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CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL
ROOM 437
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MAY 28, 2014
TIME: 4:03 P.M.

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

ERAINA ORTEGA, Chief Deputy Director, Policy, Department of Finance, designated representative for Michael Cohen, Director, Department of Finance

ESTEBAN ALMANZA, Chief Deputy Director, Department of General Services, designated representative for Fred Klass, Director, Department of General Services

CESAR DIAZ, Appointee of Edmund G. Brown, Jr., Governor of the State of California

JEANNIE OROPEZA, Deputy Superintendent of Public Instruction, Services for Administration, Finance, Technology & Infrastructure Branch, designated representative for Tom Torlakson, Superintendent of Public Instruction

SENATOR LONI HANCOCK

SENATOR CAROL LIU

SENATOR JEAN FULLER

ASSEMBLYMEMBER JOAN BUCHANAN

ASSEMBLYMEMBER CURT HAGMAN

ASSEMBLYMEMBER ADRIN NAZARIAN

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Executive Officer
BILL SAVIDGE, Assistant Executive Officer

REPRESENTATIVES OF THE DEPARTMENT OF GENERAL SERVICES, OFFICE OF PUBLIC SCHOOL CONSTRUCTION (OPSC) PRESENT:

LISA SILVERMAN, Executive Officer

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

JONETTE BANZON, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON ORTEGA: Good afternoon, everyone. I want to call us to order as quickly as possible so we can establish our quorum. As I'm sure you all know, the Senate and Assembly are both in session, so if you could please call the roll.

MS. JONES: Will do. Certainly. Senator Hancock. Senator Liu, Senator Fuller, Assemblymember Buchanan.

ASSEMBLYMEMBER BUCHANAN: Here.

MS. JONES: Assemblymember Hagman. Assemblymember Nazarian.

ASSEMBLYMEMBER NAZARIAN: Present.

MS. JONES: Esteban Almanza.

MR. ALMANZA: Here.

MS. JONES: Jeannie Oropeza.

MS. OROPEZA: Here.

MS. JONES: Cesar Diaz.

MR. DIAZ: Here.

MS. JONES: Eraina Ortega.

CHAIRPERSON ORTEGA: Here.

MS. JONES: We have a quorum.

CHAIRPERSON ORTEGA: And for the members of the public, what we're going to do is kind of skip around on the agenda and do all of the action items first, again so we

1 maintain our quorum for taking an action. So we are going
2 to start with the **Minutes** under Tab 2, and if anyone has any
3 comments or corrections to the Minutes.

4 ASSEMBLYMEMBER BUCHANAN: Move approval.

5 MR. DIAZ: Second.

6 CHAIRPERSON ORTEGA: We have a motion and a
7 second. All in favor of the Minutes.

8 (Ayes)

9 CHAIRPERSON ORTEGA: Any opposed or abstentions?
10 Thank you. Yes. Sorry.

11 MS. BANZON: Let me -- just to clarify that the
12 Minutes are -- there are two Minutes, March 26 and April 7.

13 CHAIRPERSON ORTEGA: Okay. So I assume the motion
14 was for both sets of Minutes?

15 ASSEMBLYMEMBER BUCHANAN: Yes.

16 CHAIRPERSON ORTEGA: Yes. Okay. Let the record
17 reflect that both sets of Minutes were approved.

18 The next action item would be under Tab 7;
19 correct?

20 ASSEMBLYMEMBER BUCHANAN: Consent Agenda.

21 CHAIRPERSON ORTEGA: Oh, Consent. Sorry. I think
22 I'm being organized here. Tab 4, the **Consent Agenda**.

23 ASSEMBLYMEMBER BUCHANAN: And if there's not a
24 problem, I'd like to recommend that we approve the Consent
25 Agenda along with Action Items 10 and 11.

1 CHAIRPERSON ORTEGA: Any objection to adding
2 Items 10 and 11 to the Consent Agenda?

3 MR. DIAZ: So move.

4 CHAIRPERSON ORTEGA: Are there any comments on the
5 Consent Agenda and Items 10 and 11 as stated in the
6 agenda -- from the public? Seeing none. Is there -- we
7 have a motion and a second. All in favor.

8 (Ayes)

9 CHAIRPERSON ORTEGA: Thank you. The Consent
10 Agenda and Items 10 and 11 are approved. Let's see. Am I
11 correct that we're ready to move to Item 7?

12 MS. SILVERMAN: Yes.

13 CHAIRPERSON ORTEGA: This is the **Merced County**
14 **appeal.**

15 MS. KAMPMEINERT: So in this appeal for Merced
16 County Office of Education, the COE is requesting to
17 maintain its current funding application and apportionment
18 using a new DSA application approval which was rescinded
19 March 11, 2014.

20 This is a three-classroom project with therapy
21 area for special day class students that began the design
22 process back in 2006. The COE qualifies for financial
23 hardship assistance and the project was approved for
24 financial hardship funds for the entire local matching
25 share.

1 The original DSA application for this project was
2 approved in June 2007 and the COE received an unfunded
3 approval from the Board in January 2010.

4 They did submit for priority funding in August
5 2010, but there was insufficient cash to provide the project
6 with an apportionment.

7 Prior to the expiration of the original DSA
8 approval, the COE had the opportunity to submit for an
9 additional three priority funding rounds where cash would
10 have reached their project, but they chose not to at that
11 time, and then the original DSA approval expired on June 28,
12 2012, after exhausting all extensions allowed by law.

13 So the staff position on this appeal is that once
14 the DSA approval expires, the COE no longer has an approved
15 application for funding.

16 And at this point, I'd like to briefly explain
17 some of the terminology that's been used throughout this
18 item. In this item, we speak generally about a new set of
19 plans requiring a new DSA approval and therefore, becoming a
20 new project.

21 And we'd like to clarify that we are not speaking
22 about any changes to the plans or new plan pages that may be
23 submitted to DSA as part of the original DSA application and
24 approved under the original DSA application number.

25 The DSA plan approval process does have procedures

1 in place to allow nonmaterial changes to the original scope
2 of work, both during the bid and construction phases of the
3 project and these changes are commonly referred to as
4 revisions, addenda, and change orders.

5 These changes also require DSA approval and may be
6 considered by some to be new plans. However, that's not the
7 process that OPSC is speaking to in this item.

8 Our concern is really with those projects for
9 which DSA requires a new application submittal as is the
10 case for Merced. And in the past when a district or COE
11 needed to submit a new application for approval to DSA, the
12 funding application would be withdrawn and resubmitted for
13 funding at a later date.

14 And by submitting a new application for funding,
15 it would maintain the valid certifications on the
16 application for funding, but also ensure that the
17 application remained an approved application as defined by
18 regulations and it maintained equity in the funding process
19 and that the application was processed when it was ready for
20 funding and didn't lead to any sort of line jumping
21 situation.

22 The challenge now is that there is no bond
23 authority remaining in the New Construction Program, so if
24 Merced were to withdraw and resubmit a new application, it
25 would have to be placed on the acknowledged list.

1 And the COE has stated in their appeal documents
2 that the budget issues and staffing changes that the
3 district had prevented this project from moving forward
4 throughout the years.

5 They've also stated that any changes approved by
6 the DSA as part of their new application submittal are
7 solely to comply with the new building code and to not
8 affect the request for funding or the scope of the project.

9 If this appeal is not approved, the COE will be
10 unable to submit a fund release for the apportionment that
11 they received on April 7th and this would result in a second
12 occurrence of nonparticipation in priority funding for this
13 project, and if there is a second occurrence, this
14 apportionment will be rescinded as of July 7th, 2014, and
15 the bond authority would be made available for another
16 project that's currently waiting on the unfunded list.

17 And with that, I'd be happy to address any
18 questions.

19 CHAIRPERSON ORTEGA: Okay. Any questions from the
20 members? Witnesses here in support of the appeal?

21 MR. GOMES: Well, thank you for allowing Merced
22 County -- or for the Board to listen to the appeal for the
23 Merced County project.

24 I'm Steve Gomes. I'm the Merced County
25 Superintendent of Schools. I've been in that position in

1 the last four years and just for your information, this is
2 my 42nd year in education as a teacher and school
3 administrator -- site administrator and now county
4 superintendent.

5 You know, as a school superintendent, I fully
6 understand the importance of regulation -- I don't know why
7 I'm so nervous. But -- and you're not a board of parents.

8 But I fully understand the importance of
9 regulation and policy compliance and yet sometimes, you
10 know, we need to draw from a broader perspective to make
11 decisions. I know I do that all the time.

12 Just so that you know, Merced County is -- you
13 know, is second from the bottom in per capita income in
14 California and we currently are -- and this facility is for
15 some of our most vulnerable students and most medically
16 fragile. And I'm going to give you a couple examples of
17 that first, but I think that since my Assemblymember is
18 here, I'd like to defer to him for now.

19 ASSEMBLYMEMBER GRAY: Thank you. Good afternoon
20 members of the State Allocation Board. My name is
21 Assemblyman Adam Gray and I represent north Merced and
22 Stanislaus County and Merced County.

23 The topic of conversation today is to approve fee
24 for the severely disabled students in my district that this
25 particular project would serve. These are students who are

1 isolated in their location, have long commutes currently,
2 and have a school that is 40 years old.

3 Back in 2010, this Board approved priority funding
4 for a new facility, the Joseph Stefani Elementary School,
5 for these special needs kids. This new school will cut the
6 commute times, will have great benefit, and will fully
7 integrate these special needs students with children their
8 own age.

9 At the time the construction was delayed as the
10 State was broke. I think many of us are all too familiar
11 with that situation. And between then and now, mistakes
12 were made. Human errors were made.

13 The project and its benefits are the same today
14 that they would have been in 2010 when it was approved.
15 This is a district. Those of you sitting up there who are
16 my colleagues know that I've been a voice for my district in
17 the sense of we've been at the epicenter of the housing
18 crisis.

19 We've been one of the most impoverished regions
20 not in the state, but in the country. So many struggles and
21 so many moves and today we have an opportunity to put some
22 money for the school, provide for some students who are in
23 desperate need in a part of the country that desperately
24 needs it.

25 So I would ask for your support in this appeal

1 before you this afternoon.

2 MR. GOMES: Thank you, Assemblyman Gray. I would
3 just like to say again that this project is for some of our
4 most vulnerable and medical fragile students and to that
5 point, I couldn't bring them with me, but I do have a couple
6 pictures I'd like to share with you.

7 This is Trent. He's 16 years old and attends the
8 medically fragile classes as I said. He can't speak, but he
9 is very expressive in his smile and his frown. If he
10 disagrees with something that you have to say to him, he can
11 make his emotions known.

12 And he is one of them that travels to our Schelby
13 School which is a little more isolated for students like
14 this. This project would keep them on the Stefani School
15 where they could be mainstreamed and not only benefiting
16 them, but also benefiting the students at that school as
17 well.

18 This is Isaac and Isaac is nine years old. He
19 suffers from a -- and I have to read it Meier-Gorlin
20 Syndrome which is a form of dwarfism. He is -- the picture
21 makes him look a little bigger than he is. He's probably
22 going to really like this picture when I'm done with it.

23 But he is nine years old, weighs 17 pounds. He is
24 about as tall as this table and just a wonderful kid and is
25 always happy, always joking around.

1 So those are the kids that we're talking about
2 and, you know, sometimes -- and I would think that -- this
3 project is shovel ready. We just got the bids back. We're
4 on budget with that. We're ready to go and in fact, if this
5 appeal is granted and funding approved, we could build it in
6 seven months and these kids would be ready to go

7 And they would spend 40 hours less a month on the
8 bus -- each month. So today I'm just asking you to maybe
9 look at it from a greater perspective and look at it not
10 only from maybe how these students might look at it but
11 their parents as well.

12 Thank you. I'd be happy to answer any questions.

13 CHAIRPERSON ORTEGA: Go ahead.

14 ASSEMBLYMEMBER HAGMAN: Thank you, Madam Chair.
15 I'm -- you know, what the county superintendent of schools
16 has to deal with is a lot of issues and these kids come and
17 go through their school and go out.

18 What I'm trying to figure out is the timing on
19 this. Okay? 2006, the district applied and is approved,
20 gave those design monies actually before they actually got
21 approved. The concept of 2006, you got design monies to go
22 out and build.

23 2010, you were approved -- 2013 -- for those three
24 or four years, you didn't apply for any dollars.

25 So understanding those kids were your priority,

1 how come the district didn't move forward in those three
2 years?

3 MR. GOMES: Well, part of that -- and let me just
4 talk about 2013 because that really does get complicated.
5 But we -- I took over -- during that time, there were five
6 existing projects. Now, we're a small county by most
7 measures and that administration was under the impression
8 that they did not qualify for funding.

9 And when the new administration took over and
10 sorted through the projects -- sorted through all the
11 paperwork that was left behind, that's when we discovered
12 that we did have eligibility.

13 So the county office discovered the information --
14 discovered what we thought to be the lack of eligibility was
15 inaccurate and immediately submitted a priority in funding
16 certification in 2013. And the project was apportioned in
17 July of 2013.

18 We were told that the plans had expired at DSA and
19 immediately we submitted our DSA plans and attempted to get
20 our same DSA number. We're here today to keep our place in
21 line.

22 And then when the plans were submitted, there were
23 two things changed and therefore -- and because the
24 expiration or the last extension had run out, we then got a
25 new DSA number and the new DSA number then took us off the

1 list.

2 ASSEMBLYMEMBER HAGMAN: And what I'm trying to
3 figure out is why -- you got the two extensions and a
4 hundred percent funded by the State -- this is not money out
5 of your pocket or resources that you had to match up or
6 anything like that -- how come you didn't get this going in
7 the extensions?

8 MR. GOMES: You know, I'd like to ask my Director
9 of Facilities who is here -- Paul, would you address the
10 question on 2006. May I introduce Paul Speed, current
11 Director of Facilities. He was not there in 2006. He
12 was -- you started in?

13 MR. SPEED: 2012. The project -- I believe we had
14 a number of projects going at the time and so the first
15 opportunity that we had to be able to man the project was in
16 2010 and that's when we jumped into the priority funding
17 round.

18 There were no funds available at the time. In
19 between 2010 and 2013, there was just a number of turnovers
20 in our organization. We had a new superintendent. We've
21 had two assistant superintendents of business services.
22 We've gone through three positions [sic] in my position, and
23 so there was nobody there to man the project or to follow
24 through with applying for the priority in funding rounds.

25 ASSEMBLYMEMBER HAGMAN: But you had multiple other

1 projects that you did complete or you were --

2 MR. SPEED: We had a planner on staff who saw
3 those projects finish out, but we didn't have anybody there
4 to start the new project.

5 ASSEMBLYMEMBER HAGMAN: And that also was the same
6 time period.

7 MR. SPEED: All in the same time period.

8 ASSEMBLYMEMBER HAGMAN: Okay. So you finished
9 three out of the four projects that you applied for; is that
10 correct or --

11 MR. SPEED: Yes.

12 ASSEMBLYMEMBER HAGMAN: Okay. So this probably
13 wasn't as high a priority as the other three then is what
14 you're telling me.

15 MR. SPEED: Those projects I believe had started
16 before this one was even approved.

17 ASSEMBLYMEMBER HAGMAN: Okay. Thank you, Madam
18 Chair.

19 CHAIRPERSON ORTEGA: Senator Hancock.

20 SENATOR HANCOCK: I think that we've discussed
21 this before and it's a difficult situation. I just have to
22 say that, members of the Senate, we are not allowed to add
23 onto bills later. We have a brief hiatus when we can come
24 up here.

25 I actually feel a great deal of sympathy and

1 understand why the convoluted process sometimes does people
2 in. So for the sake of discussion, I would move that we
3 grant the appeal and let them submit a new set of plans.

4 ASSEMBLYMEMBER BUCHANAN: I do have a question
5 because you've been the superintendent for four years, you
6 said in your opening remarks.

7 MR. GOMES: Three and a half years.

8 ASSEMBLYMEMBER BUCHANAN: Three and a half and it
9 sounds to me like -- and you've had other projects that have
10 been State funded. So it's not like you're not familiar
11 with the program or you don't know how to participate in the
12 program; correct?

13 MR. GOMES: Correct. Correct.

14 ASSEMBLYMEMBER BUCHANAN: So I mean I knew as a
15 school board member that my DSA plans were only valid for a
16 certain amount of time and you were allowed extensions, but
17 after that you had to reapply to DSA.

18 So I assume, if you've been in education 42 years
19 and you've had other projects, you're aware of that as well,
20 correct?

21 MR. GOMES: Well, a large number of those 42
22 years was a teacher and so, yeah --

23 ASSEMBLYMEMBER BUCHANAN: You're not aware -- you
24 are aware or you're not aware that DSA plans aren't valid
25 forever.

1 MR. GOMES: Yes.

2 ASSEMBLYMEMBER BUCHANAN: Okay. So you are aware
3 of that and this isn't a situation where you couldn't sell
4 bonds or whatever because it's a financial hardship program
5 where the State is covering a hundred percent of the cost.

6 So what it is, is a matter of, you know,
7 submitting an application to the State so you can be funded;
8 correct?

9 MR. GOMES: That is correct.

10 ASSEMBLYMEMBER BUCHANAN: And you had three other
11 projects. Where I struggle is we've had other projects in
12 this situation -- because I struggle between my heart and
13 the fairness side of it.

14 We've had other districts in this situation and we
15 haven't allowed them to jump the list or we haven't allowed
16 them to substitute one project for another.

17 And so -- and you have other projects that are in
18 line hoping that some fall off so that they can get in line
19 for money.

20 So I would like to ask staff, do we have other
21 situations where we have granted these kinds of exceptions
22 or are we starting a precedent now.

23 MS. SILVERMAN: No. We actually haven't
24 permitted --

25 ASSEMBLYMEMBER BUCHANAN: Right. I mean ever

1 since I've been on the Board, if you have a new project, you
2 don't -- we have not allowed that kind of line jumping and
3 it's bewildering to me because everyone who comes here with
4 an appeal -- almost everyone -- we had a change and turnover
5 in staff, so it's not our fault. But virtually everyone has
6 that story to tell, that you have a project that has been in
7 the hopper since 2006, that's had approvals, that has been a
8 hundred percent funded where all you had to do was submit
9 the application for funding.

10 And you failed to do that and -- so I have a hard
11 time making an exception when we've never done that
12 historically and every time we do make these exceptions, we
13 create precedents going forward.

14 CHAIRPERSON ORTEGA: Thank you. Any more comment?
15 There's a motion -- we have a motion and a second.

16 MS. STEWART: Susan Stewart representing Merced
17 County Office of Education. I just want to comment on the
18 precedent-setting nature of this.

19 The precedent would be -- only cover those
20 projects on the true unfunded list because that's the last
21 set of projects that would be funded under this bond. Any
22 other projects funded after that would be under a new bond,
23 totally new rules and regulations.

24 ASSEMBLYMEMBER BUCHANAN: For the most part, we've
25 kept the same rules from bond to bond.

1 MS. STEWART: Right. But there would be no -- but
2 if in fact we're looking at this one unfunded list, there
3 would be -- we looked at the list very carefully and we were
4 having a difficult time finding any district that would have
5 the same situation with their projects that had expired
6 plans.

7 We checked with those districts. One of them is
8 Merced -- that they will not be moving forward. The three
9 other districts will not be moving forward as well.

10 So if in fact it is a precedent on this unfunded
11 list, there would be very few projects that would be
12 affected by this.

13 MS. KAMPMEINERT: There is a district that may be
14 in a similar situation.

15 CHAIRPERSON ORTEGA: Yeah. And I really think we
16 can't speak for the other districts about whether they're
17 going to appeal. There hasn't been an administrative action
18 yet and we don't know whether or not they will in fact
19 appeal the decision.

20 So I think -- for me, I think the issue is we have
21 this set of rules. It becomes a problem because we're out
22 of bond authority. But the rules are the rules that have
23 been in place the entire time and I just can't see -- I
24 don't feel like there's a programmatic justification to
25 divert from that now. So -- yes, go ahead.

1 ASSEMBLYMEMBER HAGMAN: One more question. I'd
2 like to hear from Counsel whether we have the authority to
3 change this or not.

4 MS. BANZON: This is really a regulatory issue and
5 that's -- in the regulation, it says that -- there's the
6 term approved application which Ms. Kampmeinert discussed
7 earlier.

8 And approved application includes everything that
9 OPSC requires, everything including DSA certification --
10 approval would constitute an approved application.

11 In this case where the application expired -- the
12 DSA approval expired, that would also -- that becomes then
13 an invalid application. So this is where the problem is.

14 So if we approve the request, we are then not be
15 complying with that regulation that we have.

16 CHAIRPERSON ORTEGA: Okay.

17 MR. DIAZ: Just a quick --

18 CHAIRPERSON ORTEGA: Yes. Go ahead.

19 MR. DIAZ: We have addressed several issues with
20 applications in the past dealing with some of the
21 requirements of existing statute and some of those created
22 regulations, and there's no question about it, I think that
23 the district has come forward, hat in hand, letting us know
24 that they made a mistake and other districts have come
25 forward claiming the same things and -- obviously contrary

1 to regulations, and we have created circumstances like LCPs
2 where there's like a reduction or a grant for that
3 particular project.

4 And I think those created sort of a new rule,
5 which is some of the concerns I think that some of my other
6 Board members share. But how is that different from this
7 particular situation?

8 MS. BANZON: Well, we're really creating a new
9 rule. That's not a regulation. We're actually -- you know,
10 you can say it's Board discretion -- some of the regulations
11 may have Board discretion, but in this case, if you create a
12 new rule, that's not a regulation. It might become
13 regulation, but that's the feel that I have.

14 CHAIRPERSON ORTEGA: Okay.

15 ASSEMBLYMEMBER HAGMAN: I think the difference
16 being it's -- it's like black and white. It's hard for us
17 to flip because it's already written out. When there's
18 not -- the situation is not addressed in the regulations,
19 that's -- we make things up as we go because they weren't
20 thought of -- they weren't addressed in the regs.

21 And I think that was the difference between the
22 stuff -- you know, some of the appeals in the past and other
23 ones, we approved because we did not have a reg prohibiting
24 us to do it. And then others, we may have denied because
25 there has been actually written language that says this is

1 the way it's supposed to work, you know, black and white
2 type of thing.

3 And that's what I was trying to determine, is this
4 a black and white type one or is this the one in the middle
5 where there's some movability. That's what I was trying to
6 figure out.

7 If it's -- basically, the plans are not approved
8 at this point. It is making -- you can basically --
9 technically, even though it's kind of standing from the
10 outside looking in, but technically, they're switching from
11 the bottom of the list to the top of the list and maybe that
12 needs new interpretation of the regs so they can do that if
13 they previously applied.

14 CHAIRPERSON ORTEGA: Jonette, I think -- there's
15 no question that if we approved the appeal, we would be
16 setting aside the regulation and the question then would be
17 does the Board have the authority to do that.

18 If we don't have the authority to do that, I don't
19 know why there's an item on the agenda. I think we do. I
20 think that's what we've done in granting other appeals.

21 So I think the legal question then becomes are we
22 taking a risk in using our discretion to set aside the
23 regulation and take some action that maybe hurts someone
24 else downstream. That's what we would do.

25 MS. BANZON: That would be what would happen and I

1 would urge the Board, if you do decide to grant the request,
2 to make it so narrow that it doesn't become precedential.

3 CHAIRPERSON ORTEGA: Okay. We have a motion and a
4 second on the floor. So I think we should go ahead and call
5 the roll.

6 MS. JONES: Senator Hancock.

7 SENATOR HANCOCK: Aye.

8 MS. JONES: Senator Liu.

9 SENATOR LIU: Aye.

10 MS. JONES: Assemblymember Buchanan.

11 Assemblymember Hagman.

12 Assemblymember Nazarian.

13 ASSEMBLYMEMBER NAZARIAN: Aye.

14 MS. JONES: Esteban Almanza.

15 MR. ALMANZA: No.

16 MS. JONES: Jeannie Oropeza.

17 MS. OROPEZA: Aye.

18 MS. JONES: Cesar Diaz.

19 MR. DIAZ: Aye.

20 MS. JONES: Eraina Ortega.

21 CHAIRPERSON ORTEGA: No. So there are five for
22 the appeal. I will leave the roll open until the close of
23 the meeting and I don't know if Senator Fuller's actually in
24 the building. She's obviously not here, but --

25 SENATOR HANCOCK: Well, we're having a Republican

1 caucus which is the only reason we could come.

2 CHAIRPERSON ORTEGA: Okay. If we could move on to
3 the next item -- the next item that Senator Hancock would
4 greatly appreciate for us to move to since she's here for
5 possibly a limited time. That's Tab No. 12, the **program**
6 **status update**.

7 MS. SILVERMAN: So we wanted to bring forward a
8 report that provides an update on how we are -- where we're
9 standing at with the current programs, the Career Technical
10 Education Program, the High Performance Incentive Grant
11 Program, the Overcrowded Relief Grant Program, and the
12 Seismic Mitigation Program.

13 And the report does highlight two things. It
14 gives a status report and an update on where we're at with
15 the bond authority and it also addresses the workload that
16 we do have in-house and the processing that we are doing and
17 what lists these folks may be on.

18 The other part of the report does address -- which
19 was an item that requested was what is the status of some of
20 these projects related to the Seismic Mitigation Program and
21 where they're at with the Division of State Architect. So
22 that's the latter half of the report.

23 First item on page 26 is an update on the Career
24 Technical Education. Right now we actually are processing a
25 number of items in the Consent Agenda that actually relates

1 to five projects for \$3 and a half million.

2 That in effect will leave a zero balance for the
3 Career Technical Education Program. Whether or not or not
4 we have projects on the unfunded list, there's no projects
5 currently on the unfunded list. Applications beyond
6 authority list, there's currently no projects on that list
7 well.

8 The Board did keep open a third funding cycle on
9 May 2011 and so there's currently projects, \$71.7 million,
10 that the Board wanted to keep open and activate those
11 projects as bond authority becomes available. So that's an
12 update on Career Tech.

13 As far as the High Performance Incentive Grant
14 Program, wanted to highlight there's 261 projects that were
15 processed over the last several years.

16 We currently are processing one application in the
17 Consent Agenda for a High Performance Incentive Grant
18 related to the Overcrowded Relief Grant Program project and
19 there will be \$32.9 million remaining in bond authority in
20 that program area.

21 There are several projects on the lack of
22 authority list that have a component of the High Performance
23 Incentive Grant. Those projects on that list currently are
24 the New Construction and Modernization Program where we
25 don't have current bond authority to fund those projects.

1 And then those are applications received prior to
2 November 1st. Applications received subsequent
3 November 1st, we didn't have the authority. The Board
4 provided the regulation not to process those applications
5 and so we have the acknowledged list.

6 We have several projects on that acknowledged list
7 that are currently requesting a High Performance Incentive
8 Grant and that's \$6.7 million.

9 In our current workload of processing applications
10 to a future Board meeting, we have zero currently in our
11 workload in High Performance Incentive Grant area.

12 The next item is the Overcrowded Relief Grant
13 Program. I wanted to highlight, there is one item in the
14 Consent Agenda for \$1.9 million. We will have \$18.9 million
15 left in that program.

16 There is an appeal by the district with that
17 particular application, an issue that we can't get resolved,
18 and so we are elevating that item next month to appeal and
19 it's about \$3 million -- slightly over \$3 million.

20 And so if the Board does grant the appeal, there
21 will be about \$15 million left in the Overcrowded Relief
22 Grant Program.

23 In the last funding cycle, the 12th funding cycle,
24 where the Board did approve back in November, there was a
25 number of projects that we had moved forward and at the time

1 with the limited bond authority, we couldn't process any
2 additional applications.

3 There has been reversions of bond authority coming
4 back to the Overcrowded Relief Grant Program. That current
5 cycle is -- we still have applications in-house.

6 We don't currently have a structural regulation in
7 place to process any additional applications. So we will
8 have to be bringing an item back to the Board.

9 We should figure out whether or not we are going
10 to create a process to continue to go down the list with the
11 existing bond authority or open up a new funding round.

12 And that's the update on the Overcrowded Relief
13 Grant Program.

14 As far as the Seismic Mitigation Program, although
15 there has been much change in the regulation as effective
16 September 2011 as a result of the State Allocation Board
17 meeting creating a Seismic Subcommittee.

18 And so that Subcommittee came up with some draft
19 changes to incentivize folks to come in the program,
20 actually expanded the Type 2 buildings.

21 Before there was a limited number of facilities
22 that could qualify. They expanded to include all Type 2
23 facilities.

24 Eliminated the ground-shaking intensity which is a
25 pretty high threshold to reach and eliminated that change as

1 well. Created additional opportunities for those folks that
2 have structural deficiencies that may result in faulting,
3 liquefaction, or landslide, and other geohazards to also
4 come into the program.

5 There were a couple other points as well. Since
6 that change in the regulation, we have processed 17
7 applications for funding for over \$33 million.

8 Prior to that change, there was only three
9 applications that came through because the restrictions in
10 the program and so a complement of only \$4.7 million that
11 were processed prior to that change.

12 We do want to acknowledge that there's also
13 several projects that we are processing, \$2.6 million that
14 are moving forward in this month's agenda. Also we have
15 \$17.7 million in funding applications that we have currently
16 in our workload and we will be processing those items in
17 June and July as well.

18 So collectively with just the actual Consent
19 Agenda, there'd be \$148 million left and again the
20 \$17.7 million represents projects that are currently going
21 through our review and we will be bringing those forward to
22 a future Board.

23 I also want to acknowledge there are several
24 projects that came in for a conceptual approval. That
25 necessarily doesn't provide bond authority to those folks,

1 but there's about \$45 million of projects that did receive a
2 conceptual approval for the Board.

3 So that's the program updated related to the
4 Seismic Program.

5 I wanted to also share some statuses of the
6 eligible buildings that are going the review process at the
7 Division of State Architect. Again this is information
8 that's been shared by that division.

9 On page 188a, we wanted to emphasize some of the
10 workload that DSA currently is in the review status and the
11 other projects that are actually going through -- DSA is
12 waiting for information to be submitted to them so they can
13 make some additional progressions and move onto the various
14 approval stages.

15 So Step 1 is basically districts are coming in to
16 get their buildings evaluated and that evaluation is just a
17 quick light switch test to see whether or not they are
18 eligible for the Seismic Mitigation Program.

19 So there is currently 152 buildings that actually
20 have that eligibility check. Ten are currently moving
21 through DSA. There are still 142 projects that technically
22 don't have additional information to -- in order for DSA to
23 process those buildings evaluations along.

24 So those currently are in the pending status
25 waiting for districts to communicate back to DSA to move

1 those projects along.

2 In Step 2, we wanted to highlight there's several
3 projects there in that category and again it's the
4 evaluation of whether or not the buildings would qualify for
5 rehabilitation or replacement.

6 And there's 23 buildings that are actively moving
7 along and so 34 buildings are still waiting for
8 communication to come back from the districts so they can
9 progress along as well with DSA.

10 DSA currently has -- and the last stage, Step 3,
11 is the final approval status and there's five buildings
12 currently going through the final approval status at DSA.

13 So that's the highlight of the report.

14 CHAIRPERSON ORTEGA: Okay. Any questions.

15 SENATOR HANCOCK: Just that they're now out of
16 caucus, so we're going to have to unfortunately go back
17 down.

18 I did have a motion that I wanted to make and I
19 want to thank the staff for the information they gave us
20 just now. It's very helpful to begin to piece things
21 together.

22 As Board members know, I've been very interested
23 in some of these special funds because we had such trouble
24 getting them out. We managed to change some of the
25 regulations to make it easier, but just as we reached the

1 end of the bond authority.

2 I'm very pleased that the CTE money will all be
3 spent. The High Performance Incentive Grants, I realize
4 it's very, very difficult for us to get that money out. I'm
5 expecting that it will probably be swept.

6 My hope would be quite honestly that we could use
7 that money for projects that would qualify for high
8 performance schools that are on the waiting list now as
9 unfunded projects.

10 But I am very concerned today about the seismic
11 money because it is so essential for the districts that have
12 gone to the trouble to assess their seismic risk and get
13 approved projects before us.

14 And, you know, we have a very complicated process
15 as staff indicated. It takes three separate applications to
16 get seismic money appropriated by the Board.

17 You have to, number one, be declared eligible;
18 number two, then you do preliminary drawings to figure out
19 if it's either replace or rehab; and then if that gets
20 approved, you have to submit another application and final
21 plans.

22 So we do have -- in addition to the unfunded list,
23 we do have applications that have conceptual approval. Now,
24 that means they've gone through each one of these three
25 steps and they did a lot of work and they got it in.

1 And I am wondering if we could ask the OPSC staff
2 to report on the applications that have conceptual approval
3 and give the Board options so that we -- in declaring our
4 intent would be to review or set aside the funds to cover
5 the costs of those projects because these are people who did
6 everything they needed to do.

7 And the second part of the motion would be to --
8 if they could talk with the districts that have applications
9 in and that are waiting for DSA approval but we haven't
10 heard back from them.

11 If you could just survey them as to what the
12 barriers are to them completing their applications in a
13 timely way. Is it that they get discouraged. Is it that
14 there's too many hurdles and they don't have time.

15 We know that we have a complex process and as we
16 gear up for another bond, I think we're going to want to
17 find those to streamline this and use the lessons learned.

18 So I would make that as a motion.

19 ASSEMBLYMEMBER BUCHANAN: I was going to say I'm
20 not sure we need a motion. I think we just need to direct
21 staff to come back with a report that would give us more
22 detail on the projects that are out there because I agree
23 with you and I think with what you're trying to achieve and
24 that is for projects that are going through the process that
25 we've set out and incurring their own money doing that, we

1 don't want to pull the rug out from under them and say,
2 okay, you did what we ask you to do, you spent your own
3 money doing it, and now we're going to take away the money
4 for the program.

5 We want to be sure it's there, but I don't know --
6 do we need a motion to -- or do we just need direction to
7 ask staff to come back to us with that information, you
8 know, in terms of updating us on the projects that are
9 listed here, whether or not it looks like they're going to
10 go forward or not.

11 SENATOR HANCOCK: Well, I would -- yeah, I would
12 hope that we could do it as a motion so that staff -- it
13 isn't just a fishing expedition for staff, but that they
14 really could come back in the next month or so and tell us
15 if -- with some options so that we could take those
16 conceptual approvals and get money out the door.

17 ASSEMBLYMEMBER BUCHANAN: So you're asking for an
18 action item on the agenda where we could --

19 SENATOR HANCOCK: Yeah.

20 ASSEMBLYMEMBER BUCHANAN: -- would have that
21 information and --

22 SENATOR HANCOCK: Right.

23 ASSEMBLYMEMBER BUCHANAN: -- then reserve
24 authority. I don't know.

25 MR. ALMANZA: Do we have the authority to encumber

1 funds without an application?

2 MS. SILVERMAN: No. Currently in the process, we
3 don't have regulations. That's an issue the Seismic
4 Subcommittee had discussed about reserving bond authority
5 and that would require a regulation change.

6 And that was something that it was discussed at
7 great length and at the time, the Board didn't want to
8 commit to reserving bond authority for projects that had a
9 conceptual approval.

10 MR. ALMANZA: But even that reservation required a
11 budget act, didn't it?

12 MS. SILVERMAN: No. Regulation --

13 ASSEMBLYMEMBER HAGMAN: Right now we have money
14 sitting in Seismic by bond, by -- so it's there. The only
15 way it wouldn't be there is if we take action not to have it
16 there; correct?

17 So -- yeah, the Legislature takes action. So
18 hopefully -- thanks for presenting that and hopefully send a
19 message to the Governor's office we would like to keep that
20 there because we do have projects in the hopper and not get
21 it swept -- I mean right now it is technically reserved for
22 that type application; right? First in line, first one
23 submits anything, there's money there.

24 So unless we take a legislative action to take
25 that money away, it's going to be there. So I think if that

1 happens, what we do here anyway doesn't really matter
2 because if the law trumps what we do as an administrative
3 body, it's going to trump it anyway.

4 So I'm with you, Senator. I want to see these
5 projects follow through. I want to make sure the money's
6 there for them if they need it. We can only push them so
7 far.

8 If we do more rules or whatever changes -- you
9 know -- but if they -- you have to admit there's a problem
10 with this money, and if you admit you have a problem, that
11 means you're going to have to spend the money to do it, and
12 I think that's the bigger hurdle that you can't force them
13 to do.

14 So -- because they don't want to say you knew
15 about this building on top of a fault way back when and
16 we're in trouble. So I think that's a bigger hurdle that
17 they face, but that's not something you need to do out here.

18 But right now, all that money is reserved for
19 them, and I would like to see them get it as well now that,
20 hopefully -- you know, not the best with this budget
21 process, but hopefully encourage them not to strip that
22 money away because it is very unique and it is for something
23 that eventually would be used up.

24 CHAIRPERSON ORTEGA: Lisa.

25 MS. SILVERMAN: Yeah. I just wanted to highlight,

1 you know, since the regulation change in 2011, there's been
2 66 outreach opportunities, webinars and what have you,
3 communicating to districts on how to access the program.

4 We have done, you know, individual walk-throughs
5 in some of the projects also along with the Division of
6 State Architect to just to find ways that encourage
7 districts to apply for the program funds. I just wanted to
8 highlight that.

9 MS. OROPEZA: Could I ask staff to go back and
10 look because prior to the previous seismic set-aside,
11 districts could come in under facilities hardship, under new
12 construction or modernization, and I think that was a much
13 more simpler, straightforward process for districts.

14 They'd get put in the front of the line because it
15 was a facilities hardship. So if we could go back and look
16 at how many districts access the money that way and was it a
17 better option than creating all these other loopholes and
18 processes that delay the districts getting their money
19 quicker, especially when they need to address a problem.

20 ASSEMBLYMEMBER BUCHANAN: That's one of the
21 proposals that we had in the Subcommittee that we looked at
22 was eliminating the special programs like that and rolling
23 it in so it would just be eligible under new construction or
24 modernization because if we have to replace facility, there
25 shouldn't be a separate pot.

1 SENATOR HANCOCK: But right now, we have these
2 projects that do have conceptual approval. They've given us
3 three different applications. We've approved them and there
4 should be a way, it seems to me, where there's money in the
5 fund for us to get that money out to them for that.

6 ASSEMBLYMEMBER BUCHANAN: So, Senator, you're
7 trying to avoid it being swept which is legislative action.
8 Assemblymember Hagman is explaining that from our -- with
9 seismic, absent legislative action, but are you also trying
10 to determine the magnitude of exactly what has already
11 been -- I don't want to say committed, but exactly what the
12 potential participation level is going to be based on those
13 districts that have expressed interest? Is that the --

14 SENATOR HANCOCK: Right. Then if there are any
15 ways that we can remove barriers so that we can ensure that
16 those that have submitted their three different applications
17 and gotten conceptual approval so they're out there could
18 draw money from the fund because it's there for that
19 purpose.

20 It was set aside by the voters for that purpose
21 and if there's money left at the end, then that would be in
22 as part of the budget process and can be swept or --

23 CHAIRPERSON ORTEGA: So in terms of your requested
24 information, I'm not sure -- if we're talking about an
25 information request, I don't think you need a motion at all

1 and the staff can bring back whatever you ask.

2 SENATOR HANCOCK: -- option.

3 CHAIRPERSON ORTEGA: If you're looking to do
4 anything that has to do with reserving funds or preempting
5 something that could happen in the budget process, I would
6 not support that as a motion because I think the most
7 important thing is that we not have that -- I will
8 acknowledge that you're raising very important questions
9 that need to be considered, but I don't think that this body
10 is the right body to make those choices today.

11 So I think we have to leave that to the
12 legislative -- to the budget process and to the Legislature
13 as it's deliberating on what the budget's going to look like
14 because right now there is a budget proposal to consolidate
15 those funds.

16 And so if we take an action here that somehow --
17 that preempts them from being able to have that discussion.
18 I don't think that's appropriate.

19 ASSEMBLYMEMBER BUCHANAN: I don't think we have
20 the authority.

21 SENATOR HANCOCK: Well, right. I mean actually
22 this is going to go to conference. The Senate said that the
23 money should not be swept until next July. The Assembly I
24 believe said that that should not happen till January.

25 So the question is whether we as an administrative

1 body do feel that we owe something to those districts that
2 have conceptual approval because they jumped through the
3 hoops.

4 CHAIRPERSON ORTEGA: Well -- and I think the
5 information and the timing for which the information is
6 needed to make that decision is much shorter than the time
7 frame for our next meeting.

8 So I think what would be more appropriate is for
9 the administration and the staff -- the Board to commit to
10 working with the budget committees to get that information
11 as part of that dialogue.

12 Because if we come back to have this discussion at
13 the end of June, I don't think that's going to be timely.
14 So -- and I think, you know, our budget staff and Lisa and
15 her folks have been working on answering some of those
16 questions.

17 MS. SILVERMAN: Yeah, a lot of the information has
18 been requested through some of the budget -- independent of
19 the Board. So -- which DSA actually did show and display a
20 number of these districts that are working through and the
21 various stages they're at and what information they need to
22 turn their project around.

23 So again that information has been shared
24 independently of the Board.

25 CHAIRPERSON ORTEGA: Okay. So, Senator Hancock,

1 you made a motion. I don't know if you want to maintain
2 that motion or you want to allow this process to be worked
3 out through the budget process or --

4 SENATOR HANCOCK: Well, I think it would be useful
5 to have options, but I hear what you're saying. You'd
6 rather not have the motion. So I can --

7 ASSEMBLYMEMBER BUCHANAN: Do we want additional
8 information from staff? I think --

9 CHAIRPERSON ORTEGA: I think maybe what we should
10 do --

11 SENATOR HANCOCK: I would like information --

12 CHAIRPERSON ORTEGA: Maybe what we should do -- we
13 should plan to have an agenda item for the next meeting on
14 this issue and as the materials are developed, we'll see how
15 the budget discussion may have progressed by then as well
16 and then we can have another discussion.

17 SENATOR HANCOCK: Because part of what would have
18 been the motion was asking staff to identify options for the
19 Board so in the event the money would be swept next July or
20 in January, if there are barriers that we could remove
21 administratively to get the money to the people who've taken
22 the trouble to go through three applications and get
23 conceptual approval, that it should resort in things getting
24 done in an expedited way and a good result for our school
25 children.

1 CHAIRPERSON ORTEGA: I think we can address that
2 without a motion. I think I understand where you're coming
3 from on that.

4 SENATOR HANCOCK: Thank you.

5 CHAIRPERSON ORTEGA: We have one item that has --
6 still has an open roll, so if you could call the absent
7 member.

8 MS. JONES: Senator Fuller, how do you vote on
9 Merced County Office of Education?

10 SENATOR FULLER: Aye.

11 MS. JONES: Thank you. Motion carries.

12 CHAIRPERSON ORTEGA: Okay. So now we're going to
13 go back to -- I think we've acted on all the action items.
14 So we'll move back to the **Executive Officer report**.

15 MS. SILVERMAN: So we have three items to share
16 tonight and the items that -- really quickly is we want to
17 update the Board on the apportionments that we provided in
18 April.

19 So clearly over \$372 million were awarded in
20 projects and so far as of last Friday, we received close to
21 \$92 million in fund requests.

22 So just to remind those folks that have active
23 apportionments that we have a July 7th deadline. So it's
24 really critical for -- they submit the documentation so we
25 can award your money.

1 And those projects that don't meet those
2 timelines, they also may be at a position where they may hit
3 the two strikes rule and again, just to highlight those
4 projects need to move forward.

5 Second update is provide the Board -- is that we
6 currently have priority in funding filing cycle and that
7 began May 14th and will close June 12th.

8 So there's currently over \$217 million in projects
9 that currently have bond authority assigned. That means
10 they have an unfunded approval. And so those projects will
11 be eligible as well as projects going through the Consent
12 Agenda tonight.

13 And again, we'd like to encourage those folks who
14 have that opportunity to submit a certification.

15 And as we start receiving those certifications,
16 over a weekly basis, we do post those certifications online.
17 And so again, just highlight they have June 12th deadline.

18 The last item is -- remind folks that we have a
19 charter filing round and that opened up April 1st. It
20 closes on Friday.

21 And we currently have, as of last Friday, 23
22 applications for over \$186 million and we currently
23 understand there's additional applications that are working
24 through the door as we speak.

25 So again, those opportunities are there to submit

1 a charter application. And -- so that means that we
2 currently in status have more projects in funding request
3 than we do bond authority. So just want to highlight those
4 items.

5 CHAIRPERSON ORTEGA: Questions? No. **Status of**
6 **Funds.**

7 MS. SILVERMAN: Okay. Financial reports, just on
8 the fund release data, again, just to share with the Board
9 how fast we're liquidating cash.

10 On page 70, although we did award apportionments
11 in the early part of the month, this just reflects the few
12 weeks of activity in the end of April.

13 So we have released \$22.3 million in cash as a
14 result of that recent apportionment. And that's the
15 highlight we want to share in that report.

16 The next report we wanted to share, on page 74,
17 which is the **Status of Funds**, wanted to highlight a couple
18 things.

19 We are, again, did consent the approvals for the
20 month of \$6 and a half million that went through the Consent
21 Agenda and that represents nine projects. A bulk of those
22 projects were going through Proposition 1D. So nine
23 projects went through.

24 Likewise, there has been rescissions that we also
25 wanted to highlight. Currently, there are two project that

1 have rescissions and \$1.4 million came back to the program.

2 And another item just to highlight -- so we didn't
3 migrate any additional projects through -- converting
4 projects from the current true unfunded list. There's no
5 activity in that area.

6 But on page 84, we wanted to have as part of the
7 Agenda is the fund recoveries and again keeping track of the
8 funds that are coming back to the program and are ready to
9 convert those funds to move projects over to future Consent
10 Agenda is what we want to highlight.

11 So for the month of March, collectively, there was
12 \$6.2 million in fund recoveries have come back as a result
13 of rescissions. And then they did not meet the timelines
14 and again, we're providing those updates. When projects
15 don't meet the timelines, we'll be effectively showing those
16 items here and also in Status of Funds.

17 So that's what we have to share.

18 CHAIRPERSON ORTEGA: Anything else?

19 MS. SILVERMAN: Oh, one more item, **Joint Use**. We
20 have the joint use report. Just to provide the Board an
21 update, there is -- June 2012, there were several projects
22 that were provided cash as a result of joint use
23 applications and as a result, we still have one project that
24 still needs to come in and they have a December 19th
25 deadline. And so we just wanted to highlight that there's

1 still one outstanding project.

2 And with that, I can open up to workload repots.

3 CHAIRPERSON ORTEGA: Yep.

4 MS. SILVERMAN: And so we have our workload to
5 share, if we do plan to have a June meeting to bring
6 additional projects forward. And that's all we have.

7 CHAIRPERSON ORTEGA: Okay. Any questions or
8 comments? Any comments from the public?

9 Okay. Seeing none, we'll be adjourned.

10 (Whereupon, at 5:00 p.m. the proceedings were
11 adjourned.)

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