           So I just want to make sure we understand that  
6 aspect of it and if everybody's comfortable with it and we  
7 can go ahead and move on. Rob, could you comment on that.

8           MR. COOK: Well, to the issue about moving the  
9 unfunded approval date to February 25th, first issue is that  
10 was the approval date of the district's appeal, but as  
11 you've taken up tonight, the Glendale item as you've taken  
12 up before, the Lammersville item, those issues were not  
13 ready for an unfunded approval at the time that the appeal  
14 was done nor was this appeal at that time. So --

15           CHAIRPERSON SHEEHY: And why is that? Why was  
16 this appeal not ready for an unfunded approval at that time  
17 back in February?

18           MR. COOK: We had not reviewed -- we did not have  
19 the application in our hands, had not had an opportunity to  
20 review it, had not had an opportunity to calculate what the  
21 project would properly receive.

22           CHAIRPERSON SHEEHY: Had you not had the  
23 application in your hands at an earlier point in time?

24           MR. COOK: Yes, but it had been returned to the  
25 district.

1           CHAIRPERSON SHEEHY: Had it been changed? Is it  
2 different? Did it change in any way?

3           MR. COOK: Had not reviewed it in any way, shape,  
4 or form.

5           MS. MOORE: In respect to the item, Chairman, I  
6 think the Board discussed and took action on that issue at  
7 the last meeting.

8           CHAIRPERSON SHEEHY: We did?

9           MS. MOORE: Yes. It -- wasn't it Senator --

10          CHAIRPERSON SHEEHY: We approved their appeal.

11          MS. MOORE: Exactly. And part of that was -- as  
12 I've tried to prepare for this item as well as everyone and  
13 I think we all have been struggling with that and I went  
14 back to look at what was the motion of the Board at the last  
15 Board meeting.

16                 And what it states in the Minutes is to grant  
17 their appeal and determine that if we had heard it earlier,  
18 however, in the time sequence we would have got it, that we  
19 deem their application valid as of July at that time. They  
20 were eligible for the hardship money.

21                 So I thought the action -- and maybe our legal  
22 counsel can guide us on that. We've taken action on when we  
23 deem this application valid.

24          CHAIRPERSON SHEEHY: And you're saying that we  
25 deemed it valid in July?

1 MR. COOK: That was the month --

2 MS. MOORE: That's what it says --

3 CHAIRPERSON SHEEHY: July of '09.

4 MS. MOORE: That's what it says in the transcript.

5 CHAIRPERSON SHEEHY: Teresa, could you comment on  
6 that, please.

7 MS. BORON-IRWIN: Well, first of all, I didn't  
8 think it was the hardship. I thought it was the overcrowded  
9 relief grant. Is that --

10 MS. MOORE: Right. And they were in hardship at  
11 that time.

12 MS. BORON-IRWIN: Are those considered hardship?  
13 Okay.

14 MS. MOORE: Well, no, that isn't -- those are two  
15 separate statements I believe.

16 MS. BORON-IRWIN: I don't have a copy of the  
17 Board's approval item. However, it seems to me that if they  
18 still had to get something in front --

19 ASSEMBLY MEMBER BROWNLEY: You need to speak in  
20 the microphone.

21 MS. BORON-IRWIN: It seems to me that if they  
22 still had to get something in front of staff in order for it  
23 to be approved that it would not have been appropriate for  
24 the Board to make a finding that their application was  
25 complete at that time when there wasn't an application that

1 was even --

2 MS. MOORE: I think we determined that there was  
3 an application. That was the action of the Board, as I  
4 recall. I think, Senator Torlakson, it was your motion.

5 ASSEMBLY MEMBER TORLAKSON: Right. I don't recall  
6 the details at the moment. I don't have a copy of the  
7 motion in front of me, but there was an issue whether the  
8 application should have been sent back, whether it was  
9 actually an error to have sent it back and therefore it  
10 should have been available for the hardship.

11 The exact chronology, I'm not remembering. I  
12 don't have my timeline or notes in front of me from the  
13 previous motion, but that was my recollection that there was  
14 a disagreement as to whether the application should have  
15 been sent back.

16 MS. BORON-IRWIN: And is the review --

17 ASSEMBLY MEMBER TORLAKSON: And if it hadn't, it  
18 would have been there.

19 MS. BORON-IRWIN: Is the review of the application  
20 a ministerial function or is there some discretion that  
21 needs to be exercised in that review?

22 CHAIRPERSON SHEEHY: I'm sorry, Teresa. Could you  
23 repeat that? I didn't catch that.

24 MS. BORON-IRWIN: I would be interested in knowing  
25 whether or not that application -- submitting that

1 application and the staff's review of that is merely  
2 ministerial or whether or not there's some discretionary --

3 CHAIRPERSON SHEEHY: Can you explain the  
4 significance of whether it's ministerial versus whether  
5 there's a discretion.

6 MS. BORON-IRWIN: Well, yeah. First of all, you  
7 can't -- if discretion would be involved, there would have  
8 to be an affirmative act to look at that application and one  
9 could not have made a finding that an application was  
10 complete if -- they could make that determination if it was  
11 just a mere ministerial action of submitting an application,  
12 but if there's more to staff's review of that application  
13 and there's some discretion that needs to be exercised, that  
14 would have had to have been done I think for the Board to  
15 have made a successful -- or to have actually made it  
16 retroaction to deem that that application was complete back  
17 in July.

18 MS. MOORE: So I've just muddied the water more I  
19 guess with my comment and I know that the other piece of our  
20 action at the last Board meeting was to ensure that the  
21 project did not financially double dip in either of the  
22 programs.

23 CHAIRPERSON SHEEHY: Right. No double dipping.

24 MS. MOORE: That was the major concern I think of  
25 the Board and it appears that we've come to a conclusion on

1 that we have separately accounted for each portion of the  
2 project. There isn't a double dip. Except for this issue I  
3 think now that the school district is bringing forward,  
4 there may -- in their perspective, there's a double dip of  
5 the students.

6 So -- and the -- I think the staff has said that  
7 they don't agree with that. So now it's before the Board  
8 with what the action of the Board should be.

9 CHAIRPERSON SHEEHY: Well, we do have -- I might  
10 have just been handed this. I think -- do all the Board  
11 members of the document? We have the -- that I was just  
12 handed? Who handed me this? This is the transcript from  
13 the meeting that we had where Senator Torlakson made the  
14 motion on the appeal. Lisa, did you just hand this to me?

15 MS. JONES: No, I did not.

16 CHAIRPERSON SHEEHY: Susan Ronnback. Susan?  
17 Susan, you just handed me this document. Did this come from  
18 our agenda?

19 MS. RONNBACK: Yeah. I was just handed a number  
20 of copies.

21 CHAIRPERSON SHEEHY: Okay. So Susan Ronnback's  
22 going to pass this out. This is a transcript from our  
23 hearing where Mr. Torlakson was the maker of the motion and  
24 his motion said that the Board finds that the district's ORG  
25 application submitted to OPSC in July of 2008 is valid.

1 Okay?

2           So this -- so the motion that Mr. Torlakson made  
3 said that the motion [sic] was valid and that was supported  
4 by the Board. So I think that issue by this body was  
5 decided, that they said that the application was valid in  
6 July of 2008.

7           It said further staff should utilize the  
8 calculation described in Regulation 1859.81.1 Subsection E,  
9 so on and so forth, which is the deduction of the amount  
10 received for the product design in the preliminary  
11 apportionment -- this was to prevent the double dipping;  
12 okay? Right?

13           MR. COOK: Um-hmm.

14           ASSEMBLY MEMBER TORLAKSON: Right.

15           CHAIRPERSON SHEEHY: So Mr. Torlakson made that  
16 and this -- and wanted to make sure that there was no -- and  
17 I think he was rather emphatic -- no duplicate -- no double  
18 dipping.

19           So that was the motion. So I think this issue as  
20 to when the application was deemed valid, I think this body  
21 already decided it was July of 2008. Does anybody dispute  
22 that now, now that we have these Minutes in front of us? So  
23 I think we can put that issue to rest. Some of us may agree  
24 or disagree with it, but it seems to be what the motion was  
25 of this body.

1 I see San Bernardino nodding their head up and  
2 down. They like that.

3 Okay. Does anybody want to have any further  
4 discussion about that?

5 ASSEMBLY MEMBER TORLAKSON: I would just -- if I  
6 could in response to our attorney's comment earlier that --

7 CHAIRPERSON SHEEHY: Yeah.

8 ASSEMBLY MEMBER TORLAKSON: -- I think the Board  
9 weighed things and felt that the -- that -- we disagreed  
10 that the application was sent back after the staff reviewed  
11 it and sent it back and therefore we went to the earlier  
12 date saying we felt that the application had been valid to  
13 begin with and that's our decision looking at the facts at  
14 the time.

15 MS. MOORE: So then it comes forward from there in  
16 my mind and help me, staff, if it's correct, that if it was  
17 deemed valid in July of 2008, then the overcrowded relief  
18 grant would have come forward to this Board like all the  
19 other overcrowded relief grants during that time period in  
20 December of 2008. But given the fact that we have  
21 Department of Finance letter that indicates no additional  
22 projects as of December 17th, then it was staff -- it's the  
23 district's perspective that they would want to have their  
24 project approved at the very -- possible that we did  
25 unfunded approvals which is February 25th of 2009 and the

1 staff's perspective that indeed it's this meeting that this  
2 project is now being considered at. Is that correct, Rob?

3 MR. COOK: Actually there are a few things in  
4 there. One, the Board didn't start -- actually hadn't  
5 decided the issue of making unfunded approvals until the  
6 February Board and we started doing them in March.

7 MS. MOORE: In March?

8 MR. COOK: In March. I lost what your point is in  
9 there, but --

10 MS. MOORE: And then your -- the staff's  
11 perspective is today. It's valid --

12 MR. COOK: Actually no, no, no. Staff's  
13 perspective is when it was first prepared and presented  
14 before the Board as a full funding item which was last  
15 month, July.

16 MS. MOORE: July.

17 MR. COOK: It was ready and there's an aspect to  
18 the regs, but we -- it's not a ministerial act. We don't  
19 just take the paper and, you know, push a button and send it  
20 off to the Board. There's a great deal of review. This is  
21 a \$35.7 million project. There's a great deal of review and  
22 due diligence in the funding of that project including  
23 analysis of site work and I can guarantee you every single  
24 project goes through a detailed review on that.

25 There's an awful lot of work that has to happen

1 before a project can be presented to this Board. When the  
2 appeal was approved, we had none of that in front of us.

3 CHAIRPERSON SHEEHY: One of the concerns that I  
4 want to share with fellow Board members is if we -- I want  
5 to follow, you know, what our -- it's clearly what we -- the  
6 motion that carried at the meeting with these notes and so I  
7 think that may resolve this issue in terms of the timing,  
8 but one thing I just want to put on the record that I'm  
9 concerned if we do what the district wants on this item, we  
10 might be opening up other appeals with Lammersville and  
11 Glendale on how their item fits on the unfunded list.

12 I don't know what the dollar implication of that  
13 is, but here's what I do know. To the extent that these  
14 projects move up, somebody on the backend is going to miss  
15 out and I don't know who that's going to be. I don't know  
16 if it's going to be a district that you care more about or  
17 less about or maybe you care about them all the same.

18 But my only concern here now that, you know, the  
19 Board made its decision on the appeal -- which is fine. I  
20 accept that. My only concern is that how we handle this  
21 issue of the funding and where it places, that we do it in a  
22 way that's fair to everybody and won't result in somebody  
23 who thought that they were next in line and then ends up  
24 getting bumped. That's my only concern.

25 Beyond that, I'm happy to support the motion that

1 Mr. Wyland made. Yes, Mr. Harvey.

2 MR. HARVEY: I don't want to lose sight of the  
3 fact that whatever we do here affects eligibility and that  
4 is a huge question and I'm still unclear as to the fact that  
5 we have cleared up the fact that there's no double dip, but  
6 if I heard the staff presentation correctly, part of their  
7 eligibility they're asking be retained is based on new  
8 construction. The fact that they got design money out of  
9 the new construction pot and they're asking that that money  
10 not be paid back even though we're using the ORG  
11 application.

12 So if we're going to establish the ORG application  
13 as the date, do we have to at least acknowledge that we  
14 can't count eligibility for new construction because that's  
15 a different pot.

16 I don't want them to double dip on the eligibility  
17 count. I mean it's fine not to double dip on the money, but  
18 I'm sensing that the other action they're trying to get at  
19 here is to recapture eligibility that they don't currently  
20 have. And by going back into time and selectively picking  
21 that date for ORG is one thing, but to now say not only do  
22 we want the ORG count but we want the new construction count  
23 and the eligibility attached thereto, I don't think that  
24 necessarily is fair. And I'd like some comment on whether  
25 that is in play as well.

1           MR. COOK: As this item is presented to you by  
2 staff, we have followed very faithfully what the Board's  
3 direction was: to provide this district the full funding  
4 that it should be eligible for but not more, that there will  
5 be no double dip.

6           And as a key tenet to this program is a district's  
7 eligibility is a state liability. It's the district's  
8 ability to access a program and as a district accesses  
9 funding from this program, no matter which program it is,  
10 there's a corresponding reduction in their eligibility.

11           And to do as the district has presented or is  
12 proposing to retain new construction eligibility that --  
13 that they received \$1.9 million in new construction funding,  
14 but they do not wish to relinquish any eligibility  
15 associated with that allows them to double dip in new  
16 construction.

17           To do as the district is proposing with  
18 overcrowding relief grant eligibility allows that district  
19 to go replace additional facilities, again double dipping  
20 with ORG. We got the dollars right. We also had the  
21 eligibility right within this item. Absent those two  
22 things, this district does have a second bite at the apple.

23           CHAIRPERSON SHEEHY: Is there -- okay. So what's  
24 the will of the Board? What do you want to do?

25           MS. MOORE: We have a motion

1           CHAIRPERSON SHEEHY: We do. Are we ready for a  
2 vote --

3           SENATOR LOWENTHAL: Yes.

4           CHAIRPERSON SHEEHY: -- on the motion. Okay. Is  
5 there any objection to having the vote? Why don't we --  
6 Ms. Jones --

7           ASSEMBLY MEMBER TORLAKSON: Recap the motion.

8           CHAIRPERSON SHEEHY: Ms. Jones, can you refresh  
9 the Board and especially for Ms. Fuller's benefit who just  
10 joined us --

11          MS. JONES: Sure.

12          CHAIRPERSON SHEEHY: -- what the motion was.

13          MS. JONES: Senator Wyland's motion was that the  
14 district receive a February 2009 unfunded approval date and  
15 reduce the district's liability by 81 grants reduced from  
16 its new construction eligibility and 324 grants reduced from  
17 its ORG eligibility.

18          MS. MOORE: For a total project of how many  
19 grants? Is that the 405 then?

20          CHAIRPERSON SHEEHY: What does the grant  
21 business --

22          MS. JONES: 405 is correct.

23          CHAIRPERSON SHEEHY: -- have to do --

24          SENATOR LOWENTHAL: I think it's eligibility not  
25 liability.

1           CHAIRPERSON SHEEHY: What's the -- what does the  
2 grant issue have to do with this?

3           SENATOR LOWENTHAL: It's eligibility not  
4 liability.

5           MS. JONES: Well, he had -- he did say reduce the  
6 district's liability. I believe he meant eligibility,  
7 but --

8           SENATOR LOWENTHAL: I believe he meant -- what he  
9 told me --

10          CHAIRPERSON SHEEHY: That's fine with me, Senator.  
11 I agree with you. I think that was his intent too, but --

12          SENATOR LOWENTHAL: That was his intent.

13          CHAIRPERSON SHEEHY: Okay.

14          SENATOR LOWENTHAL: He told me -- he showed me  
15 what it was --

16          CHAIRPERSON SHEEHY: Sure. That's fine, but I  
17 still don't understand what the grant eligibility issue -- I  
18 thought the issue here was just date stamp and --

19          MR. HARVEY: Yeah, but by doing that, you  
20 recapture --

21          CHAIRPERSON SHEEHY: You recapture eligibility?  
22 Senator Torlakson.

23          ASSEMBLY MEMBER TORLAKSON: First, I don't know  
24 that we've heard altogether from the district, but --

25          CHAIRPERSON SHEEHY: Right.

1           ASSEMBLY MEMBER TORLAKSON: -- this is a bit  
2 jumbled up for me. Even though I made the previous motion,  
3 I'm just trying to track these different moving parts in  
4 terms of eligibility and liability and I'm wondering, you  
5 know, the maker of the motion isn't here to maybe argue the  
6 pieces and parts of it. We haven't heard from the district.  
7 I'd be more comfortable putting this over so we'd have  
8 another chance to look at it.

9           CHAIRPERSON SHEEHY: Okay. We have a request to  
10 put it over, but we also have a motion and a second. So  
11 let's -- if it's okay, Senator Torlakson, can we go ahead  
12 and hear from the district --

13           ASSEMBLY MEMBER TORLAKSON: Sure.

14           CHAIRPERSON SHEEHY: -- on this and I want to  
15 honor the commitment to have a vote on it. It may not have  
16 six votes in which case it'll fall over to the next meeting.

17           Please, identify yourself for the record and share  
18 with us your thoughts on this matter.

19           MR. PEUKERT: Thank you very much, Chairman Sheehy  
20 and Board members. Quite a discussion this evening. I'm --  
21 my name's John Peukert. I'm the Assistant Superintendent  
22 for Facilities at San Bernardino Unified School District.

23           I do want to first of all thank you for granting  
24 the appeal at your February Board meeting clarifying that  
25 our grant was valid in July of '08. Although we would have

1 preferred to have a December 10th funding date in '08, we  
2 understand that the bond certification has already been done  
3 and it would be difficult to do an amendment.

4 But we do feel that the district would support a  
5 February 9th date for funding even though it would be on the  
6 unfunded list and would support that as a proper way to go.

7 We feel that it would be consistent with other  
8 appeals that have been heard and typically those were  
9 granted on that date of appeal for approval.

10 As far as the pupil grants, I would like to have  
11 Matt Pettler get a little more involved with this because he  
12 technically knows the ins and outs of it.

13 CHAIRPERSON SHEEHY: Okay.

14 MR. PETTLER: Thank you, John. Good evening,  
15 Chairman Sheehy, members of the Board. Matt Pettler again  
16 with School Facility Consultants. Hopefully the handout  
17 that you received had two sides to it, one with the Minutes  
18 from the meeting.

19 CHAIRPERSON SHEEHY: I'm sorry, which one? Two  
20 sides? Well, mine was one sided, Matt. Do you have more  
21 copies for the Board?

22 MR. PETTLER: I apologize. I do.

23 CHAIRPERSON SHEEHY: \$50 fine. They're going to  
24 take it out of your retainer.

25 MR. PETTLER: Very brief. The district is in

1 support of Senator Wyland's motion with Senator Lowenthal's  
2 substitution on eligibility versus liability. I think that  
3 is a correct clarification.

4 We wanted to put together a quick chart showing  
5 the eligibility breakdown of the project. Senator  
6 Torlakson's motion in February was essentially to split fund  
7 this project between new construction and ORG and in doing  
8 so ensured that there was no duplication both in funding and  
9 the district believes duplication in loss of eligibility.

10 And so in this chart, what we tried to lay out is  
11 that we've got a 15 classroom project for 405 pupil grants.  
12 The district is losing eligibility for three classrooms, 81  
13 grants, and feels that it should lose then 324 grants or 12  
14 classrooms' worth of eligibility so that in total the  
15 district's eligibility adjusted 405 pupil grants.

16 CHAIRPERSON SHEEHY: And how does that compare  
17 with where you are right now?

18 MR. PETTLER: Our understanding of the OPSC  
19 write-up is that the district should lose 81 pupil grants of  
20 new construction eligibility and then 405 pupil grants'  
21 worth of ORG eligibility and we believe that's a duplication  
22 of 81 grants in lost eligibility.

23 CHAIRPERSON SHEEHY: So you're off by 81.

24 MR. PETTLER: Correct.

25 CHAIRPERSON SHEEHY: Okay. Do you concur with

1 that, Rob?

2 MR. COOK: The difficulty here is you've got two  
3 very different programs meant to do two very different  
4 things.

5 CHAIRPERSON SHEEHY: Okay. But before you get  
6 into all that, do you agree that we're off by 81?

7 MR. COOK: Well, that's the district -- I don't  
8 agree on that.

9 CHAIRPERSON SHEEHY: You don't agree.

10 MR. COOK: I do not agree.

11 CHAIRPERSON SHEEHY: I'm not asking whether you  
12 agree with their position. I'm asking if you agree with the  
13 math.

14 MR. COOK: Well, I agree with the math. That's --

15 CHAIRPERSON SHEEHY: Okay.

16 ASSEMBLY MEMBER BROWNLEY: Well, I think -- can I  
17 just say something --

18 CHAIRPERSON SHEEHY: Yeah.

19 ASSEMBLY MEMBER BROWNLEY: -- because I think  
20 that, you know, what's going on here too is that I  
21 understand what staff is saying, these are two different  
22 programs, but at the end of the day, this was about buying a  
23 number of classrooms and with this transfer taking place,  
24 with the funds not double dipping, and then the eligibility  
25 not double dipping, at the end of the day, they needed

1 15 portables, they should be able to be in a place in terms  
2 of eligibility to buy 15 portables. And really at this  
3 place, they're only eligible -- based on the formula for the  
4 ORG, they're only available [sic] to buy 21 portables.

5 And so -- I think I've got this right. Do I have  
6 it right generally? And so --

7 MR. PETTLER: Generally, yes.

8 ASSEMBLY MEMBER BROWNLEY: And so there has to be  
9 some accommodation so that they are still in a position to  
10 be able to buy 15 portables.

11 CHAIRPERSON SHEEHY: Okay. That's a lot more  
12 clear than I've heard anybody else explain it.

13 ASSEMBLY MEMBER BROWNLEY: Thank you, Mr. Chair.

14 SENATOR LOWENTHAL: Can we move the question.

15 CHAIRPERSON SHEEHY: Okay. Yes. So we have a  
16 request from Senator Lowenthal to vote. We do have a  
17 motion. Are you okay with that, Senator Torlakson?

18 ASSEMBLY MEMBER TORLAKSON: Yes.

19 CHAIRPERSON SHEEHY: We have a motion and a second  
20 on the floor. Ms. Jones has described the motion again. We  
21 know that Mr. Wyland has already been recorded as an aye  
22 vote. Ms. Genera, could you please call the roll.

23 MS. GENERA: Senator Lowenthal.

24 SENATOR LOWENTHAL: Aye.

25 MS. GENERA: Senator Hancock.

1 SENATOR HANCOCK: Aye.

2 MS. GENERA: Assembly Member Fuller.

3 ASSEMBLY MEMBER FULLER: No. I'm a little lost.

4 No.

5 MS. GENERA: Assembly Member Brownley.

6 ASSEMBLY MEMBER BROWNLEY: Aye.

7 MS. GENERA: Assembly Member Torlakson.

8 ASSEMBLY MEMBER TORLAKSON: Aye.

9 MS. GENERA: Scott Harvey.

10 MR. HARVEY: No.

11 MS. GENERA: Kathleen Moore.

12 MS. MOORE: Aye.

13 MS. GENERA: Tom Sheehy.

14 CHAIRPERSON SHEEHY: No. That has six votes?

15 MS. GENERA: Six.

16 CHAIRPERSON SHEEHY: Okay. So that motion's been  
17 approved. Are we done with this item? Okay. Let's move  
18 on.

19 I think -- so we did -- all right. We want to go  
20 to Item -- are we on Item 21? Is that right?

21 MR. COOK: Yes.

22 CHAIRPERSON SHEEHY: Okay. Mr. Harvey says we're  
23 on Item 21 and I always listen to what Mr. Harvey says.

24 **Seismic.**

25 SENATOR HANCOCK: Thank you. Should I just do it,

1 Tom?

2 CHAIRPERSON SHEEHY: Certainly. Yes. Item 21,  
3 yes.

4 SENATOR HANCOCK: Yeah. I hope -- I have been  
5 working with various people interested in this and  
6 appreciate the Board's accommodation as we put forward some  
7 of these ideas.

8 I would like to move now that we -- the adoption  
9 and immediate implementation of Option 1A with additional  
10 authorization for the Division of the State Architect to  
11 develop criteria and ultimately to make recommendations to  
12 State Allocation Board regarding seismic mitigation funding  
13 for any school building that has been declared as part of an  
14 engineering study to be in imminent danger -- threat of  
15 collapse during a seismic event.

16 Projects funded under Option 1A or through the  
17 process recommended by the Division of the State Architect  
18 and approved by the Board shall not exceed the funds  
19 available in the seismic mitigation fund.

20 I would remind members that Option 1A lowers the  
21 shaking threshold to 1.68 and adds several construction  
22 types to those that already qualify.

23 So what the additional language would do is  
24 authorize the Office of the State Architect to review  
25 engineering reports for school buildings of any construction

1 type if they have an engineering report that says they're in  
2 imminent danger of collapse during a seismic event and to  
3 recommend to the State Allocation Board whether or not we  
4 should grant them eligibility or the Division of the State  
5 Architect can also conduct independent engineering  
6 assessments.

7 CHAIRPERSON SHEEHY: So can we have --

8 SENATOR HANCOCK: If it's --

9 CHAIRPERSON SHEEHY: I'm sorry. Go ahead.

10 SENATOR HANCOCK: Oh, I just wanted to add because  
11 I know there was a great deal of concern about how much  
12 money would be in the fund and as I've shared with various  
13 members that I've talked with, right now the low estimate  
14 for funding all projects that would be eligible under  
15 Option 1A is about \$147,049. The high cost estimate is  
16 about 167 --

17 CHAIRPERSON SHEEHY: Million.

18 SENATOR HANCOCK: -- excuse me -- million --  
19 million dollars. That would leave us about \$30 million for  
20 any projects that might be deemed eligible through the  
21 review of the Division of State Architect.

22 CHAIRPERSON SHEEHY: Okay. Senator Hancock, is it  
23 accurate to say that your motion with -- the first part of  
24 your motion seems crystal clear, to immediately implement 1A  
25 and then is it accurate to say that the second part of your

1 motion has a constraint that it has to stay within the  
2 amount of funds available and that we are not -- we would  
3 not -- it would not result in creating an unfunded list with  
4 additional state liability.

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

6 CHAIRPERSON SHEEHY: Okay. With that  
7 understanding with Senator Hancock's motion, that the  
8 recommendations coming from the State Architect would not  
9 result in an unfunded list and funding projects beyond the  
10 199 million. I know you already have a second, but I want  
11 you to know I support your motion. Are there other  
12 questions or comments from Board members on this item?  
13 Mr. Harvey.

14 MR. HARVEY: The guidance we have on this from the  
15 Education Code says that we must address the most vulnerable  
16 facilities. I don't know what your definitional change does  
17 to changing that most vulnerable.

18 There's no question that we do have a finite  
19 amount. There's no question if you expand the shake zone,  
20 lower -- or add building types that you're going to expand  
21 the number of eligible schools. That's a good thing.

22 And I think I can truly and easily support 1A.  
23 What I'm having a little more angst over is phraseology  
24 which is not part of the Education Code. It's not part of  
25 what the Seismic Safety Commission has ever looked at and I

1 don't know how we're stretching our liability to impact that  
2 30 million.

3 I just need a little more comfort on what it does  
4 to what has been a very deliberate process to make sure  
5 we're addressing the most vulnerable first. This doesn't  
6 have an element of that at all.

7 CHAIRPERSON SHEEHY: Staff, please correct me if  
8 I'm wrong. To your point, Mr. Harvey, if this motion  
9 passes, will the staff not have to come back to this body in  
10 the next meeting or, you know, depending on our workload,  
11 meeting after that with the actual language that we would  
12 vote on as far as the regulation? Isn't that right?

13 MR. COOK: The regulatory language for 1A is ready  
14 and presented before you.

15 CHAIRPERSON SHEEHY: Right. But we have an  
16 addition to that. We have additional that Senator Hancock  
17 has asked.

18 SENATOR HANCOCK: Yeah. Well, let me say that  
19 that's why the motion is worded to say immediate  
20 implementation of Option 1A. The State Architect is going  
21 to have to develop criteria for their review. They would  
22 bring that back to us. That would probably take three to  
23 six months.

24 CHAIRPERSON SHEEHY: May I --

25 SENATOR HANCOCK: We want to begin right away with

1 Option 1A getting implemented because the reason we're  
2 having this discussion at all really is that we have  
3 \$199 million set aside and we're not getting any applicants.

4 CHAIRPERSON SHEEHY: Senator Hancock, I think I  
5 understand the intent of your motion. I'm going to make a  
6 suggestion and see if this makes sense.

7 Since we don't have the other language in front of  
8 us but we do have 1A, can we separate -- I'm going to  
9 suggest we withdraw your motion and separate it into two  
10 motions, which I would support both motions, just so you  
11 know where I'm coming from.

12 First motion being to approve staff  
13 recommendation, Item 1A. Have a separate vote on that and  
14 then come back and have a second motion which would be to  
15 bring back language. To approve the second part of your  
16 motion as a separate motion because then the staff would  
17 have to come back to our next meeting with the actual  
18 language and we would approve it then.

19 In other words -- see, I think if you combine it  
20 all together, we don't have to have that language before us  
21 and I think we're going to -- we'd slow it down by a month.  
22 Teresa, can you comment on that, please.

23 MS. BORON-IRWIN: Yeah, you would -- I think it  
24 would be better to bifurcate that for the -- and make the --  
25 make a motion to approve a specific option and then if you

1 would like staff or the State Architect to do something  
2 else, have that as a separate motion.

3 CHAIRPERSON SHEEHY: Well -- yeah. And we would  
4 not wait to act on your second part. We would do that  
5 tonight. It's just they'd have to draft the language and  
6 bring it back to us at the next meeting. That's my point.

7 SENATOR HANCOCK: Right. They might not be ready  
8 because the language actually asks the State Architect --  
9 Division of the State Architect to do that not staff.

10 CHAIRPERSON SHEEHY: Well, we could approve your  
11 motion -- we can approve the second motion tonight and then  
12 if the State Architect was ready --

13 SENATOR HANCOCK: Whenever.

14 CHAIRPERSON SHEEHY: -- whenever, they would come  
15 back.

16 SENATOR HANCOCK: Yeah.

17 CHAIRPERSON SHEEHY: Is that -- would that be  
18 acceptable to you?

19 SENATOR HANCOCK: That would be acceptable to me.  
20 Yeah, pass --

21 CHAIRPERSON SHEEHY: Now would you then therefore  
22 be willing to --

23 SENATOR HANCOCK: Bifurcate the motion?

24 CHAIRPERSON SHEEHY: -- and we already know that  
25 Senator Wyland supports this, so we're counting him as an

1 aye vote on both. All we're doing is taking your motion and  
2 separating it into two.

3 SENATOR HANCOCK: Um-hmm.

4 MS. MOORE: I'm wondering though that we had a  
5 motion before us that Senator Wyland voted on. Can we  
6 bifurcate this at this time and consider a vote of a member  
7 that's no longer present.

8 CHAIRPERSON SHEEHY: Well, we may lose his vote,  
9 but we probably still have six, so --

10 ASSEMBLY MEMBER BROWNLEY: I would be much more  
11 comfortable losing his vote.

12 ASSEMBLY MEMBER TORLAKSON: Yeah.

13 CHAIRPERSON SHEEHY: Okay. Fine. So you were the  
14 making of the motion -- who was the maker of the motion?

15 SENATOR LOWENTHAL: Senator Wyland originally.

16 ASSEMBLY MEMBER BROWNLEY: No. Ms. Hancock was.

17 MR. HARVEY: Her new one.

18 CHAIRPERSON SHEEHY: Are you making a substitute  
19 motion -- Senator Hancock, could you make a substitute  
20 motion.

21 SENATOR HANCOCK: Yeah. What I --

22 CHAIRPERSON SHEEHY: A substitute motion to  
23 approve 1A.

24 MR. HARVEY: Immediately.

25 CHAIRPERSON SHEEHY: And then we'll come back to

1 the second part.

2 SENATOR HANCOCK: Fine.

3 CHAIRPERSON SHEEHY: Is that okay? I'm not trying  
4 to rush --

5 SENATOR HANCOCK: No, no. I understand --

6 CHAIRPERSON SHEEHY: I don't want to rush you into  
7 anything.

8 SENATOR HANCOCK: I understand and I just -- I  
9 think that would be an orderly way to proceed.

10 CHAIRPERSON SHEEHY: All right. Fine.

11 SENATOR LOWENTHAL: Good.

12 SENATOR HANCOCK: I would make a substitute motion  
13 that we -- for the adoption and immediate implementation of  
14 Option 1A.

15 CHAIRPERSON SHEEHY: I'll second that motion. Do  
16 we need a roll call vote, members, to --

17 SENATOR LOWENTHAL: Um-hmm.

18 CHAIRPERSON SHEEHY: Okay. We need a roll call  
19 vote. Ms. Genera, please call the roll on the substitute  
20 motion now.

21 MS. MOORE: Someone wants to speak to the motion.

22 CHAIRPERSON SHEEHY: I'm sorry. Finance, did you  
23 want to speak?

24 MR. FERGUSON: Yes, if I may. Chris Ferguson,  
25 Department of Finance. The Department of Finance would like

1 to be on the record as supporting Option 2. Option 2 stays  
2 within the 199.5 million. It provides flexibility to adjust  
3 the ground shaking intensity factor every six months  
4 incrementally or more expeditiously if all districts  
5 considered to be part of that have been contacted and either  
6 applied or stated that they will not be applying for funding  
7 under the seismic program.

8 It ensures that the most vulnerable facilities  
9 will be funded preliminarily -- first and then it would also  
10 not (indiscernible) any previous facilities for the May 2006  
11 date. So the Department of Finance is on the record as  
12 supporting Option 2 and Option 2 is also the incremental  
13 option that Assembly Member Brownley had alluded to in a  
14 previous Board session. This is the incremental option.

15 CHAIRPERSON SHEEHY: Okay. So we have that duly  
16 noted. Department of Finance supports Option No. 2.  
17 Excellent. That's good to know. I'm sorry, Miss. Did you  
18 want to come forward.

19 MS. MATSUMOTO: Thank you, Mr. Chair, Board  
20 members. I just wanted to address the Board briefly. I did  
21 provide a statement for -- of the same today as well.

22 My name is Carri Matsumoto and I am the Executive  
23 Director of Facilities for the Long Beach Unified School  
24 District and I appreciate this opportunity tonight to  
25 address you today on behalf of our district.

1           It is our desire to participate in this state  
2 seismic mitigation program, but we're unable to do so at  
3 this time. Currently our district has 31 buildings listed  
4 on the AB300 list and have submitted applications to the DSA  
5 for eligibility in the Prop. 1D program, but based upon the  
6 current regulations, all buildings have been deemed  
7 ineligible to participate.

8           It's unfortunate that we cannot participate in  
9 this program given that our district has had firsthand  
10 experience dealing devastation to school buildings after a  
11 significant seismic event as you will see in the pictures  
12 provided to you today.

13           On March 10th, 1933, a 6.4 magnitude earthquake  
14 along the Newport Inglewood Fault known as the Long Beach  
15 Earthquake causing 120 deaths including one student fatality  
16 in our district and devastated 70 schools in and around the  
17 Long Beach area with most significant damage occurring to  
18 school buildings.

19           Because the earthquake struck in the early morning  
20 hour before school started, we were fortunate to have  
21 escaped without more significant injuries.

22           CHAIRPERSON SHEEHY: Ms. Matsumoto, may I just ask  
23 you a quick question. The Board would like to know if  
24 you're supporting the motions before us?

25           MS. MATSUMOTO: What I'm asking actually is for

1 consideration in expanding the criteria for the program.

2 CHAIRPERSON SHEEHY: That's what this does.

3 SENATOR LOWENTHAL: That's what the second motion  
4 does.

5 MS. MATSUMOTO: Including expanding all categories  
6 and including that -- all building category types and also  
7 the fault zone.

8 CHAIRPERSON SHEEHY: Well, we're -- the motion  
9 that's before us right now is consistent with Option 1A  
10 that's in the agenda which expands the building types and  
11 also adjusts the ground shaking index to make it a lower  
12 threshold to meet.

13 MS. MATSUMOTO: But I believe if you look at our  
14 letter of July 20th, we asked for consideration of proximity  
15 to a fault line and what was presented in the staff report  
16 was trying to translate or equivocate a fault proximity --  
17 proximity to a fault line and equivocate that to a GSI  
18 factor which is technically not correct.

19 CHAIRPERSON SHEEHY: Okay. So you don't support  
20 the motion then.

21 MS. MATSUMOTO: If I could understand -- have it  
22 clarified perhaps. Are you considering adding criteria that  
23 talks about proximity to a fault line as well as --

24 CHAIRPERSON SHEEHY: No. No. That's not the  
25 motion.

1 MS. MATSUMOTO: So it's just the DSI factor. So  
2 I'm not --

3 CHAIRPERSON SHEEHY: That's the first part of the  
4 motion. Then we're going to come back with the second part.

5 MS. MATSUMOTO: Okay. So I'm not in favor of that  
6 particular motion.

7 CHAIRPERSON SHEEHY: Okay.

8 SENATOR LOWENTHAL: Thank you.

9 SENATOR HANCOCK: If I could just comment, I would  
10 urge you to be in favor of the motion because some of the  
11 things that we're expanding may actually help you with your  
12 eligibility. I don't know if it will or not. Or the second  
13 part of the motion might.

14 We've been working very hard on this and  
15 unfortunately some of the expansions couldn't be included.  
16 So I'm just acknowledging what she's saying.

17 CHAIRPERSON SHEEHY: Okay. But we've got you on  
18 the record as not supporting this because you would like the  
19 proximity to faults as reflected in your July letter to be  
20 consider and that's --

21 MS. MATSUMOTO: Correct.

22 CHAIRPERSON SHEEHY: -- not part of this motion.

23 MS. MATSUMOTO: And I did provide a copy of this  
24 statement, so if I am not able to continue reading it, can  
25 the record just illustrate that I did provide you a copy of

1 that statement?

2 CHAIRPERSON SHEEHY: Do we have a written copy?  
3 Are you okay with that? If you want to read it in, you can,  
4 but it would be faster for us just to take your written  
5 testimony. Is that okay?

6 MS. MATSUMOTO: If you would take in as duly noted  
7 the statement that I provided and acknowledge that, then  
8 that would be fine.

9 CHAIRPERSON SHEEHY: We will do that. We'll put  
10 it in our Minutes; okay?

11 SENATOR LOWENTHAL: We will do that.

12 MS. MATSUMOTO: Thank you. Thank you for your  
13 consideration.

14 CHAIRPERSON SHEEHY: Thank you very much,  
15 Ms. Matsumoto. Mr. Duffy.

16 MR. DUFFY: Mr. Chairman, members, Tom Duffy for  
17 C.A.S.H. We're in support of this motion. C.A.S.H. has  
18 been working since 2007 to try to create a viable program.  
19 This has been a very difficult one and I know the  
20 constraints of the dollars are very important to Finance and  
21 the administration and also the members of the Senate and  
22 the Assembly.

23 We think that Senator Hancock's motion in support  
24 of what OPSC is suggesting with the suggestion of the  
25 additional review is a very reasonable thing to do. The

1 only thing that we would ask beyond that is that as we  
2 monitor into the future how many districts come in that we  
3 would have a re-review at some point in time, even if it's a  
4 simple staff review, to just give you a report.

5 So thank you very much.

6 CHAIRPERSON SHEEHY: Tom, I think that's an  
7 excellent idea and we don't need a motion for that. Rob,  
8 we're going to approve something tonight. Let's make sure  
9 that going forward that we have quarterly updates on how  
10 this program's going?

11 MR. COOK: Um-hmm.

12 CHAIRPERSON SHEEHY: Okay?

13 MR. COOK: Hopefully we'll be bringing forward  
14 projects to fund --

15 CHAIRPERSON SHEEHY: Great.

16 MR. COOK: -- right after do this.

17 CHAIRPERSON SHEEHY: Great. Excellent.

18 MR. DUFFY: Okay. Thank you.

19 CHAIRPERSON SHEEHY: Tom, was there anything else?

20 MR. DUFFY: Just to thank Senator Hancock for  
21 this.

22 CHAIRPERSON SHEEHY: Okay. Next.

23 MR. DUFFY: Thank you very much.

24 MR. RIVAS: Mr. Chairman and members, I'm Brian  
25 Rivas on behalf of the California School Boards Association.

1 Just quickly want to thank Senator Hancock for bringing this  
2 before you. We're in support of the motion and thank you  
3 for taking this up today. We really need the dollars to  
4 flow out to the schools, so we're in support of the motion.

5 CHAIRPERSON SHEEHY: Thank you, Mr. Rivas. Is  
6 there anybody else? Okay. We had a motion and a second on  
7 the floor. Yes. Ms. Brownley.

8 ASSEMBLY MEMBER BROWNLEY: Senator Hancock, so the  
9 Architect -- the Department of --

10 CHAIRPERSON SHEEHY: The State Architect.

11 ASSEMBLY MEMBER BROWNLEY: State Architect. Thank  
12 you. Thank you.

13 SENATOR LOWENTHAL: That's the second motion  
14 though. Is that the second --

15 ASSEMBLY MEMBER BROWNLEY: Oh, that's the second  
16 motion.

17 SENATOR HANCOCK: I'll make that motion to deal  
18 with the --

19 ASSEMBLY MEMBER BROWNLEY: Okay. Never mind.  
20 I'll ask it then.

21 CHAIRPERSON SHEEHY: So the substitute motion was  
22 to approve the staff recommendation 1A. Ms. Genera, call  
23 the roll.

24 MS. GENERA: Senator Lowenthal.

25 SENATOR LOWENTHAL: Aye.

1 MS. GENERA: Senator Hancock.

2 SENATOR HANCOCK: Aye.

3 MS. GENERA: Assembly Member Fuller.

4 ASSEMBLY MEMBER FULLER: Aye.

5 MS. GENERA: Assembly Member Brownley.

6 ASSEMBLY MEMBER BROWNLEY: Aye.

7 MS. GENERA: Assembly Member Torlakson.

8 ASSEMBLY MEMBER TORLAKSON: Aye.

9 MS. GENERA: Scott Harvey.

10 MR. HARVEY: Aye.

11 MS. GENERA: Kathleen Moore.

12 MS. MOORE: Aye.

13 MS. GENERA: Tom Sheehy.

14 CHAIRPERSON SHEEHY: Aye.

15 Did you have another -- a substitute motion?

16 SENATOR HANCOCK: I do have an additional

17 motion --

18 CHAIRPERSON SHEEHY: Thank you.

19 SENATOR HANCOCK: -- to make and that is to

20 authorize the Division of the State Architect to develop

21 criteria and make recommendations to the State Allocation

22 Board regarding seismic mitigation funding for any school

23 building that has been declared as part of an engineering

24 study in an imminent threat of collapse during a seismic

25 event.

1           Projects funded under -- upon recommendation of  
2 the Division of the State Architect and approval by the  
3 State Allocation Board shall not exceed the funds available  
4 in the seismic mitigation fund.

5           CHAIRPERSON SHEEHY: And shall not result in an  
6 unfunded list, may we add that on?

7           SENATOR HANCOCK: And shall not result in an  
8 unfunded list.

9           CHAIRPERSON SHEEHY: Okay. We have a motion. Do  
10 we have a second?

11          SENATOR LOWENTHAL: Second.

12          CHAIRPERSON SHEEHY: We have a motion and a  
13 second, so we're ready for a vote, but I think we have some  
14 more questions and comments. Ms. Brownley.

15          ASSEMBLY MEMBER BROWNLEY: Thank you. So I just  
16 wanted to ask, so when the State Architect does this work in  
17 your motion, then will he define what imminent threat is or  
18 is that an already defined term?

19          SENATOR HANCOCK: We actually think there are  
20 going to be few of these. It's not defined and that's why  
21 we're asking them to develop criteria --

22          ASSEMBLY MEMBER BROWNLEY: Okay.

23          SENATOR HANCOCK: -- so that they will actually  
24 have a kind of checklist of what would be considered under  
25 imminent threat. So -- and probably no district will go out

1 and do this, but there -- if -- there are some districts  
2 that have been brought to our attention in which they have  
3 existing studies and they will not be eligible under  
4 Option 1A, but if the State Architect has developed criteria  
5 accepted by this Board, reviews those engineering studies,  
6 and believes there is an imminent threat of collapse and  
7 it's an existing study, remember, they would have the  
8 ability to recommend to us that we have them be eligible for  
9 funding and since the official estimates indicate that about  
10 \$30 million will be left after we fund most of the schools  
11 that we know are eligible under Option 1A, that would seem a  
12 sensible way to continue work.

13 CHAIRPERSON SHEEHY: Well -- I'm sorry.  
14 Ms. Brownley, did that answer your question?

15 ASSEMBLY MEMBER BROWNLEY: Yes, it did. Thank  
16 you.

17 CHAIRPERSON SHEEHY: Mr. Harvey.

18 MR. HARVEY: Two quick questions and again I'm  
19 just flinging one out here. Is there any merit in  
20 discussing whether or not those that are now going to be  
21 somehow defined as imminently under threat that they exhaust  
22 other state facility funding programs before they come in  
23 under this one, the whole point being we've got a very small  
24 amount of money. We're trying to make sure those that are  
25 most at risk have the first shot at it.

1           Is there any merit in saying yeah, you can come  
2 under this definition, but if you've eligibility under  
3 modernization or new construction, think in terms of using  
4 those dollars before you come to seismic because it is a  
5 much more specialized -- it is much more limited. There are  
6 now only \$30 million left or less.

7           So is there any reason to consider having some  
8 requirement that we be told whether as a minimum that they  
9 got other eligibility or that they at least seek it before  
10 they come and get the seismic.

11           And then number two and finally, I don't know if  
12 there's a representative from the State Architect here  
13 tonight, but if there is, there is. I would love to have  
14 two seconds of comment on how you see this second part of  
15 the motion unfolding and if you've got any comments about  
16 how it would play out.

17           CHAIRPERSON SHEEHY: Okay. Well, we -- are you  
18 asking -- Scott, are you asking Senator Hancock to respond  
19 to the first part or are you just making a statement that  
20 this body should consider that going forward? Funding  
21 sources.

22           MR. HARVEY: I'd like to hear her reaction to it  
23 and then I'd like to hear if anybody else thinks there's any  
24 merit in it.

25           SENATOR HANCOCK: You know, I guess it's something

1 that I would need to think about a little more having just  
2 sat through the San Bernardino incident where they were  
3 trying -- appeal -- it was an appeal not an incident.  
4 Sorry. But where they were trying to clarify their  
5 continued eligibility under their regular apportionment  
6 versus the hardship and I'm not -- I'm just not -- I'm not  
7 sure how that plays out.

8 I think if the State Architect wanted to take that  
9 into consider, that would be fine, but I -- you know --

10 CHAIRPERSON SHEEHY: Okay. Well, that's an issue  
11 that we could discuss in any meeting, Scott; so it's not  
12 like you don't have another bite of the apple.

13 Ms. Fuller, before we get to you, the second part  
14 of his question was to the State Architect. Could you come  
15 forward, please.

16 SENATOR HANCOCK: Okay. I have to make a phone  
17 call. I'm sorry. I had a 6:30 meeting.

18 CHAIRPERSON SHEEHY: That's okay. Don't worry.

19 MR. BELLET: Hi. I'm Dennis Bellet, Division of  
20 the State Architect, Principal Structural Engineer. This  
21 motion would mean that we would have to do a substantial  
22 amount of work to define this, what's an imminent threat,  
23 and working with the various stakeholders, I anticipate  
24 it'll take a lot more than one month to come up with that  
25 definition.

1           CHAIRPERSON SHEEHY: How long do you think it  
2 would take? Six months? Three months?

3           MR. BELLET: Well, it matters, you know, what sort  
4 of direction I get from the Board and from the Office of  
5 Public School Construction about how tight you want to make  
6 these rules.

7           If we're going to try to make -- you know, make  
8 this thing tight so that only 30 million is even possible to  
9 be spent, that will take probably more effort, but if our  
10 authority let's say is a lot looser, it probably would take  
11 less time. It's -- it'll be a difficult task.

12           CHAIRPERSON SHEEHY: Well, our motion was to stay  
13 within the 199 million. So I think that's your answer on  
14 that one.

15           MR. BELLET: Yeah. Oh, okay. 199 million? Well,  
16 that makes it a little easier to come up with the criteria,  
17 but it still -- it took -- well, how long to come up with  
18 the criteria last time? A year and a half? And that  
19 criteria was designed to be very -- like a light switch, you  
20 know. It's easy for school districts to tell that the --  
21 their project was going to meet the criteria or not and so  
22 this will be a little bit more difficult unless we make some  
23 sort of criteria that's very precise and making that more  
24 precise criteria will take more time working with the  
25 Implementation Committee.

1 CHAIRPERSON SHEEHY: Okay.

2 MR. BELLET: Does that answer your question?

3 CHAIRPERSON SHEEHY: I mean it gives us a sense  
4 that it's not going to be immediate, but we'll look forward  
5 to working with you and trying to get, you know,  
6 recommendations before us as quickly as possible,  
7 understanding that you have your own workload constraints.

8 Do we have more questions of the State Architect?  
9 Senator Torlakson.

10 ASSEMBLY MEMBER TORLAKSON: Just to understand.  
11 My reading of the motion may be slightly different which in  
12 terms of direction to the State Architect, to define the  
13 imminent threat is one thing and then the 30 million's  
14 another thing. I think coming up with a rational decision  
15 of imminent threat and then seeing who cues up to get it and  
16 if you don't -- you may have \$40 million of applications,  
17 but the first 30 get in the door and get theirs and that's  
18 it. There's -- but should we try to work -- twist the  
19 definition to -- of imminent threat to the amount of money  
20 available or give some direction to have them logically  
21 approach it with the stakeholders and figure out what that  
22 means.

23 CHAIRPERSON SHEEHY: We've got the constraint of  
24 how much money's available and, you know, we're changing the  
25 criteria to make it easier for schools to qualify.

1           So, you know, what we want to avoid, Senator, is  
2 if we adopt a policy that's going to result in \$170 million  
3 in funds going out, we don't want to then adopt an  
4 additional policy that would create a hundred million  
5 dollars' worth of work because then we don't have the funds  
6 available --

7           ASSEMBLY MEMBER TORLAKSON: Sure.

8           CHAIRPERSON SHEEHY: -- so --

9           ASSEMBLY MEMBER TORLAKSON: I understand that.

10          CHAIRPERSON SHEEHY: -- I think we are constrained  
11 by the funds.

12          ASSEMBLY MEMBER TORLAKSON: But the definition of  
13 imminent threat, I mean -- I think he -- he wants some  
14 direction on how tight to make it and you got the general  
15 ballpark. You got a \$30 million pot; right?

16          CHAIRPERSON SHEEHY: That's pretty much where  
17 we're at.

18          ASSEMBLY MEMBER TORLAKSON: Right.

19          CHAIRPERSON SHEEHY: That's 30 million beyond --

20          ASSEMBLY MEMBER TORLAKSON: But not knowing  
21 what --

22          CHAIRPERSON SHEEHY: -- it may be zero. If we  
23 have \$199 million worth of projects that walk in the door  
24 just off the change on 1A, that's it. That's all we got.

25          So -- and they're going to have to work -- that's

1 going to take time and we can agendize the State Architect  
2 to have them come back in the meetings and --

3 SENATOR HANCOCK: Well, in our discussions, we  
4 said three to six months; right?

5 MR. BELLET: I don't recall our numbers. It's not  
6 entirely -- and dependent on our activity because we will  
7 have to have stakeholder input, then it comes back to here,  
8 and, you know, there'll be probably --

9 CHAIRPERSON SHEEHY: Well, why don't we do this.  
10 Why don't we -- if it's okay with you. Why don't we have a  
11 vote on the motion and then we can have the State Architect  
12 come back in in the next meeting. We can have more  
13 discussion and Mr. Lowenthal's going to have to leave. We  
14 need to have this vote.

15 Is that okay to vote on the motion that we have  
16 before us --

17 ASSEMBLY MEMBER TORLAKSON: And have them come  
18 back.

19 CHAIRPERSON SHEEHY: -- and have them come back,  
20 Senator? Okay. Very good. So --

21 ASSEMBLY MEMBER FULLER: But I'm going to vote no  
22 and --

23 SENATOR LOWENTHAL: Fine.

24 ASSEMBLY MEMBER FULLER: That's okay? Okay.

25 CHAIRPERSON SHEEHY: All right. All right. So we

1 have a motion and a second.

2 ASSEMBLY MEMBER FULLER: If we do it now.

3 CHAIRPERSON SHEEHY: Was there anything else we  
4 could do to get your vote on this, Ms. Fuller?

5 ASSEMBLY MEMBER FULLER: No.

6 CHAIRPERSON SHEEHY: Okay.

7 ASSEMBLY MEMBER FULLER: Other than -- never mind.  
8 Let's just vote on it. If it doesn't matter, then I'll  
9 register next time all my worries.

10 CHAIRPERSON SHEEHY: Okay. Very good.

11 Ms. Genera, please call the roll.

12 MS. GENERA: Senator Lowenthal.

13 SENATOR LOWENTHAL: Aye.

14 MS. GENERA: Senator Hancock.

15 SENATOR HANCOCK: Aye.

16 MS. GENERA: Assembly Member Fuller.

17 ASSEMBLY MEMBER FULLER: No.

18 MS. GENERA: Assembly Member Brownley.

19 Assembly Member Torlakson.

20 ASSEMBLY MEMBER TORLAKSON: Aye.

21 MS. GENERA: Scott Harvey.

22 Kathleen Moore.

23 MS. MOORE: Aye.

24 MS. GENERA: Tom Sheehy.

25 CHAIRPERSON SHEEHY: Aye. What's the vote count.

1 MS. GENERA: Five.

2 CHAIRPERSON SHEEHY: We're going to hold the roll  
3 open for Ms. Brownley and I note for the record Mr. Harvey  
4 has not cast a vote, so --

5 MR. HARVEY: Mr. Harvey, no.

6 CHAIRPERSON SHEEHY: Mr. Harvey's no.  
7 Ms. Fuller's no. We're going to hold the roll open for  
8 Ms. Brownley.

9 SENATOR HANCOCK: If you could hold the roll open  
10 for a minute.

11 CHAIRPERSON SHEEHY: Sure. Yeah.

12 SENATOR HANCOCK: There's a personal emergency  
13 that's she got to take care of.

14 CHAIRPERSON SHEEHY: Oh, I'm sorry to hear that.

15 SENATOR HANCOCK: She will come back and vote.

16 CHAIRPERSON SHEEHY: Okay. Well -- yes, Mr. Cook.

17 MR. COOK: I'm reminded by staff that we haven't  
18 taken a formal action on the regulation language on  
19 Option 1A.

20 CHAIRPERSON SHEEHY: How did we not do that? We  
21 approved the staff recommendation. You said the language  
22 was ready. How did we not take -- I'm sorry. I just --  
23 that's very irritating. How did we not take action on that?  
24 That was the whole discussion. That's why we separated the  
25 question. We had a separate vote on 1A. That should be a

1 conforming action.

2 MR. COOK: It is conforming.

3 MR. HARVEY: It's a conforming action.

4 CHAIRPERSON SHEEHY: The language is prepared.

5 The language is before us.

6 MR. COOK: It's a conforming action.

7 CHAIRPERSON SHEEHY: It's a conforming action. If  
8 the language hadn't been drafted, that would have been a  
9 different matter, but the language was drafted. It was  
10 available for everybody to see.

11 Okay. So we're going to -- you know what, we're  
12 going to go into closed session right now, folks.

13 MS. MOORE: If I may just one second, Tom.

14 CHAIRPERSON SHEEHY: We have a personnel matter  
15 that we have to take care of today or we're going to lose  
16 one of our staff and so we've got six people here and I need  
17 six votes to take care of it. Ms. Moore, can it wait?

18 MS. MOORE: Well, I'm just saying that there is a  
19 district that has traveled for one of their items here. If  
20 they're willing to travel again next month -- Temecula, we  
21 have not taken action on your item; correct?

22 AUDIENCE: Correct.

23 CHAIRPERSON SHEEHY: Which item was that?

24 MS. MOORE: Are you going to be financial hardship  
25 if we make you travel again next month?

1           CHAIRPERSON SHEEHY: Which item was that,  
2 Ms. Moore?

3           MS. MOORE: It is --

4           MR. HARVEY: Are we going to lose everybody?

5           CHAIRPERSON SHEEHY: We have to go into closed  
6 session before we lose our quorum. It's critical. It's a  
7 personnel issue.

8           SENATOR HANCOCK: They're Items 18 and 19.

9           CHAIRPERSON SHEEHY: Well, if we still have a  
10 quorum when we come out, we can take it up. I just don't  
11 know what's going to happen. Okay.

12                   So we have an item on call that we're going to  
13 lift the call on when we come back into public session and  
14 we need to clear the room and have our closed session. It's  
15 very important.

16                   Ladies and gentlemen, before we go into closed  
17 session, we're going to lift -- tell -- can everybody hear  
18 me. Before we go into closed session, we're going to lift  
19 the call on the seismic item. Did everybody hear that?  
20 We're lifting the call on the seismic item first.

21           Ms. Genera, call the absent members on the seismic  
22 motion.

23           MS. GENERA: Assembly Member Brownley.

24           ASSEMBLY MEMBER BROWNLEY: Aye.

25           CHAIRPERSON SHEEHY: Does that have six votes?

1 All right. We have six votes. That motion carries.

2 Okay. Now we're going into closed session.

3 (Whereupon at 6:42 p.m., the open meeting was recessed  
4 for the closed session and resumed as follows at 7:04 p.m.)

5 CHAIRPERSON SHEEHY: We are back in open session  
6 and while we still have a quorum, we're going to take up  
7 Items No. 18 and 19. Do I hear a motion?

8 ASSEMBLY MEMBER TORLAKSON: Move approval.

9 CHAIRPERSON SHEEHY: We have approval of the staff  
10 recommendation on Item No. 18. All in favor.

11 MR. HARVEY: Second.

12 CHAIRPERSON SHEEHY: We have a second by  
13 Mr. Harvey. All in favor.

14 (Ayes)

15 CHAIRPERSON SHEEHY: Do we have a motion on Item  
16 No. 19?

17 MR. HARVEY: So move.

18 CHAIRPERSON SHEEHY: Do we have a motion to  
19 approve the staff recommendation on Item No. 19?

20 MR. HARVEY: So move.

21 CHAIRPERSON SHEEHY: A motion by Mr. Harvey. A  
22 second by Ms. Brownley.

23 ASSEMBLY MEMBER BROWNLEY: No, I didn't second it.

24 CHAIRPERSON SHEEHY: You didn't? I'm sorry I  
25 thought your hand went up.

1 ASSEMBLY MEMBER TORLAKSON: I'll second it.

2 CHAIRPERSON SHEEHY: Mr. Torlakson did. All in  
3 favor.

4 ASSEMBLY MEMBER TORLAKSON: We look a little bit  
5 alike.

6 (Ayes)

7 CHAIRPERSON SHEEHY: Any opposed? Okay. The ayes  
8 have it. So the staff recommendation on 18 and 19 is  
9 approved. Do we have any other actionable items that come  
10 before the Board tonight?

11 MS. MOORE: For those items that we don't hear,  
12 can we bring them back?

13 CHAIRPERSON SHEEHY: Any items that needed action  
14 tonight that we didn't act on, we will bring them back in  
15 the next meeting and the Chair will stay here along with any  
16 other Board members that would like to to hear the  
17 informational items, but I think we're going to lose our  
18 quorum. Is that okay, Senator?

19 Counselor, what do I have to do in the closed  
20 session? I just report that we engaged in personnel  
21 actions.

22 MS. BORON-IRWIN: That you met and now you're  
23 back.

24 CHAIRPERSON SHEEHY: We met in closed session --

25 MS. BORON-IRWIN: For the purpose of discussing

1 personnel --

2 CHAIRPERSON SHEEHY: Have to continue it? And  
3 also I'd like to continue this closed session to the next  
4 meeting. Can I do that?

5 MS. BORON-IRWIN: Yes.

6 CHAIRPERSON SHEEHY: So we're going to -- so we  
7 met in closed session to discuss personnel matters and we're  
8 going to continue that to the next meeting. Mr. Cook.

9 MR. COOK: We have not taken up the funding item  
10 for overcrowding relief.

11 CHAIRPERSON SHEEHY: Which one was that?

12 MR. COOK: Tab 17. Item 17.

13 CHAIRPERSON SHEEHY: Is that the grant adjustment?

14 MR. COOK: No, that is not a grant adjustment.

15 It's actually providing unfunded approvals for \$216 million  
16 for 21 projects.

17 CHAIRPERSON SHEEHY: What is it?

18 MR. COOK: It's Tab 17. It's a funding round for  
19 overcrowding relief --

20 CHAIRPERSON SHEEHY: Is there any opposition to  
21 the staff recommendation on Item No. -- is anybody here in  
22 opposition to the staff recommendation on Item 17?

23 Mr. Walrath.

24 MR. WALRATH: Dave Walrath representing Small  
25 School Districts Association. We do not oppose

1 Recommendation No. 1. We suggest, however, that  
2 Recommendation No. 2 be deferred until February. The reason  
3 for that is we're not sure how much money will be available  
4 for different parts of the program and there's no assurance  
5 that there will be a 2010 school bond, although I'm  
6 perfectly confident there will be.

7 CHAIRPERSON SHEEHY: I heard your firm was going  
8 to donate a bunch of money for the (indiscernible).

9 MR. WALRATH: We'll do everything possible. The  
10 point is to the extent that you're making commitments today  
11 on money that may not be able to be claimed after the fifth  
12 round, just for the purposes of fiscal flexibility, we  
13 suggest that this second part be deferred until February  
14 after the fifth.

15 CHAIRPERSON SHEEHY: Okay. So there's no --  
16 Mr. Walrath, is it fair to say that there's no -- don't walk  
17 away. We love you, Dave. We don't want you to go.

18 So there's no opposition to Recommendation No. 1;  
19 is that right, Mr. Walrath?

20 MR. WALRATH: Correct.

21 CHAIRPERSON SHEEHY: But you're recommending on  
22 Recommendation No. 2 that we take that up at a later time.

23 MR. WALRATH: Correct.

24 CHAIRPERSON SHEEHY: Okay.

25 ASSEMBLY MEMBER TORLAKSON: Move No. 1.

1                   CHAIRPERSON SHEEHY: Okay. We have a motion on  
2 No. 1.

3                   MS. MOORE: Second.

4                   CHAIRPERSON SHEEHY: We have a second. All in  
5 favor.

6                   (Ayes)

7                   CHAIRPERSON SHEEHY: Okay. Now on Item No. 2,  
8 Rob, can you reagendaize that and bring that one back?

9                   MR. COOK: Certainly we can bring back. We'll  
10 find an appropriate time to bring it back.

11                   CHAIRPERSON SHEEHY: All right. We'll bring it  
12 back. Okay. Good. Is there any other actionable items  
13 that we need to cover, Mr. Cook? Oh, we decided on the  
14 grant adjustment. We're doing 1 percent on that. And was  
15 there anything else? Oh, yeah. You guys -- you missed that  
16 one. Was there anything else? That was Ms. Brownley's  
17 motion by the way. She moved --

18                   Is there any other action -- okay. I'm just --  
19 okay. For the record, anybody here that really took me  
20 seriously, I was just kidding. We didn't discuss the grant  
21 adjustment.

22                   Was there any other actionable items to come  
23 before the Board? We're still going to hear our reports,  
24 but we may lose our quorum. Is there anything else, Rob?

25                   MS. JONES: Yeah, 16.

1           MR. COOK: Item No. 16, but I'm not certain that  
2 we actually have the agreement that we thought we had when  
3 we walked in the room, so let's put that over to next month.

4           CHAIRPERSON SHEEHY: Okay. All right.

5           MS. MOORE: Could I also request unless there's  
6 audience that do not approve of that that we could hear the  
7 status of the emergency repair program funding at our next  
8 meeting because I would like to take some time with this and  
9 I think at the end of the meeting, our condition -- or not  
10 condition, but just at the end of the meeting. Could we  
11 have this scheduled for the next meeting unless there's  
12 someone that -- or a Board member that would like to discuss  
13 it now.

14          CHAIRPERSON SHEEHY: Okay. Go ahead, Scott.

15          MR. HARVEY: My only comment is we heard about how  
16 furloughs are impacting staff and the agenda. Is this going  
17 to make the agenda more difficult for next month or more  
18 simple because we're just carrying this over. I want to  
19 make sure we are still --

20          MS. MOORE: Sure.

21          MR. HARVEY: -- abiding by this furlough impact  
22 every time we move things around. Are you okay with that  
23 request?

24          MR. COOK: Well, we have the report ready to go,  
25 so we will be able to put it up next month. It's just --

1 we've had a pretty aggressive agenda this month. We've  
2 moved a lot of items which is great, but we have a few  
3 things that are hanging out there. That means, you now --

4 CHAIRPERSON SHEEHY: For the -- I'm sorry. Go  
5 ahead, Rob.

6 MR. COOK: Well, it just means that we're -- there  
7 are fewer new items we'll be able to take up next month.

8 CHAIRPERSON SHEEHY: Well -- okay.

9 MS. MOORE: Well, pleasure of the Board. I  
10 mean --

11 CHAIRPERSON SHEEHY: That's fine.

12 MS. MOORE: -- if we'd rather discuss it now,  
13 that's fine as well.

14 CHAIRPERSON SHEEHY: Well, I'm going to stay and  
15 hopefully at least one or two other Board members will stay  
16 to get through some of the other reports that we have here  
17 so we can clear them off the calendar and if you want to  
18 have a discussion then, we can.

19 MS. MOORE: Okay.

20 CHAIRPERSON SHEEHY: As long as it doesn't require  
21 action. We've lost our quorum, but I want to just say that  
22 I thought we had an agreement on the LA issue with the  
23 critically overcrowded school funds and I was prepared to  
24 support a motion that had been recommended by LA, but so I  
25 just want you to know that because I -- and I see

1 Mr. Smoot's here. I see Mr. Bacci's (ph) here, and that was  
2 what we had discussed when we had our briefing and I think  
3 that OPSC was okay with that too.

4 So I just want you to know, I don't know why staff  
5 is now reporting that there is some differences, but I think  
6 that we're going to be able to close that one out next  
7 meeting. Mr. Smoot.

8 MR. SMOOT: I believe we can come to agreement on  
9 where we should be by next meeting.

10 CHAIRPERSON SHEEHY: Okay.

11 MR. SMOOT: I don't think that's a problem.

12 CHAIRPERSON SHEEHY: And I want to thank the staff  
13 of LAUSD for, you know, working hard on this and providing a  
14 lot of information to us. It was very helpful. I see  
15 Mr. Bacci nodding his head. He was very helpful too, so I  
16 really appreciate that.

17 So we skipped over a couple of reports.  
18 Ms. Silverman, can you take us back to the beginning of the  
19 agenda and take us through those financial reports very  
20 quickly.

21 MS. SILVERMAN: Yes. Real quick, Tab 5, **Status of**  
22 **Fund Release Report**. We wanted to update the Board in a  
23 March sale which we received \$548 million in bond proceeds.  
24 That -- we actually had some movement last month in this  
25 funding category, so we actually moved \$4 million from the

1 last report. So that's good news.

2 CHAIRPERSON SHEEHY: 4?

3 MS. SILVERMAN: \$4 million; right.

4 CHAIRPERSON SHEEHY: Out of how much?

5 MS. SILVERMAN: Out of -- we had \$4.3 million in  
6 reserve last month. So we moved \$4 million and we have  
7 .3 left.

8 CHAIRPERSON SHEEHY: So there's only \$300,000 in  
9 actual cash left.

10 MS. SILVERMAN: Correct. In that particular bond  
11 sale.

12 CHAIRPERSON SHEEHY: All right.

13 MS. SILVERMAN: And then in April --

14 CHAIRPERSON SHEEHY: So let me just say then for  
15 all intents and purposes, we got all the money for March out  
16 the door.

17 MS. SILVERMAN: Correct.

18 CHAIRPERSON SHEEHY: Except for just some crumbs.

19 MS. SILVERMAN: Except -- there was four projects;  
20 right.

21 CHAIRPERSON SHEEHY: Okay.

22 MS. SILVERMAN: And on the April sale, what we  
23 wanted to highlight is we received \$1.4 billion in bond  
24 proceeds. We're nearly expended \$1.1 billion to date, so we  
25 have \$338 million in bond proceeds available.

1           And most notably, I know the activity of funds  
2 being moved around -- or, you know, last month we reported  
3 we moved 300 million. Well, this money we only moved  
4 38.2 million out of Proposition 1D.

5           So it -- you know, the money activity's kind of  
6 slowing down at this point in time. So that's what we want  
7 to share with you tonight.

8           So the bond proceeds left available for April, we  
9 have \$247.1 million available in proceeds. However, you  
10 compare to the active apportioned projects that haven't  
11 received a fund release. That's 692.6 million, so we still  
12 have a shortage of funds to provide for those particular  
13 districts of \$445 million.

14           CHAIRPERSON SHEEHY: So the net difference between  
15 what we have available and what we had approved is how much?

16           MS. SILVERMAN: 445-.

17           CHAIRPERSON SHEEHY: That seems like that's a  
18 smaller gap that it used to be. What happened? I thought  
19 the gap was more than that. That's all the gap is is 445-?

20           MR. COOK: Um-hmm.

21           MS. SILVERMAN: Right. Right.

22           CHAIRPERSON SHEEHY: Well, you know, look, nobody  
23 can take this to the bank, but I have to believe that  
24 between now and June 30th of 2010 the State Treasurer will  
25 be able to sell at least \$445 million in school bonds that

1 we can use. So --

2 MS. MOORE: And this takes us through December --  
3 the December 17th list.

4 ASSEMBLY MEMBER TORLAKSON: Yeah.

5 CHAIRPERSON SHEEHY: Yeah. Okay. Anything else  
6 on Item No. 5, Ms. Silverman? Mr. Walrath, did you want to  
7 comment on this?

8 MR. WALRATH: It's actually a combination of 5 and  
9 6, so I'll wait till after 6 is done.

10 CHAIRPERSON SHEEHY: Okay. Great. Thanks. Lisa,  
11 please continue.

12 MS. SILVERMAN: Okay. For **Status of Funds**, Tab 6,  
13 we wanted to highlight we're presenting \$7.1 million in  
14 unfunded approvals for new construction out of  
15 Proposition 1D. 50.7 million that represents 36 projects  
16 for modernization out of Proposition 1D. High performance,  
17 we're bringing .3 million again in high performance for  
18 unfunded approvals and charter school, 31.1 million of  
19 unfunded approvals.

20 And total for Proposition 1D, we're providing  
21 89.2 million in unfunded approvals. And so the other  
22 note -- in Proposition 1D was an interest expense charge.

23 Moving over to the middle chart, Proposition 1D,  
24 we have an interest charge being allocated to that  
25 particular bond fund and money coming back to the program of

1 2.8 million.

2 In Proposition 47, the lower chart, we wanted to  
3 highlight this Board has provided 127.1 million in unfunded  
4 approvals and we're bringing some money back in close-out.

5 And we flip it to the following page, page 113,  
6 Proposition 1A, we wanted to highlight this \$.1 million  
7 coming back to program for rescissions. So in total school  
8 facility program, we are providing 216.3 million in unfunded  
9 approvals this money.

10 And moving forward to emergency repair program, we  
11 wanted to highlight that we are providing \$12.1 million for  
12 emergency repair program funding. That represents 32  
13 projects. So with that, I'm open for any questions.

14 CHAIRPERSON SHEEHY: Okay. So do we have  
15 questions from Board members? I know we have public  
16 comment. Mr. Walrath.

17 MR. WALRATH: Thank you, Chair Sheehy and members  
18 of the Board, both of you. What I want to bring up is an  
19 issue that is going to be coming up. The Chair was  
20 articulate, even eloquent, on the comments regarding the  
21 state's cash flow.

22 CHAIRPERSON SHEEHY: Who was that person,  
23 Mr. Walrath?

24 MR. WALRATH: It was the Chair, Mr. Sheehy. It's  
25 amazing.

1           CHAIRPERSON SHEEHY: That's unbelievable.

2           MR. WALRATH: Yeah. And then he followed up later  
3 with a very technical bond financing term called I think  
4 bits and drabs or something close to that.

5           CHAIRPERSON SHEEHY: Yeah, dribs and drabs.

6           MR. WALRATH: The issue that we're asking the  
7 Board to look at and direct staff and all of us to work on  
8 is how do we start addressing the unfunded lists, the  
9 workload lists, and the other issues related to fund release  
10 and apportionments.

11           If we do not have an anticipation that the  
12 Treasurer will sell so many bonds all at once, then not only  
13 do we clear all those lists, that we have more than enough  
14 money to make fund releases and apportionments on projects  
15 that have yet to be applied into OPSC.

16           And what we're asking for is the beginning of some  
17 form of formalized SAB structure with staff and working with  
18 PMIB on developing a policy on how to deal with when funds  
19 become available but not fully exhausting the list of  
20 unfunded or workload or apportionable.

21           CHAIRPERSON SHEEHY: Mr. Walrath, don't we --  
22 aren't we -- isn't our policy first in, first out?

23           MR. WALRATH: The policy is first in, first out  
24 and also --

25           CHAIRPERSON SHEEHY: Doesn't that -- and I

1 apologize. I apologize. But doesn't that mostly address  
2 the issues you just raised?

3 MR. WALRATH: No, it doesn't mostly address the  
4 issues.

5 CHAIRPERSON SHEEHY: Okay.

6 MR. WALRATH: Let me give a series of examples.

7 CHAIRPERSON SHEEHY: Okay. Let's say we're  
8 fortunate enough to have the Treasurer agree to sell bonds  
9 after doing RANs -- sell bonds in October/November.

10 CHAIRPERSON SHEEHY: All right.

11 MR. WALRATH: And that that bond sale is pegged at  
12 6 billion and of that 6 billion, 500 million is for schools.

13 CHAIRPERSON SHEEHY: Right.

14 MR. WALRATH: So far so good. That it means we  
15 cover the 400 million that hasn't been covered from the  
16 December and we have a hundred million and you can factor  
17 what that means.

18 What is not there is some form of telling the  
19 Treasurer informally as an Allocation Board, one state  
20 agency to another state agency, PMIB, on what we believe are  
21 necessary as a scheduling of sale of bonds for school  
22 purposes over the period in order to address the funding  
23 flow necessary for schools.

24 And it's that piece of it.

25 CHAIRPERSON SHEEHY: Well, we can --

1 MR. WALRATH: And so when --

2 CHAIRPERSON SHEEHY: Okay. So you're talking  
3 about us formally communicating with the Treasurer about  
4 scheduling for selling the bonds.

5 MR. WALRATH: Correct.

6 CHAIRPERSON SHEEHY: Okay. Well, we could do  
7 that. I don't -- just as a practical matter right now,  
8 Dave, I'm not sure how much difference that'll make in terms  
9 of what the Treasurer is or isn't able to do. But that  
10 doesn't mean that there's no value in making a  
11 recommendation -- or a request.

12 MR. WALRATH: Correct.

13 CHAIRPERSON SHEEHY: We could certainly do that.  
14 But, you know, our ability to access the markets have been  
15 driven by external factors and internal factors. Internally  
16 within the state, we've had a very difficult time getting  
17 our financial house in order and then externally, you know,  
18 we've had -- with the capital markets, you know, going  
19 haywire at times over the last 12 months, we've had no  
20 control over that.

21 So, you know, those are -- both those things are  
22 completely out of the control of this body and to a large  
23 extent, out of the control of the State Treasurer and they  
24 determine when he can go to market and sell bonds.

25 MR. WALRATH: Absolutely. But to the extent that

1 we're beginning to hit bottom, we hope, and that there will  
2 be a recovery, the nature of the ability to go back into the  
3 markets, particularly if the markets have become more  
4 stabilized over the past 12 months, means that in the next  
5 12 months, we may be in a world different than where we have  
6 been in the last 18. And if that is the case, then that  
7 type of structure, advocacy, and working with the PMIB to  
8 the extent that the Treasurer goes back to where he had  
9 been -- where the state had been three years ago, where you  
10 start talking about the scheduling and we can start talking  
11 about what amount goes out for schools --

12 CHAIRPERSON SHEEHY: Okay.

13 MR. WALRATH: -- that becomes valuable along the  
14 way.

15 CHAIRPERSON SHEEHY: That's a good recommendation.  
16 Ms. Moore.

17 MS. MOORE: I would just say I would support that  
18 and in the manner that we can provide districts with an idea  
19 of when they may anticipate a potential sale of a bond over  
20 time, the greater they're able to plan. Right now they're  
21 all sitting there not -- as we all do, no knowledge of when  
22 and if the next bond sale will occur.

23 So I would support that to the extent that they  
24 can give us -- can work with us on that information and over  
25 time if we can work with them to schedule out, you know,

1 what might be reasonable cut for schools as we go forward  
2 within the context of the whole fiscal crisis.

3 CHAIRPERSON SHEEHY: And I would like to refine  
4 that even a little bit more, Dave. I think that there's  
5 value in sharing that with the Treasurer through the PMIB  
6 which he chairs, but I also know that the Treasurer is going  
7 to place a lot of weight on what the Department of Finance  
8 says with respect to public works bonds, both GO and lease  
9 revenue. Of course we're not dealing with lease revenue in  
10 this body.

11 So I'd like to maybe hear from Finance -- not to  
12 put you on the spot, Chris, and so if you don't feel you  
13 could speak to this, don't feel that you have to, but I  
14 think it might be also helpful for this body can also make a  
15 recommendation or request to Finance with respect to the  
16 school bonds issue because our staff will be involved  
17 working with the Treasurer going forward on the same issue.

18 Do you want to comment on that, Chris. Identify  
19 yourself for the record, please.

20 MR. FERGUSON: Chris Ferguson, Department of  
21 Finance. Ultimately, the most valuable information we would  
22 need to know as the bonds roll in in dribs and drabs is what  
23 to assign it to in terms of the bond, whether it be  
24 Proposition 55, 47, or 1D. That would be the most valuable  
25 information for us to make our decisions in terms of the

1 sales so that we can notify the Treasurer that we need that  
2 certain percentage allocated to that particular bond.

3           So in that fashion, that information would be the  
4 most useful. Past that, the allocations between the various  
5 entities, be it transportation, watershed projects, school  
6 projects, are made by another unit within the Department of  
7 Finance. So I can't comment on how the percentages would be  
8 broken up between the various entities. I can only comment  
9 for the need for information to distribute it between the  
10 various bonds.

11           CHAIRPERSON SHEEHY: Okay. So I can comment on  
12 that a little bit. I'm going to take off my hat as Chairman  
13 of the Board and put on my hat now as Chief Deputy Director  
14 of Finance.

15           The unit that Chris is referring to is our capital  
16 outlay unit of which Karen Finn is our Program Budget  
17 Manager and so I would think that any communication to the  
18 Department of Finance could cover a couple of bases.

19           I think it could be addressed to both Ms. Oropeza  
20 who's our Program Budget Manager of the education area. It  
21 would be helpful to provide the information to Mr. Ferguson  
22 as identified and it could also be addressed to Ms. Finn who  
23 has a broader role to play, which is to look at all the  
24 public works bonds, schools, transportation, water,  
25 environmental, so on and so forth, and we could cover both

1 bases. And now I'm putting my hat back on as Chair of this  
2 committee.

3 MR. WALRATH: I would appreciate that because as  
4 advocates, we can do that, but that advocacy doesn't have  
5 the same type of weight as a formal state agency such as the  
6 State Allocation Board and the Office of Public School  
7 Construction providing that information to other state  
8 agencies.

9 CHAIRPERSON SHEEHY: Well, it sounds like you got  
10 support. Let's hear from Mr. Harvey.

11 MR. HARVEY: I certainly have no major issue with  
12 it. I don't want to sound like a curmudgeon which I think  
13 may be becoming in this meeting, but I've only got two  
14 concerns and I really like what Mr. Ferguson did, to narrow  
15 what it is we're going to do and the kind of information  
16 we're going to pass on because what I didn't want was the  
17 direction to OPSC staff to become advocates for scheduling  
18 bond sales with the Treasurer and the Controller to mean  
19 that Rob had to go out and hire an expert because I don't  
20 think that's part of our core mission, and besides saying  
21 fund schools first always, I don't know what else we say.

22 So I kind of like the refinement about the kinds  
23 of information we're going to do and I certainly don't want  
24 to get into that area where if we start saying this is going  
25 to be happening that we -- we create some unintended

1 liability because we're telling people we think there's  
2 going to be a scheduled sale. Now you can begin to line up  
3 your contracts. Get ready, here it comes, choo-choo's on  
4 its way, and then, whoomp, it doesn't happen.

5           So the less we talk in terms of when things are  
6 going to be scheduled and we advise people to gear up  
7 accordingly, but we talk in terms of fund schools first and  
8 take it from this fund or that fund, I'm much more  
9 comfortable.

10           MR. WALRATH: And I appreciate that and the other  
11 piece of it is more than simply fund schools first, it's we  
12 are able to process so much in this particular period of  
13 time because there are also the process issues of  
14 apportionment along the way as far as how much can you get  
15 out and how much can you release in a particular period of  
16 time, which is also valuable information for the Treasurer.

17           So the Treasurer is not indebting the state on  
18 money that may not be able to be apportioned because of the  
19 nature of how much is in front of the Board and how much is  
20 on the workload list.

21           MR. HARVEY: See, Dave, we should let staff do  
22 what they do, get the money out. Don't have them out being  
23 advocates. Come on, Dave.

24           MR. WALRATH: Not advocates. Just providing  
25 information.

1           CHAIRPERSON SHEEHY: Oh, no, that's --

2           MR. WALRATH: As far as getting the money out.  
3 That becomes a second piece which may not be eligible for  
4 the September but for the October agenda is a request for  
5 review of the regulations on fund release.

6           The bids people have for projects right now are  
7 past the amount of time that they're good for. People are  
8 going to have to start going out for bids again.

9           To the extent that when bonds are sold and people  
10 know that there's eligibility fund release, if they have to  
11 go out for bid again and then go through the fund release  
12 process, that may delay the stimulative effect of  
13 infrastructure projects.

14          CHAIRPERSON SHEEHY: I'm sorry. Could you say  
15 that again, Dave, what you just said.

16          MR. WALRATH: School districts who have projects,  
17 if they have gone out to bid on those projects but not  
18 awarded contracts because of the funding freezes --

19          CHAIRPERSON SHEEHY: Yeah.

20          MR. WALRATH: -- the people who made those bids,  
21 they're usually 60 or 90-day bids. Since we have been in  
22 this situation for more than 60 to 90 days, almost any bid  
23 somebody has received is no longer valid and they'll have to  
24 go back out again.

25          So let's say we know that we have the ability to

1 do fund releases for all of the current December, so there's  
2 no question of whether I'm going to be in front of the line  
3 or the end of the line. We have another \$400 million.

4           Those projects probably cannot go out online until  
5 you have a new series of bids coming back into the state for  
6 a fund release, but if we redefine the necessity of how much  
7 under contract before fund release and when you can be under  
8 contract, potentially districts can save three months for  
9 having a project go out under contract and start having the  
10 stimulative effect of an infrastructure project.

11           Asking that on the October Board be scheduled for  
12 review of the current regulation on the requirement to be  
13 50 percent under contract prior to a fund release.

14           CHAIRPERSON SHEEHY: This is the same issue that  
15 Mr. Duffy's been bringing in to us; correct?

16           MR. WALRATH: It's the same issue as Mr. Duffy has  
17 been referring. It becomes more important as we have longer  
18 and longer in the process before projects can have fund  
19 releases.

20           CHAIRPERSON SHEEHY: So you want us to -- you'd  
21 like us to revisit that.

22           MR. WALRATH: Revisit the issue.

23           CHAIRPERSON SHEEHY: Okay. What else?

24           MR. WALRATH: That's it.

25           CHAIRPERSON SHEEHY: Okay. Well, listen, that's

1 very helpful to have your comments and I appreciate you  
2 sticking around to do that.

3 Do we have anyone else from the public that would  
4 like to comment on the reports that Ms. Silverman presented?  
5 I'm sorry? Rob, go ahead.

6 MR. COOK: Just to the issues associated with  
7 communicating the needs for the bonds, we do that all the  
8 time with the Treasurer's office and the Department of  
9 Finance and have been since the freeze. Prior to that, the  
10 process was very different. We, you know, did our work with  
11 the Pooled Money Investment Board in scheduling loans. But  
12 since December 17th, we've been joined at the hip with --  
13 you know, on these things. So this isn't anything new.  
14 It's what we do.

15 CHAIRPERSON SHEEHY: Well, it -- yeah. Well,  
16 that's good and I'm glad that you clarified that, but I  
17 don't think it hurts to have the State Allocation Board as a  
18 separate entity weighing in with the Treasurer. I mean  
19 obviously you're -- you and your staff work closely with the  
20 Treasurer on this issue, but I don't think it hurts to have  
21 them hear directly from the Board. Right?

22 MR. COOK: No, it certainly doesn't.

23 CHAIRPERSON SHEEHY: Okay. Yeah. Okay. Anything  
24 else? All right. Rob, are there any other reports that we  
25 missed that we could take care of real quick to get them off

1 the calendar while you have Mr. Harvey and Ms. Moore here?

2 MR. COOK: We have a report on unfunded -- well,  
3 the unfunded approvals list.

4 CHAIRPERSON SHEEHY: Which item is that, Juan?

5 MR. MIRELES: Tab 23.

6 CHAIRPERSON SHEEHY: I'm sorry?

7 MR. MIRELES: Tab 23.

8 CHAIRPERSON SHEEHY: Okay.

9 MR. MIRELES: This is just an informational.

10 CHAIRPERSON SHEEHY: This is about all I've got  
11 energy left for.

12 MS. MOORE: Well, I do know that there is someone  
13 that probably does want Tab 24 to be taken up, so --

14 CHAIRPERSON SHEEHY: Which one is that?

15 MS. MOORE: That's the emergency repair program,  
16 so we can do that. Someone probably traveled for this.

17 CHAIRPERSON SHEEHY: Okay. Then what was -- okay.  
18 Then what was 23? Is there anybody that traveled from out  
19 of town today for number 23? If there is, just stand up and  
20 scream.

21 All right. I don't see anybody, but there was  
22 somebody that did, Ms. Moore, for number 24?

23 MS. MOORE: I believe so and also, you know, I  
24 have some comments on it, so --

25 CHAIRPERSON SHEEHY: Okay. Then why don't we go

1 to number 24.

2 MR. COOK: Masha Lutsuk will present number 4.

3 CHAIRPERSON SHEEHY: Thank you. And I also -- I  
4 know in addition to the public, we're going to also want to  
5 hear from the Department of Finance on Item No. 24.

6 MS. LUTSUK: Okay. So my presentation is going to  
7 be about two seconds and that just to update the Board on  
8 the movement of approvals for the **emergency repair program**  
9 representing 12 million and the Board has approved as part  
10 of the consent agenda \$12 million for ERP projects which  
11 leaves us with about \$13 million on the balance on the  
12 status of funds to provide next month to eligible projects.  
13 Thank you.

14 CHAIRPERSON SHEEHY: Okay. Finance. Please  
15 identify yourself for the record.

16 MR. FERGUSON: Chris Ferguson, Department of  
17 Finance. I am responding to the Board's request for  
18 information related to the ERP program from last month.

19 CHAIRPERSON SHEEHY: Thank you.

20 MR. FERGUSON: Effectively, there's 51 million  
21 that hasn't been transferred -- to our knowledge that has  
22 not been transferred to the ERP account from the reversion  
23 account.

24 We know on the 2009-'10 Budget Act that the  
25 Legislature clearly indicated that they would not be

1 providing any funding to ERP in the 2009-'10 year.

2 We do know, however, in the 2008-'09 that we're  
3 working with the legislative staff to attempt to provide  
4 additional funds towards that 51 million in terms of getting  
5 more into the ERP program. So Finance is working with  
6 legislative staff to attempt to reconcile that.

7 CHAIRPERSON SHEEHY: Okay. I appreciate that.  
8 Now, Mr. Ferguson, stay available because I think we may  
9 need you for some more feedback. Mr. Hancock, did you want  
10 to weigh in on this?

11 MR. HANCOCK: Yes, thank you. I didn't travel  
12 from out of town, but I'll be glad to speak on it. I  
13 appreciate the opportunity.

14 CHAIRPERSON SHEEHY: Absolutely.

15 MR. HANCOCK: Bruce Hancock, Hancock, Gonos &  
16 Park. Thank you very much, Mr. Sheehy, for causing this to  
17 be brought back again.

18 CHAIRPERSON SHEEHY: Absolutely.

19 MR. HANCOCK: I think it's definitely a subject  
20 worthy of exploration by the Board and I do want to remind  
21 you that I sent you some information on the history of the  
22 funding for the emergency repair program in a letter that  
23 you probably received in the last couple of days and I'm --  
24 I won't go back through that.

25 I hope what the letter showed you was one thing

1 that the history of the funding of the program has been odd  
2 to say the least. We started with a very clear settlement,  
3 the Williams settlement, that was codified, put into law,  
4 and based on that, school districts, consultants,  
5 architects, engineers went to the process of filing or  
6 making application for that money.

7 But there is a -- when you begin to look at the  
8 funding history, there is really a strange situation that  
9 you find. In spite of the fact that that settlement and the  
10 original law that codified it called for a minimum of  
11 \$100 million dollars a year, the amount of funding that's  
12 available to the program today is exactly to the dollar the  
13 amount of money that was available to the funding in 2006.

14 In other words, we've had three intervening years  
15 in which the original law and the original settlement called  
16 for \$100 million each year in which we have netted nothing.

17 If the Williams settlement and the laws that had  
18 been --

19 CHAIRPERSON SHEEHY: I'm sorry.

20 MR. HANCOCK: Uh-huh.

21 CHAIRPERSON SHEEHY: You lost me on that.

22 MR. HANCOCK: Sure.

23 CHAIRPERSON SHEEHY: The funding stayed exactly  
24 the same for the last three years and that was zero?

25 MR. HANCOCK: No, not zero. The amount of funding

1 that has been available with the program in 2006 was  
2 \$338 million.

3 CHAIRPERSON SHEEHY: Right.

4 MR. HANCOCK: The amount of funding that is  
5 available to the program -- has been made available to the  
6 program today is \$338 million.

7 CHAIRPERSON SHEEHY: That's a good thing; right?

8 MR. HANCOCK: No. That's a bad thing --

9 CHAIRPERSON SHEEHY: Why?

10 MR. HANCOCK: -- because there were three  
11 intervening years -- fiscal years -- three subsequent fiscal  
12 years in which there should have been under the terms of the  
13 original settlement an additional \$100 million each year.

14 CHAIRPERSON SHEEHY: So you're saying that we're  
15 short 300 million.

16 MR. HANCOCK: Yes. Exactly.

17 CHAIRPERSON SHEEHY: Well, I'll tell you what.  
18 Why don't you figure out where we can get that 300 million  
19 and come back and make a recommendation.

20 MR. HANCOCK: You know, as I've looked into this  
21 question, Mr. Sheehy, I've run into that response really a  
22 number of times. I mean most folks are too polite to ask me  
23 about what part of fiscal crisis I don't understand and I  
24 see you're not afraid to ask.

25 I think I do understand it and I'm not dwelling on

1 the past. What I hope to do is ask the Board to look at the  
2 history of the program with an eye toward the future.

3 I don't know where the funding's going to come  
4 from. I know what the law says and I did in fact misinform  
5 this Board last time I spoke when I indicated that I thought  
6 there might be other options for the funding other than the  
7 Prop. 98 reversion account.

8 I find in re-reading the language of the law that  
9 it really is very clear that the funding does come from that  
10 account. However, it also -- there is also a section in  
11 that law that says the Legislature may make -- put into the  
12 emergency repair program any other one-time funds from the  
13 Prop. 98 -- from Prop. 98 funds period.

14 CHAIRPERSON SHEEHY: Right.

15 MR. HANCOCK: Frankly I don't really know what  
16 that means. What I do know though, beyond that there is a  
17 fiscal crisis, is that there were laws written and  
18 settlements made which many people relied on. Those  
19 settlements and those laws were for work to be done at the  
20 lowest performing and frankly some of the worst schools in  
21 California and we find it stopped.

22 Yes, I understand there are many things that are  
23 stopped, but I hope that the Board will continue to look  
24 into this and I appreciate very much the comment from  
25 Finance that they are looking at, you know, getting the rest

1 of the 2008 funding which 50 percent of it has not been made  
2 available. That will be a big help.

3 But there is still remaining then another  
4 approximately \$400 million. Not all of it should have been  
5 due at this time, although one could probably make the  
6 argument that under the original settlement it should have  
7 been all made available by this time, but I don't think  
8 anyone actually expected that.

9 CHAIRPERSON SHEEHY: Right.

10 MR. HANCOCK: But if we could continue to try to  
11 move forward on future funding to the degree that it's at  
12 all possible -- there's one thing to keep in mind too and I  
13 know that you juggle many, many issues, but these are  
14 shovel-ready projects in almost every case. Actually most  
15 of them are pretty small projects, many not requiring DSA  
16 approval.

17 My point there is that these projects can go out  
18 on the street. They can put people to work as well as fix  
19 very needy schools. So I really do appreciate your taking  
20 the time to listen to this.

21 CHAIRPERSON SHEEHY: Mr. Hancock, I just want you  
22 to know I did ask you the question somewhat tongue in cheek  
23 and I appreciate very much your attitude and your sense of  
24 humor. You didn't get offended and I appreciate that. And  
25 I'm glad that you recognize the seriousness -- the

1 unprecedented seriousness of the fiscal calamity we find  
2 ourselves in and I just want you to know I do appreciate you  
3 coming before us and making your case. It's the right thing  
4 for you to do and I'm glad that you also appreciate the  
5 terrible situation we find ourselves in.

6 Did you want to hear anything from Finance? Did  
7 you want to respond, Chris, on anything?

8 MR. FERGUSON: Well -- Chris Ferguson, Finance,  
9 again. I'd just to reiterate that the administration is  
10 still committed to providing the 800 million as it becomes  
11 available as we're able to.

12 So we are still committed to that 800 million  
13 and -- I'd just like to state that.

14 CHAIRPERSON SHEEHY: Yeah. Okay. Did you want to  
15 give us a schedule on when we're going to appropriate,  
16 Chris?

17 MR. FERGUSON: We'll be sure to work with  
18 Legislative staff on that.

19 CHAIRPERSON SHEEHY: Okay. Good to know.  
20 Ms. Moore.

21 MS. MOORE: Can we just summarize, however. So  
22 this year, we have a \$51 million -- we have \$101 million  
23 appropriation of which we have \$51 million to go in fiscal  
24 '08-'09 and of that amount, I am aware that in July the  
25 Department transferred 17.7 million from the reversion

1 account and I've been told that's probably the end of the  
2 reversion account for '08-'09 and that has to be confirmed  
3 and I think you're looking at that and will do so over the  
4 next few weeks. So that issue could be down to around a  
5 \$34 million issue for fiscal year '08-'09.

6 And I heard that the administration and Finance  
7 are committed -- and the Legislature at looking at the  
8 solution for that 34,000. I think that's the short-term  
9 issue.

10 The longer-term issue is, one, this next year, we  
11 have not appropriated for this program in the Budget Act.  
12 Is that true?

13 MR. FERGUSON: Correct. The Legislature did not  
14 appropriate any funds.

15 MS. MOORE: So we have a year of no funds for next  
16 year and that we need to fiscally -- I heard that the  
17 administration is committed to the 800 million of which  
18 we're about 338- right now of the 800- through.

19 I would support also and the Department supports  
20 looking at what we can do over this next year for the  
21 following budget year as we deal with the crisis because I  
22 too support -- I think it is at our most vulnerable schools  
23 that these repairs -- and they were to be emergency  
24 repairs -- are occurring and that they're very important in  
25 the whole system of our school building program.

1           CHAIRPERSON SHEEHY: And I'd like to follow up  
2 with one more question of Finance. Chris, that 800-, that's  
3 outside of the 98; right?

4           MR. FERGUSON: Correct. That's outside of the 98.

5           CHAIRPERSON SHEEHY: Yeah. Okay. All right.  
6 Good to know. Mr. Harvey.

7           MR. HARVEY: I just have a quick question of  
8 staff. I'm intrigued by three words in your staff comments  
9 where you talk about the 338- and we've been able to  
10 supplement it with 5 million from project savings and then  
11 the magic words are and other sources. I thought I heard  
12 Mr. Hancock say that we were limited to this reversion area  
13 account to feed it.

14           If we have other sources, I certainly would  
15 aggressively support going after them for all the reasons  
16 that Ms. Moore commented on. I think this is an area where  
17 you're dealing with vulnerable emergency horrible problems  
18 and they are project ready, so the more we can fund this, I  
19 don't care where the dollars come from --

20           CHAIRPERSON SHEEHY: How about the service  
21 revolving fund, Scott.

22           MR. HARVEY: Certainly.

23           CHAIRPERSON SHEEHY: Okay. That was an inside  
24 joke. That's the fund that supports general services. That  
25 was just a little -- he said he didn't care where it came

1 from.

2 MR. HARVEY: I just want to know what are the  
3 other sources. I mean where else can we get this money.

4 MS. LUTSUK: I'd be glad to clarify. We did not  
5 extrapolate on that in the item for sake of simplicity.  
6 There was another funding source that was available in the  
7 past that is no longer available and that is the school  
8 facilities needs assessment grant program which was  
9 implemented as part of Williams settlement legislation and  
10 provided funding to school districts to do an inventory and  
11 assessment of the facilities. There were some savings from  
12 that program. There was some money that wasn't originally  
13 allocated and then there were some savings too that came  
14 back. So there was several Board action items in the past  
15 where we recouped money from that program to put into the  
16 ERP, but that funding source is no longer available.

17 MR. HARVEY: And this is a legislatively directed  
18 fund. I'm going to assume for a moment that we cannot fund  
19 it with any bond overage or savings. Or can we?

20 MR. COOK: No. That's correct. It is a Prop. 98  
21 reversion account funded program, basically general fund.

22 MR. HARVEY: And that means we're out, caput,  
23 nothing more because the other fund that had been available  
24 has gone away. Therefore there is absolutely being creative  
25 as we want to be -- you were wonderful in talking about this

1 credit line -- there's no other way we can find money to  
2 help this program.

3 MR. HANCOCK: Mr. Harvey, I don't really know what  
4 this means. I only know what the law says. There is a  
5 paragraph. It's right where the regular funding that we're  
6 discussing is talked about and it says -- it's very short --  
7 the Legislature may transfer to the school facilities  
8 emergency repair account other one-time Proposition 98 funds  
9 except funds specified pursuant to and I believe that  
10 exception is funding \$150 million a year for the minimum  
11 funding obligation that the state has.

12 MR. HARVEY: That's the Legislature. I don't want  
13 to rely on them. I want to do it here.

14 CHAIRPERSON SHEEHY: Hold on. Hold on. I'd like  
15 to ask Finance a question though. Is it -- you know, were  
16 the districts able to spend the money that we actually have  
17 appropriated or does it sit around, they spend it right  
18 away? What's happened to the 338 million that we've  
19 actually appropriated for this settlement?

20 MR. FERGUSON: That would actually be most  
21 appropriate to defer to OPSC, but the -- what typically  
22 occurs is the items that they bring forth like in this  
23 month, 12.1 million, they're notifying the Board of the  
24 additional projects that are being funded using ERP bonds  
25 and those funds are sent out to the district.

1           CHAIRPERSON SHEEHY: I want to know about the 338  
2 we've appropriated, Rob. Have the districts been able to  
3 spend it or has that money been sitting around?

4           MS. LUTSUK: If I may address. The -- out of  
5 338 million that has been available -- made available by the  
6 Legislature, 330 million has been provided including the  
7 August agenda items for eligible projects. So that leaves  
8 \$8 million, but since we had an additional \$5 million  
9 available from the needs assessment and ERP project savings,  
10 that leaves \$13 million in the status of funds.

11           And the fund releases for this program are  
12 automatic. So in about three weeks from now, the districts  
13 that were approved for funding this month, cumulative  
14 \$12 million, will receive their checks.

15           CHAIRPERSON SHEEHY: Okay. So I don't know if my  
16 question got answered. Did the 338 that's been  
17 appropriated, has it been spent in the districts?

18           MR. HANCOCK: No.

19           MS. LUTSUK: 330 of it.

20           CHAIRPERSON SHEEHY: Mr. Hancock is shaking his  
21 head no.

22           MR. HANCOCK: I'm sorry. I can let Masha answer.  
23 She's absolutely correct of course. All -- almost all that  
24 has been allocated to districts except a few million  
25 dollars. You should know though --

1           CHAIRPERSON SHEEHY: Okay. Well, what does that  
2 mean? I mean it's been allocated. They actually come in to  
3 get the money?

4           MR. HANCOCK: It's automatic fund release.

5           MS. LUTSUK: It's automatic fund release and then  
6 a district has 12 or 18 months depending if they need DSA  
7 approval to complete the project and spend the money.

8           CHAIRPERSON SHEEHY: So it's automatic fund  
9 release. So let me ask the question a different way. Of  
10 the 330 million that's been released, how much of that's  
11 been liquidated or how much of that is still sitting around  
12 in an account at the local level?

13          MR. HANCOCK: I personally couldn't answer that,  
14 Mr. Sheehy.

15          CHAIRPERSON SHEEHY: Well, I'm asking the question  
16 because I suspect the Legislature -- and I could be wrong,  
17 but I suspect that one of the rationales the Legislature  
18 used for not appropriating more money at this point above  
19 and beyond the obvious thing, which is the state was one  
20 click away from bankruptcy, is that this money was being  
21 allocated at the local level and not being liquidated, that  
22 it was sitting in an account.

23          MS. MOORE: Who provided that information?

24          CHAIRPERSON SHEEHY: I'm not saying anybody's  
25 provided that information. I'm just betting that that was

1 one of the things that happened. I was wondering if anybody  
2 here can address that point and I could be completely wrong.

3 I'm sorry, sir, did you want to --

4 MR. ALLEN: I might be able to -- yeah, if I  
5 could introduce myself. My name is Brooks Allen. I'm a  
6 staff attorney with ACLU Foundation of Southern California.

7 CHAIRPERSON SHEEHY: I'm sorry. You're the staff  
8 attorney --

9 MR. ALLEN: I am a staff attorney --

10 CHAIRPERSON SHEEHY: -- with the ACLU  
11 Foundation --

12 MR. ALLEN: Of Southern California.

13 CHAIRPERSON SHEEHY: -- of Southern California.

14 MR. HARVEY: Part of the lawsuit; right?

15 MR. ALLEN: I was and we helped represent the  
16 plaintiffs in the Williams vs. California action --

17 CHAIRPERSON SHEEHY: Okay.

18 MR. ALLEN: -- and I've served as their  
19 implementation attorney ever since the case was first  
20 settled.

21 Quickly, I've had the pleasure of working both  
22 with the Board, Office of Public School Construction,  
23 Department of Education, and others as we've rolled these  
24 pieces out. I could speak a little bit to the history of  
25 the funding, if that's a piece of the question.

1           Directly to your point, I wanted to just point out  
2 that this program started as a reimbursement only program.  
3 So that is districts would have spent the funds before they  
4 actually received them from OPSC.

5           So as far as these funds being spent, in many  
6 cases, especially before it became a grant program in  
7 addition to being reimbursement, those funds were spent and  
8 simply the accounts were reimbursed with emergency repair  
9 program dollars.

10           CHAIRPERSON SHEEHY: Right. But when I hear them  
11 say that it's an automatic -- how'd you put it --  
12 automatic --

13           MS. LUTSUK: Fund release.

14           CHAIRPERSON SHEEHY: -- automatic fund release  
15 doesn't mean it's done on a reimburse basis. Right?

16           MS. LUTSUK: Now the program allows for both grant  
17 funding which is up-front project funded and reimbursement.  
18 So we continue to --

19           CHAIRPERSON SHEEHY: I just asked the question. I  
20 don't know. Okay. So -- I know how the Legislature works,  
21 so --

22           MR. ALLEN: And to a certain extent, I think I can  
23 speak to -- speculate -- but as we've worked with the  
24 administration and all parties to the lawsuit in working  
25 this through every year, part of what came up with funding

1 is in the early years when it was a reimbursement only  
2 program, there was a great deal of effort. Office of Public  
3 School Construction, ourselves, other folks, C.A.S.H. trying  
4 to get interest in the program and folks were slow to  
5 embrace it. So you saw a low level of application activity  
6 and I think the Legislature looked at that. They saw funds  
7 sitting there and at times of shortage, folks --

8 CHAIRPERSON SHEEHY: So there was a bunch of money  
9 appropriated -- well, when you say the early years, it's  
10 only been -- how much --

11 MR. ALLEN: It's been five years.

12 MR. COOK: 2005.

13 CHAIRPERSON SHEEHY: It's been -- when was the  
14 first appropriation made?

15 MR. ALLEN: Settlement was -- there was a  
16 5 million immediately at the time the settlement was signed  
17 September 29th of '04.

18 CHAIRPERSON SHEEHY: Well, if it was '05-'06, it  
19 hasn't been five years.

20 MR. ALLEN: The settlement was reached on  
21 September 29th of '04 and at that time, there was 5 million  
22 that was set aside in the emergency program right away.

23 CHAIRPERSON SHEEHY: Right.

24 MR. ALLEN: It took some time for the regulations  
25 to make their way through.

1           CHAIRPERSON SHEEHY: Uh-huh.

2           MR. ALLEN: And then the next year --

3           CHAIRPERSON SHEEHY: How much money was  
4 appropriated the next year?

5           MR. ALLEN: It was over a hundred million. I  
6 forget the specific figure.

7           CHAIRPERSON SHEEHY: But that money didn't get  
8 drawn down very quick, did it?

9           MR. ALLEN: No, it didn't.

10          CHAIRPERSON SHEEHY: Yeah. So --

11          MR. ALLEN: And that's why I'm saying that's what  
12 happened in terms if you look at the funding history --

13          CHAIRPERSON SHEEHY: Yeah.

14          MR. ALLEN: -- legislators saw some money sitting  
15 there --

16          CHAIRPERSON SHEEHY: So I suspect that that's part  
17 of the story here that -- as I suspected, that there was  
18 money appropriated on the front end and it sat there.  
19 You've already -- now you've confirmed that. That doesn't  
20 mean that it changes our obligation or that we're not  
21 supporting getting all the money out there, but I think that  
22 the Legislature also, you know, plays a role in how the  
23 money gets appropriated and when they saw that a lot of  
24 money sat there at the beginning, they may have looked at  
25 that when they were looking at all the other hard choices

1 before them and thought well, maybe they don't need all the  
2 money right now.

3 MR. ALLEN: No -- in fact --

4 MS. MOORE: But at this time, don't we have  
5 projects in house up to the \$800 million amount?

6 MR. ALLEN: Over.

7 MS. MOORE: Yeah. So we have projects out  
8 there -- we're oversubscribed in this program and it's  
9 unfunded for next year.

10 MR. ALLEN: Yes. And I would -- my central point  
11 and what I traveled up here today was to thank both the  
12 Board, OPSC, and others who have raised this issue for the  
13 attention to it because of course we've been trying to bring  
14 attention to the emergency repair program since its  
15 inception and we're glad that folks are monitoring it and  
16 trying to make sure we are going to reach that \$800 million  
17 figure and are confident that working with all parties to  
18 the settlement and the administration, we're going to get  
19 there, recognizing obviously the fiscal realities in this  
20 current year and look forward to working with everyone as  
21 we --

22 CHAIRPERSON SHEEHY: Well, thank you and I just  
23 want to say myself I really appreciate your comments, that  
24 you too recognize the situation and we appreciate it and as  
25 Mr. Ferguson said, we are certainly going to do everything

1 we can to meet our obligations under the settlement  
2 agreement you've reached and we just appreciate your  
3 understanding at a time when we're one click away from  
4 bankruptcy.

5           Was there more comment -- more testimony on this  
6 item or can we move on? Okay. All right. So we've heard  
7 Item 24. I think at this point, unless there's some burning  
8 reason not to, we're going to adjourn this meeting because I  
9 know my colleagues and I are pooped and I'm sure the  
10 audience -- oh, there's more public comment? Please comfort  
11 forward. Sorry about that. I wasn't trying to cut you off.

12           MR. GONZALEZ: Thank you very much. Richard  
13 Gonzalez, Richard Gonzalez & Associates, and I apologize.  
14 I'll only take a few seconds.

15           CHAIRPERSON SHEEHY: Go ahead, Mr. Gonzalez.

16           MR. GONZALEZ: I am unaware of the outcome of the  
17 second motion by Senator Hancock as to whether that was  
18 passed --

19           CHAIRPERSON SHEEHY: On the seismic?

20           MR. GONZALEZ: -- or not.

21           CHAIRPERSON SHEEHY: On seismic?

22           MR. GONZALEZ: Yes, sir.

23           CHAIRPERSON SHEEHY: It passed.

24           MS. MOORE: It passed.

25           MR. GONZALEZ: Thank you very much.

1           CHAIRPERSON SHEEHY: The sixth vote was provided  
2 by Assembly Member Brownley.

3           MR. GONZALEZ: Thank you.

4           CHAIRPERSON SHEEHY: When she came back in the  
5 room right at the end of the closed session.

6           MR. COOK: For the sake of expediency and rather  
7 than rolling over an item, if the report on the unfunded  
8 approvals can just be accepted.

9           CHAIRPERSON SHEEHY: On the unfunded what?

10          MR. COOK: On the unfunded approvals, Item No. 23.

11          CHAIRPERSON SHEEHY: Let's just accept -- does  
12 anybody object to us just accepting that? Let's do that.  
13 Hearing no objection -- anything else, Rob?

14          MR. COOK: No. That's it.

15          CHAIRPERSON SHEEHY: Okay. Everybody that  
16 participated today, thank you very much, and for those of  
17 you that didn't come forward to speak, thank you even more.

18                 The State Allocation Board is adjourned.

19                 (Whereupon, at 7:52 p.m. the proceedings were recessed.)

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REPORTER'S CERTIFICATE

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

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

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

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on September 8, 2009.

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