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CALIFORNIA STATE ALLOCATION BOARD

PUBLIC MEETING

STATE CAPITOL

ROOM 447

SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, FEBRUARY 23, 2005

TIME: 4:07 P.M.

Mary Clark Transcribing
Electronic Reporting and Transcribing
4919 H Parkway
Sacramento, CA 95823-3413
(916) 428-6439

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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

ANNE SHEEHAN, Chief Deputy Director, Department of Finance,
designated alternate for Thomas Campbell, Director,
Department of Finance

ROB COOK, Deputy Director, Department of General Services

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

SENATOR ALAN LOWENTHAL

SENATOR BOB MARGETT

SENATOR JACK SCOTT

ASSEMBLY MEMBER LYNN DAUCHER

ASSEMBLY MEMBER JACKIE GOLDBERG

ASSEMBLY MEMBER JOE COTO

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LUISA M. PARK, Executive Officer

DAVID ZIAN, Assistant Executive Officer

MAVONNE GARRITY

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

GARRY NESS, Acting Chief Counsel

P R O C E E D I N G S

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CHAIRPERSON SHEEHAN: Can we call the February 23rd State Allocation Board meeting to order. Can the secretary call the roll, please.

MS. GUTIERREZ: Senator Margett.

Senator Lowenthal.

SENATOR LOWENTHAL: Here.

MS. GUTIERREZ: Senator Scott.

MS. GUTIERREZ: Assembly Member Daucher.

ASSEMBLY MEMBER DAUCHER: Here.

MS. GUTIERREZ: Assembly Member Goldberg.

ASSEMBLY MEMBER GOLDBERG: Here.

MS. GUTIERREZ: Assembly Member Coto.

ASSEMBLY MEMBER COTO: Here.

MS. GUTIERREZ: Rob Cook.

MR. COOK: Here.

MS. GUTIERREZ: Kathleen Moore.

MS. MOORE: Here.

MS. GUTIERREZ: Dave Sickler.

Anne Sheehan.

CHAIRPERSON SHEEHAN: Here.

MS. GUTIERREZ: Thank you.

CHAIRPERSON SHEEHAN: We have a quorum. Welcome to Assembly Member Coto to his first meeting. Nice to have

1 you.

2 Couple of items before we go into closed session.
3 I think what I will do is jump to agenda item number 4, the
4 resolution regarding the delegation of authority to the new
5 Executive Officer. Welcome Luisa. Do you need me to read
6 the entire?

7 MS. PARK: No. You just need to ask the Board to
8 adopt the resolution.

9 CHAIRPERSON SHEEHAN: Okay. So you have the
10 resolution appointing Luisa Park as the Executive Officer.

11 ASSEMBLY MEMBER GOLDBERG: Move it.

12 ASSEMBLY MEMBER COTO: Coto.

13 CHAIRPERSON SHEEHAN: We have a motion and a
14 second. All those in favor signify by saying aye.

15 (Ayes)

16 CHAIRPERSON SHEEHAN: Any opposed? Welcome.

17 ASSEMBLY MEMBER GOLDBERG: Which proves once again
18 you can run but you can't hide.

19 MS. PARK: I hid for six months, but it didn't
20 work.

21 ASSEMBLY MEMBER GOLDBERG: It was a good shot and
22 you gave it your best, but --

23 CHAIRPERSON SHEEHAN: But we got her back.

24 ASSEMBLY MEMBER GOLDBERG: That's it.

25 CHAIRPERSON SHEEHAN: Exactly. And now I think we

1 will go into closed session just for a brief discussion on
2 litigation and then we should resume open session in ten
3 minutes. Yeah. It won't be long. Sorry, now that you're
4 all comfortable.

5 (Whereupon at 4:11 p.m., the open meeting was
6 recessed for the closed session and resumed as follows at
7 4:25 p.m.)

8 CHAIRPERSON SHEEHAN: We will reconvene the open
9 session of the State Allocation Board meeting. The Board met
10 in closed session pursuant to Government Code
11 Section 11126(e), Subsection 1, to discuss with counsel
12 litigation entitled Godinez, et al., vs. Davis, et al., in
13 which the Board is named a defendant. And now we will move
14 on to the next open item which is the adoption of the
15 minutes.

16 MS. PARK: The minutes are ready for the Board's
17 approval, Tab 2, page 1.

18 MS. MOORE: I had a comment on the minutes.

19 MS. PARK: Okay.

20 MS. MOORE: On the Oxnard Elementary School item,
21 I think we should strike the sentence that says in
22 considering this item, the Board approved the staff
23 recommendation. It was my recollection that the Board did
24 not approve the staff recommendation but rather proceeded
25 with the motion as stated in the minutes.

1 CHAIRPERSON SHEEHAN: So is that -- any objection
2 to that change?

3 ASSEMBLY MEMBER GOLDBERG: Good catch.

4 CHAIRPERSON SHEEHAN: Any other changes to the
5 minutes? No. We will entertain a motion to adopt the
6 minutes with the --

7 MS. PARK: Modification.

8 CHAIRPERSON SHEEHAN: -- modification.

9 ASSEMBLY MEMBER GOLDBERG: So move.

10 MS. MOORE: Second.

11 MR. COOK: Second.

12 CHAIRPERSON SHEEHAN: All right. We have a motion
13 and a second. All those in favor signify by saying aye.

14 (Ayes)

15 CHAIRPERSON SHEEHAN: Any opposed. All right.

16 MS. PARK: Then the next item is the Executive
17 Officer's Statement on Tab 3. And I would just like to
18 inform the Board that there was a request to change the Board
19 meeting for March from March 23rd to March 30th. We did take
20 a poll of the Board members and they're all in agreement that
21 March 30th would be a better date for the meeting. So the
22 next meeting will be on March 30th.

23 The next issue that I do want to bring to your
24 attention is that the cost index adjustment regulations were
25 submitted to the Office Of Administrative Law and within the

1 next ten days, we should have approval on those emergency
2 regulations. So we're hoping that at the next Board meeting
3 we'll be able to bring an item back to the Board to adjust
4 the index factor.

5 The consent calendar on this agenda does not have
6 that index adjustment, so I believe that --

7 CHAIRPERSON SHEEHAN: We do. We will have a
8 motion --

9 MS. PARK: Rob Cook will make a motion on that.

10 CHAIRPERSON SHEEHAN: All right. Any other items
11 that you have, Luisa, under the Executive Officer?

12 MS. PARK: No. That's it.

13 CHAIRPERSON SHEEHAN: All right. Then why don't
14 we move to the consent calendar. Why don't you go ahead.

15 ASSEMBLY MEMBER GOLDBERG: Madam Chair, do you
16 want the motion there before or included in the consent
17 calendar?

18 CHAIRPERSON SHEEHAN: Well, why don't we have Rob
19 make his motion and then move to the consent -- adoption of
20 the consent calendar?

21 MS. PARK: Yes.

22 MR. NESS: I would suggest that.

23 CHAIRPERSON SHEEHAN: Okay. All right.

24 MR. COOK: All right. I move that the School
25 Facility Program project apportionments included in this

1 agenda be made but not be final until further adjustment is
2 made based upon the index approved by the Board following the
3 Office of Administrative Law finalization and approval of the
4 construction cost index regulations approved by the Board in
5 October of 2004.

6 ASSEMBLY MEMBER GOLDBERG: Second.

7 CHAIRPERSON SHEEHAN: So we have a motion and a
8 second. Any questions on that? We are hopeful OAL will
9 approve the regulations and not have any -- not send it back
10 to us.

11 MS. PARK: We're pretty confident that they will
12 be approved.

13 CHAIRPERSON SHEEHAN: Okay. Okay.

14 ASSEMBLY MEMBER GOLDBERG: And, Madam Chair, the
15 information for Executive Officer's Statement that's on the
16 desk, the second page, tells what the effect of that is.

17 CHAIRPERSON SHEEHAN: Right. Does everyone get
18 the --

19 ASSEMBLY MEMBER GOLDBERG: Just for the new
20 members.

21 CHAIRPERSON SHEEHAN: -- statement. So -- all
22 right. So we have a motion and a second. All those in favor
23 signify by saying aye.

24 (Ayes)

25 CHAIRPERSON SHEEHAN: Any opposed? Okay. And now

1 we will go on to the regular consent -- oh, wait a minute.
2 Sorry.

3 MS. PARK: Wait a minute. We have --

4 CHAIRPERSON SHEEHAN: I want to recognize
5 Ms. Moore for a statement before we get to the consent.

6 MS. MOORE: Yes. I need to make a statement.

7 CHAIRPERSON SHEEHAN: Sorry. Thank you.

8 *Consent* MS. MOORE: For the purpose of the general consent
9 special agenda item, I will be abstaining from voting on all
10 items relating to Elk Grove Unified School District. I am
11 voting in favor of all items on the consent special agenda
12 item.

13 CHAIRPERSON SHEEHAN: Okay. All right. So our
14 next is the consent calendar and that is ready for approval.

15 MS. PARK: Yes.

16 CHAIRPERSON SHEEHAN: Did you want -- any comments
17 on --

18 MS. PARK: It's ready.

19 CHAIRPERSON SHEEHAN: All right. Do we have a
20 motion on the consent calendar.

21 ASSEMBLY MEMBER COTO: Move the consent calendar.

22 CHAIRPERSON SHEEHAN: We have a motion and a --

23 MR. COOK: Second.

24 ASSEMBLY MEMBER DAUCHER: Second.

25 CHAIRPERSON SHEEHAN: -- second. All those in

1 favor signify by saying aye.

2 (Ayes)

3 CHAIRPERSON SHEEHAN: Any opposed? All right.

4 MS. PARK: Okay. The next item on the agenda is
5 the status of funds and it's behind the green tab and it's on
6 page 94. And the first block there talks about
7 Proposition 55 and the balances for the fund.

8 And in new construction, we have \$4.9 billion
9 available for future funding. As you can see, we haven't
10 tapped into those funds as of today.

11 We have -- in the Charter School Program, we have
12 300 million. In the special calendar, we will take action to
13 approve the Charter School Program.

14 Energy we have 14 million and small high school,
15 we have 20 million. In modernization, we did apportion on
16 the consent calendar 28.6 and we have another apportionment
17 in the special consent calendar of 12.1 leaving 1.5 billion
18 for future funding. Energy, 5.8 and the small high school, 5
19 million.

20 In the critically overcrowded, you'll see that
21 there's a breakout of 283 million and 269 million. The
22 283 million is a reserve. It's a 15 percent reserve for
23 future funding in case the critically overcrowded schools
24 come back in and they need an adjustment on the
25 apportionment.

1 The 269 million is available and there is an item
2 on the special calendar to discuss the 269 million.

3 And then for joint use, we have 50 million, for a
4 total of 7.4 billion in Proposition 55.

5 In Proposition 47, in the new construction, we did
6 approve -- just approve 138.3 million in the consent
7 calendar. We have an adjustment of a million for interest.
8 And then in the special consent, we have 5.8 million, for a
9 total balance of 333.7.

10 We have smaller numbers here as far as the rest of
11 the balances. We have a remaining balance of 384.9 in
12 Proposition 47.

13 As you can see, in Prop. 1A, basically the funds
14 are gone. There are some adjustments, but they're minuses
15 and pluses and there's no money leftover there.

16 So the Board for future funding has 7.7 billion.

17 On the next page, page 95, this is the status of
18 the fund releases. In Proposition 55, the Board to date has
19 funded 2.5 billion. We've released 374 million, and we have
20 yet to release 2.1 billion.

21 In Proposition 47, we've apportioned 10.8 billion.
22 We've released 8.5 billion and have yet to release
23 2.2 billion. And that's really in line with the districts
24 having the 18 months to proceed to construction.

25 In Proposition 1A, we did apportion 6.6 billion.

1 We've released 6.6 billion, and we have yet release
2 5.8 million.

3 Page 96 is the Williams settlement, and the Needs
4 Assessment Program received 25 million, and there's an
5 Emergency Repair Program of 5 million for a total 30.

6 On the special consent calendar, we do have an
7 apportionment of 22.8 million and then you'll see there in
8 the center, we have a transfer of 2.2. That is the balance.
9 And we have recommended a transfer of emergency repair, but
10 when we get to that item, we'll discuss the recommendations
11 on there because I do believe there's going to be a
12 recommendation not to adopt one of them.

13 So we'll -- when we get there, we'll discuss that.

14 CHAIRPERSON SHEEHAN: Um-hmm.

15 MS. PARK: And then in the Lease-Purchase Program,
16 we do have 15.3 million, and that's from recovery of
17 closeouts. And that funding will be available for future
18 joint use projects. And that is the status of funds unless
19 anyone has any questions.

20 CHAIRPERSON SHEEHAN: Any questions of the
21 Executive Officer? No. Thank you.

22 MS. PARK: Okay. The next items are the consent
23 specials and that is Tabs 7 through 12. I just want to bring
24 to your attention on Tab 11 that we are making the grant
25 adjustments for the Labor Compliance Program and that is for

1 15.4 million. Otherwise the agenda -- that portion of the
2 calendar is ready for your approval.

3 CHAIRPERSON SHEEHAN: All right.

4 MS. PARK: I just wanted to raise your attention
5 on that.

6 CHAIRPERSON SHEEHAN: All right. And the figures
7 reflect that in the list that we have.

8 MS. PARK: Yes.

9 CHAIRPERSON SHEEHAN: All right. Go ahead.
10 Ms. Moore.

11 MS. MOORE: For the purposes of the special
12 appeals agenda item, School Facilities Needs Assessment Grant
13 Program funding, I will be abstaining from voting for items
14 related to the Elk Grove Unified School District. I am
15 voting in favor of all other local education agency projects
16 in this item.

17 CHAIRPERSON SHEEHAN: Okay. Is there any
18 objection to taking all of the items together?

19 ASSEMBLY MEMBER GOLDBERG: 7 through 12?

20 CHAIRPERSON SHEEHAN: 7 through 12.

21 ASSEMBLY MEMBER GOLDBERG: I'll move them all.

22 ASSEMBLY MEMBER DAUCHER: Second.

23 CHAIRPERSON SHEEHAN: So we have a motion and a
24 second on items 7 through 12 on the consent specials. All
25 those in favor signify by saying aye.

1 (Ayes)

2 CHAIRPERSON SHEEHAN: Any opposed? Thank you.

3 MS. PARK: The next item is on the special
4 appeals, Tab 13, and we have the actual apportionments for
5 the Needs Assessment Program. And I would ask at this time
6 that we incorporate Tab 19 into this item and request the
7 Department of Education address any concerns you may have on
8 the decile portion of the equation and how these things were
9 raised. Also I do want to mention that on recommendation
10 number 2 for the needs assessment, there may be a request to
11 remove recommendation number 2 and not make that transfer at
12 this time.

13 CHAIRPERSON SHEEHAN: Okay. All right.

14 Ms. Moore, you want to go ahead.

15 MS. MOORE: Certainly. At the last State
16 Allocation Board meeting, Assembly Member Goldberg, I know
17 that you asked a specific question and I'll -- first I'd like
18 to answer that and then if you would like, I can go further
19 into the report which goes into more detail than I'm about to
20 give you.

21 You asked whether there -- how many schools that
22 were -- that had enrollment of over 100, however, did not
23 have 100 valid API test --

24 ASSEMBLY MEMBER GOLDBERG: Yes.

25 MS. MOORE: And there were -- and I believe I put

Needs Assessment item page 14 thru 23

1 this in a letter for the Office of Public School
2 Construction. There were 112 such schools representing about
3 19,000 students.

4 In the agenda item is a report that actually
5 indicates how many schools were removed from the original
6 October list and that number's 1,370 schools and that
7 includes these type of schools as well as what are referred
8 as ASAM schools, which are in the alternative accountability
9 system and as I said, the schools -- less than 100 valid API
10 scores. And this was done after public comment and
11 discussions with the litigants in the Williams case.

12 CHAIRPERSON SHEEHAN: Yes, Ms. Goldberg. Sorry.

13 ASSEMBLY MEMBER GOLDBERG: Thank you, Madam Chair.
14 The reason I asked this question is, is that -- my concern
15 is, is that even though I represent large urban low-income
16 areas, we have small low-income areas that I don't want to
17 get left behind. And I thought that we were trying to get at
18 about a hundred students or more. So I was worried when we
19 got the valid tests that maybe for one reason or another we'd
20 have -- and it is only 112 out of that number -- schools that
21 really ought to be assessed because they're more like the
22 ones that are actually going to be assessed than they are
23 like the ones that really do have less than a hundred
24 students.

25 So I went back to the actual legislation which at

1 the time was SB-6 which is chaptered as 899, and in the
2 section that talks about the criteria, there's no number at
3 all, which surprised me. It's under -- on page 3, section 2,
4 and then subsections A -- subs A, B, and C. And basically
5 they talk about a \$10 per enrolled student with a minimum
6 allocation of \$7,500.

7 My suspicion is that it's the minimum \$7,500 which
8 meant that we shouldn't probably try to do all of them.

9 I'm wondering if we held off on recommendation 2
10 whether or not there'd be agreement to do an urgency
11 legislation and I think it would be worth exploring, to just
12 say \$10 an enrollee period for those schools that have a
13 hundred or fewer scores and maybe pick up all of the schools
14 but at a much lower rate.

15 I don't want -- I understand why you didn't do
16 that and I think it makes sense. On the other hand, my
17 experience has been that some of the poorest schools in the
18 state with some of the most dreadful facility problems are in
19 those small areas out of sight from sort of everybody. And I
20 really am trying to find a way not to leave them out but also
21 not to give them necessarily \$7,500 if what they have are
22 three classrooms, if you know what I mean.

23 So I'm wondering if we could do one so we get that
24 money out the door. I don't want to hold anybody up. Ask
25 the Department to take a look at what might be some way to

1 get at making sure those schools are in some fashion looked
2 at and come back with a recommendation that maybe we could
3 still find a bill that we could put it in and -- you know
4 what I'm trying to get at?

5 I'm worried about the rural poor. I don't
6 represent them, but I've now been to enough school districts,
7 visiting enough places to know that they are not fairing
8 well, and I don't want to leave them out. On the other hand,
9 it would be ridiculous to spend \$7,500 to inspect, you know,
10 three rooms.

11 So the question is, is there a way to --

12 MS. MOORE: -- the Department of Education would
13 be very happy to review that issue.

14 ASSEMBLY MEMBER GOLDBERG: Okay.

15 MS. MOORE: However, I will tell you that it came
16 to its conclusion based on law and I think that if that
17 particular group -- it is the desire of the Legislature to
18 include it, the Department of Education would be very
19 supportive of that.

20 Absent that, I don't believe that we have the
21 authority --

22 ASSEMBLY MEMBER GOLDBERG: No, no. I agree with
23 you. That's what I'm saying. We'd need urgency legislation,
24 but it seems to me like a lot of us represent urban areas. I
25 don't want, in making sure that this 22 million goes out the

1 door, which is why I'd like to divide the question --

2 CHAIRPERSON SHEEHAN: Don't want to stop that --

3 ASSEMBLY MEMBER GOLDBERG: -- I don't want to stop
4 that for a minute. On the other hand, I really don't want to
5 just not look at the rural poor of this state of which there
6 are quite a number and to see if there are urgent issues in
7 any of them.

8 MS. MOORE: And I think that you can know by how
9 the list originally was provided, that the Department of
10 Education will highly support that.

11 CHAIRPERSON SHEEHAN: All right.

12 ASSEMBLY MEMBER GOLDBERG: Which doesn't surprise
13 me.

14 CHAIRPERSON SHEEHAN: Any other members who would
15 like to address this?

16 SENATOR MARGETT: Well, is there any conclusion on
17 that? What are we --

18 CHAIRPERSON SHEEHAN: Not -- yeah, I think we
19 will -- did you want to address the Board, sir?

20 MR. WALRATH: Yes, please.

21 CHAIRPERSON SHEEHAN: Why don't you identify
22 yourself.

23 MR. WALRATH: Dave Walrath representing Small
24 School Districts Association. We support what the Department
25 did because we believe that was what was required by law. We

1 also support what Assembly Member Goldberg is talking about
2 looking at those -- perhaps looking at a per classroom
3 allocation rather than a per pupil. Fortunately we have a
4 number of members -- subcommittees as part of the State
5 Allocation Board and I hope we could work with you in
6 potentially having budget language that would address this
7 issue as part of the final budget bill going forward, and
8 that would be as an urgency bill most likely.

9 So look forward to working with you on that issue.

10 CHAIRPERSON SHEEHAN: Yeah.

11 ASSEMBLY MEMBER GOLDBERG: Okay. Okay.

12 ASSEMBLY MEMBER DAUCHER: It might be faster to do
13 a bill.

14 ASSEMBLY MEMBER GOLDBERG: Yeah, it might be. It
15 might be faster to do a bill. But --

16 CHAIRPERSON SHEEHAN: But I think the
17 suggestion -- I think one of the issues is, you know, for the
18 Department maybe and I think this is what Ms. Goldberg --
19 some suggestions on how to approach this. You know, what are
20 some alternatives to this for the unique nature of those
21 school districts and how to get some of that.

22 ASSEMBLY MEMBER GOLDBERG: And would it be all
23 1,370 or would it be just the 112 --

24 CHAIRPERSON SHEEHAN: Right.

25 ASSEMBLY MEMBER GOLDBERG: -- or would it be a

1 different subset or how many of these are very rural.

2 MS. MOORE: Assembly Member Goldberg, are you
3 asking for our recommendations concerning that --

4 ASSEMBLY MEMBER GOLDBERG: Yes.

5 MS. MOORE: -- for legislation?

6 ASSEMBLY MEMBER GOLDBERG: Yes.

7 MS. MOORE: Okay.

8 ASSEMBLY MEMBER GOLDBERG: Yes. No, we know you
9 can't do it without legislation.

10 CHAIRPERSON SHEEHAN: Or input to the legislation.
11 Right.

12 ASSEMBLY MEMBER GOLDBERG: Right.

13 MS. MOORE: We would be happy to --

14 ASSEMBLY MEMBER GOLDBERG: Okay. So then --

15 CHAIRPERSON SHEEHAN: You know, some options.

16 ASSEMBLY MEMBER GOLDBERG: So then, Madam Chair,
17 I'd like to move that we approve recommendation number 1,
18 that we hold recommendation number 2 in this --

19 CHAIRPERSON SHEEHAN: Abeyance.

20 ASSEMBLY MEMBER GOLDBERG: -- abeyance, just put
21 it on hold, and request that the State Department of
22 Education at its earliest possible convenience get back to us
23 on how we might address those rural low-income areas that
24 somehow don't quite fit into the formula for possible either
25 legislation an urgency basis or in the budget, either one,

1 whichever we can get more quickly done.

2 CHAIRPERSON SHEEHAN: All right. So we have a
3 motion. Do we have a second on the motion?

4 ASSEMBLY MEMBER DAUCHER: Second.

5 CHAIRPERSON SHEEHAN: All right. Mr. Margett, did
6 you --

7 SENATOR MARGETT: No. I think it's resolved.

8 CHAIRPERSON SHEEHAN: Okay.

9 SENATOR MARGETT: We're getting to where I wanted
10 to get.

11 CHAIRPERSON SHEEHAN: All right. Any other
12 questions or input?

13 ASSEMBLY MEMBER GOLDBERG: I did have one other
14 question.

15 CHAIRPERSON SHEEHAN: Yes.

16 ASSEMBLY MEMBER GOLDBERG: The California School
17 for the Deaf was withdrawn and I inquired and I was told
18 that's because it's not covered under the State Department --
19 or it is covered by a different set of --

20 MS. MOORE: Exactly. There are two --

21 ASSEMBLY MEMBER GOLDBERG: Right. It's a state
22 school.

23 MS. MOORE: There are two state schools that
24 were -- are in the decile on -- ranks --

25 ASSEMBLY MEMBER GOLDBERG: Right.

1 MS. MOORE: -- however do not meet the other part
2 of the legislation in that they are not administered by a
3 school district --

4 ASSEMBLY MEMBER GOLDBERG: Right.

5 SENATOR MARGETT: -- nor by -- they are state
6 administered and so it was our legal counsel opinion that
7 those two could not -- did not qualify on the list.

8 ASSEMBLY MEMBER GOLDBERG: Well, as long as we're
9 doing -- looking at maybe some cleanup legislation on this, I
10 would request -- I don't think we need a motion, but I would
11 request that you look at them and see if there might be a way
12 in cleanup legislation because I agree with you. It's not
13 authorized under this to include them because I don't see why
14 the fact that they're administered differently should
15 prohibit them from being a part of this if they are
16 decile 1 --

17 MS. MOORE: We can certainly do that.

18 ASSEMBLY MEMBER GOLDBERG: Thank you.

19 CHAIRPERSON SHEEHAN: Okay. Any other questions
20 or comments from the members? If not, we have a motion and a
21 second to adopt recommendation 1, hold 2 in abeyance, seek
22 further input and recommendations from the Department of Ed
23 in dealing with the rural issue.

24 MS. MOORE: Just a clarification.

25 CHAIRPERSON SHEEHAN: Absolutely.

1 MS. MOORE: Are we approving the entire special
2 consent or are we simply taking up this one item?

3 MS. PARK: We already approved the special consent
4 calendar.

5 ASSEMBLY MEMBER DAUCHER: Yeah, we're on this --
6 we're past that.

7 MS. PARK: This is on Tab 13 which is the
8 specials.

9 MS. MOORE: And we will hear those each
10 individually; correct?

11 MS. PARK: Yes. They'll be presented
12 individually.

13 ASSEMBLY MEMBER GOLDBERG: Yeah, this is just
14 item 13.

15 CHAIRPERSON SHEEHAN: Correct. Just 13, the list.
16 Any other questions? So the motion and a second. All those
17 in favor signify by saying aye.

18 (Ayes)

19 CHAIRPERSON SHEEHAN: Any opposed? All right. So
20 that takes care of 19 and 13. All right.

21 MS. PARK: Next item is Tab 14, page 208. This is
22 the Charter School Facility Program. This is the preliminary
23 apportionments. I do want to bring your attention down to
24 the chart on the bottom of that page near staff comments.

25 This program has been provided 300 million for the

1 purpose of providing charter schools. There is a set-aside
2 of 23 million for administrative fees for the State
3 Treasurer's Office, the DTSC relocation fund, and hazardous
4 material and waste removal fund.

5 The purpose of those reservations is in the future
6 if the districts encounter problems with DTSC as far as
7 cleanup of the site that we will have money available to
8 provide them.

9 With that, I'd like to show you on page 210 the
10 districts that are before you for funding. We were not able
11 to fund all the applicants, so we had into a rating criteria.
12 And the projects that are shaded in green are eligible for
13 funding.

14 I do understand that there is Gilroy Unified that
15 would like to speak to the Board. They are not part of the
16 funding group, and they would like to talk to the Board about
17 some of the criteria. And I can answer questions as we go
18 along.

19 CHAIRPERSON SHEEHAN: Right. I've got the card of
20 an Olivia Mendiola and Maria De La Garza. If you'd like to
21 come forward, I think you can sit right here, if you'd like.
22 Right here at the table. Uh-huh. And then if you could each
23 identify yourself for the record and for the members, that
24 would be great.

25 MS. MENDIOLA: Okay. My name's Olivia Soza

1 Mendiola and I'm the CEO of MACSA, Mexican American Community
2 Service Agency.

3 We have a charter school in Gilroy, California.
4 We're an independent charter for Gilroy Unified School
5 District.

6 I would like to thank the Allocation Board for the
7 opportunity to speak on behalf of MACSA/El Portal. It is my
8 hopes that my comments and the comments of our school
9 leadership will provide you with enough information to
10 recognize that this school meets the criteria for funding.
11 In addition, I will bring to light that, according to the
12 recommendations, there is an inadequate distribution of
13 proposed funding projects throughout the state.

14 So first I'll start with the designation of Gilroy
15 as a suburban community. I mean I was raised in this
16 community. I was a farm worker in that community, and the
17 school has been classified as suburban versus rural and this
18 has knocked down the number of points for our school.

19 It is my understanding that this rating is based
20 on population and -- of the community and in accordance with
21 federal guidelines.

22 It is our assessment that these two sources do not
23 tell the whole story of the community's characteristics.
24 Gilroy continues to be a growing town and has become a
25 desired country living community for many affluent Santa

1 Clara County residents who work in the greater Silicon
2 Valley. The City of Gilroy continues to have all the
3 characteristics of a rural community with its primary
4 industry being agriculture according to the census reports
5 and agriculture related businesses.

6 Gilroy continues to have a large number of migrant
7 population which is the population that we serve in our
8 school. This population is primarily Latino, non-English,
9 and limited English language learners.

10 MACSA/El Portal is located in the southeastern
11 side of Gilroy. This area borders the agricultural,
12 unincorporated part of the city, so it's not located in the
13 unincorporated, but it's right on the border of it. Over
14 51 percent of the students at MACSA/El Portal are English
15 language learners. This comprises 53 percent of our student
16 body population. Many of these students have parents that
17 work in agriculture related work.

18 Realistically Gilroy should be considered and
19 categorized like other communities that have similar
20 characteristics. An example that we noted is Riverside
21 County.

22 Riverside has one school identified as suburban
23 and another school identified as rural. And it's my
24 understanding that that's because of where these lines were
25 kind of written in to separate the two. It is our

1 understanding that the distinction between the two schools in
2 Riverside is due to location and population. Again we seem
3 to feel that that's exactly what's going on in Gilroy, that
4 the line wasn't drawn at the right place, for lack of better
5 words.

6 We feel that Gilroy falls into the same type of
7 category. These are two very distinct areas of the city with
8 two very distinct populations that reside in those areas. We
9 have a very affluent north side of the city. We have a very
10 low income southeast of the community.

11 MACSA also -- is also appealing on the free and
12 reduced lunch. What happens is that I guess it is -- the
13 numbers that's used are the numbers that are shown in the
14 October data. Because we are a migrant community and because
15 we're open enrollment, we have a large influx of students
16 that come in in January. So those students were not counted
17 as part of the free and reduced lunch data. So therefore our
18 score was -- is lower than it actually is.

19 And the other thing is that -- you know, that
20 really concerned us is that in according, you know, the funds
21 that were distributed, the number of schools in the northern
22 part of the state is minimal. There's only nine northern
23 sites that were selected for funding. This equates to
24 32 percent of the schools funded for the north.

25 In the southern part of the state, there's 19

1 schools. This equates to 68 percent of the fundings -- of
2 the schools being funded.

3 It is my understanding that respectfully this
4 Board will make the final recommendation for funding. We
5 believe that the distribution of funds according to the
6 recommendation is not in alignment with what is referenced in
7 the guidelines. There is a section -- I'm trying to think of
8 what it is. Oh, on page 90 of the digest section, 1707.56,
9 the document states twice that the Board, which would mean
10 this Board, shall seek to ensure that when considered as a
11 whole the applications approved will be fairly representative
12 of the various geographical regions of the state, and the
13 small, medium, and large schools will also be represented
14 throughout the state.

15 And, you know, it's just my feeling that that
16 seems to not be equitable the way I see the distribution, you
17 know, that we're seeing today. So it's my hope that the
18 Board will consider my comments and that -- those of the
19 other speakers who have come to speak on behalf of our school
20 and I want to thank you very much for listening.

21 MS. DE LA GARZA: Good afternoon. I'm Maria Elena
22 De La Garza. I'm the Regional Director of the South
23 County -- Santa Clara County. My job today is to provide a
24 snapshot for you of our facility needs and also to give you a
25 brief history of our facilities in terms of our school

1 population.

2 We have been open for four years. We are happy to
3 say that we are graduating our first class this year. Our
4 first and second year of the school, we had one class of
5 about 70 freshman who then became sophomores. We had four
6 classrooms on loan from Gilroy Unified School District. That
7 was out -- if any of you know Gilroy, out at the old Future
8 Farmers of America building.

9 We have -- used a share bathroom with students and
10 faculty and our reception area was also the main vein or the
11 main artery for students to pass from one classroom to the
12 other and it still is.

13 The other -- the necessity in our facility or the
14 fact of our facility is that in order for the math students
15 to get to the math class, they need to go through their
16 social science class to get their math class, so there is
17 always upheaval in passing time.

18 In our third year, we were able to bring on a
19 class of freshman, so we had a freshman class and a junior
20 class. And we had about 120 students on our facility. We
21 were allowed to use four used portables from the old Elliott
22 School out in the east side of Gilroy with some portable
23 bathrooms, what we were happy to have. There again were
24 shared facility bathrooms with the teachers and the students
25 of the school.

1 We were happy to say we had a computer room with
2 22 units that fit in the computer lab, but one of our
3 dilemmas in our third year was that we needed to offer a lab
4 science of which we did not have a lab room. So we had
5 makeshift and continue to have a makeshift math -- excuse
6 me -- science lab room where the teacher uses literally his
7 desk as the math lab.

8 Our fourth year, which brings us to date, we are
9 happy we have freshmen, sophomores, and seniors, about 166
10 students. And we had a dilemma because we didn't have enough
11 space for the kids. So we asked a local nonprofit to rent us
12 some space for the senior class which was -- you know, was
13 very difficult to secure especially right now in Santa Clara
14 County to find some rental space.

15 We were able to rent three classrooms with no air
16 conditioning and no heat and if any of you know, Gilroy in
17 the summer, the Gilroy capitol of the world, not only does it
18 smell like Gilroy all summer, but it's also about 100 plus
19 degrees. It was not a healthy environment. It was
20 definitely not a learning environment for our students.

21 We had to get creative and we didn't any more
22 portable -- the school district didn't have any more
23 portables to bring onto our site and we ended up squeezing
24 the kids back into the original facility. And in order to do
25 that, we needed to sacrifice our computer lab. Our computer

1 lab is now our senior English classroom, and our computer lab
2 is now into the old closet which now only holds about 15 to
3 16 units.

4 It's been a tremendous impact on our students.
5 We're happy to say that our kids are resilient and they're
6 able to learn and they're able to succeed, but as you know,
7 the conditions weren't the best that they deserve.

8 Just in closing, I'd like to just share with you
9 one of our recruitment dilemmas for the school. Our charter
10 allows us to recruit 360 students. We're about a hundred shy
11 of that -- or actually we at about 166 right now, but we
12 don't have the capacity to recruit the entire number of
13 students that we need. And we have two dilemmas. One, we
14 don't have the capacity for the numbers of students.
15 Therefore we cannot get the revenues to support the school.
16 And secondly, the -- you know, the building is old. It
17 cannot handle the capacity of another class and that affects
18 our recruitment because parents don't want to send their
19 children to a charter school that doesn't have, you know,
20 facilities that are decent.

21 In closing, you know, I'd like to thank you for
22 allowing us to share our comments. We have our principal,
23 Meni Reyes, and one of our senior students, Vedani, to share
24 a little bit with you their experience at El Portal. Thank
25 you.

1 CHAIRPERSON SHEEHAN: Yeah. Can you keep it brief
2 because I think we got the --

3 MS. REYES: Yes, definitely. Respectful -- good
4 evening. My name is Nemi Reyes and I'm the principal of
5 MACSA/El Portal entering our fourth year, and despite, you
6 know, some of the conditions that Maria Elena mentioned, we
7 will be having our first graduating class. 90 percent of our
8 students have applied to a four-year private, you know,
9 university or CSU or UC. Half of them have already been
10 accepted.

11 But just the fact that our -- the facilities that
12 we're currently in, we are very, very overcrowded. And we
13 moved to the Salvation Army. Just to give you a glimpse of
14 the kinds of conditions, it was over 100 degrees. We had to
15 put AC units in each classroom because it was so hot and the
16 Salvation Army is, by the way, the facility we were at, the
17 second floor. When we would turn on the electricity -- with
18 all the four AC units running, the electricity would stop, so
19 we'd have to go down, put the switch back on, and so these
20 were just the kinds of learning conditions that our students
21 were enduring.

22 But despite all of that, we're WASC accredited.
23 All of our courses were UC A through G approved and we will
24 be having a number of students go on to college. But it's --
25 you know, I just really hope that the Board, you know,

1 considers some of the criteria they use in determining
2 allocation. Especially consider some of the schools that
3 serve, you know, migrant populations that are between that
4 urban -- that suburban/rural dichotomy and so that's --

5 CHAIRPERSON SHEEHAN: Thanks. Do you want to
6 identify yourself.

7 MS. ESCUDERO: Yes. My name is Vedani Escudero
8 and I'm a senior at El Portal Leadership Academy. I'll be
9 the first one to graduate -- the first class graduating and
10 it's really exciting. We've been through a lot and as
11 they've been saying, this year has been a lot. Since we
12 started school, we were -- I mean -- you can't imagine how
13 hot it was. We had not even -- we couldn't even learn. I
14 mean it was just terrible. I mean I just sometimes didn't
15 want to go to school. Why? Because I wouldn't concentrate.

16 Teachers couldn't even concentrate on teaching
17 because it was the heat. And when we went back to school and
18 the -- you know, they did the space for the classes and
19 everything, but it's still really crowded. It's really,
20 really crowded. I mean if we only had a bigger place and we
21 only had a facility where we can be, we can learn much
22 better, I mean that would be so great.

23 And I mean for me, I know probably -- oh, I'm not
24 going to be there once they build a new school, but my
25 brother is. The next generation that has to come, they will

1 have a better place to be at because it's really great. And
2 I would like -- I would really, really like you to think
3 about it and reconsider to, you know, at least give us
4 something to get a new place or build something because
5 Gilroy really needs it. I mean the high school -- the other
6 high school there, there's more than 2,000 students. And
7 just you can't compare that school to ours. I mean it's
8 really different.

9 And right now I'm looking to go to a -- university
10 in San Jose, which I really -- I'm going to go and thanks to
11 this school, just with the teachers and everybody who's been
12 helping me. And that's why I'm here because I know how hard
13 it is and I would really, really like you to consider.

14 CHAIRPERSON SHEEHAN: Thanks. Thank you.
15 Questions for staff. I don't know if you want to address
16 some of the issues that were raised in terms of the
17 boundaries, the suburban/urban as well as the -- when they
18 counted the low income lunch issue as well as the geographic
19 distribution of the money that was -- the issues that they
20 raised. Luisa, go ahead.

21 MS. PARK: Gilroy falls in --

22 CHAIRPERSON SHEEHAN: Oh, I'm sorry. Mr. Margett.

23 SENATOR MARGETT: No, no. No. I want the report
24 first, but I wanted the --

25 CHAIRPERSON SHEEHAN: Okay. Okay.

1 MS. PARK: Okay. Gilroy falls into the code
2 number 3 which is the suburban, and this is determined by the
3 National Center for Education Statistics. And this
4 methodology was established by the U.S. Bureau of the Census
5 back in the 1980s.

6 When we were developing the regulations for the
7 Charter School Program, we had to determine how to assess
8 rural, suburban, and urban. And in our research, we found
9 that this was the only option we had to determine the
10 classification. And it has been the classification that has
11 been used to establish that category.

12 It was used in the previous \$100 million
13 allocation and it was used in this allocation in determining
14 where the school districts fall.

15 So if there was a request to change that
16 determination, I do have to advise the Board that it would
17 change the makeup of what is in here right now. It would
18 also require that we change our regulations. Changing the
19 regulations would take three to four months. It would
20 probably have to go back and we would have to have open
21 comment period, and we would be kicking out San Francisco
22 Unified out of the funding.

23 So those are things that I want to make sure that
24 the Board's aware of if we were to do this. And there is a
25 solid basis for determining what their classification is.

1 Now as far as the free and reduced lunches, there
2 was -- the district is claiming that they should have been
3 given the status of about 71 percent. What we use to
4 determine the level for the free and reduced lunch is based
5 on the California Department of Education's report that was
6 in October of 2003. Again all these districts were based on
7 that information provided by CDE.

8 We did contact CDE to find out if there was an
9 error made in the October 2003. There was no error made. At
10 that time, their free and reduced lunch was at 54.9. Since
11 that time, between October of 2003 and June of 2004, they
12 have increased to 71 percent. Again that is because of an
13 increase in students in that particular school.

14 CDE has told us that if -- again if there was an
15 error, they would adjust it, but there was no error on the
16 list.

17 CHAIRPERSON SHEEHAN: Okay. And then what about
18 the issue that she mentioned at the end in terms of her
19 belief in the inequity of the geographic distribution of
20 funds statewide, north versus south?

21 MS. PARK: You know, I'm going to ask that one of
22 the staff that has worked in the program --

23 CHAIRPERSON SHEEHAN: Okay.

24 MS. PARK: -- to respond to you on the criteria
25 that was used to establish how districts would fall.

1 CHAIRPERSON SHEEHAN: How the list was come up.

2 MS. PARK: And, Lisa, can you please come on up
3 and talk a little bit about that.

4 MS. CONSTANCIO: As the district mentioned, one of
5 the criteria that was set up in law was a way to kind of
6 look -- when we did our apportionments, how we were going to
7 apportion them across the board. They wanted a distribution
8 not only by regions of the state, by urban, rural, suburban,
9 also by large, medium, and small, and then grade level.

10 So what we in essence had to do through the
11 Implementation Committee was establish guidelines for each of
12 those subsets. So as an application came in -- as an
13 application for this cycle and for last cycle, we basically
14 categorized each application into one of those groupings. So
15 you were either one of four regions; urban, rural, suburban;
16 large, medium, or small; or K-6, 7-8, 9-12.

17 So it all -- and in terms of what we received,
18 what we got was the applications we received. But I can tell
19 you -- and as you look at the matrix, we went through each of
20 the regions specifically, who had the highest preference
21 points in each four regions, and then we went down to the
22 next criteria and so on until we ran out of funds.

23 So we did go through each of those sets of
24 criteria as we funded the applicants.

25 CHAIRPERSON SHEEHAN: Okay. I know Mr. Margett

1 has a question. I guess the only other question at some
2 point is what are the other options for Gilroy. But,
3 Mr. Margett, did you --

4 SENATOR MARGETT: Well, that was one of my
5 questions.

6 CHAIRPERSON SHEEHAN: Okay.

7 SENATOR MARGETT: I guess maybe if we could kind
8 of step back in time just for a moment. What is the criteria
9 that we have to be able to establish on these charter schools
10 the facilities that they have especially to enter -- I mean
11 four years ago, and then they're at half student population,
12 they are qualified -- or with charter to be able to go to 300
13 and I guess they're at 150, 160, whatever that number is.
14 Where -- how do we allow this sort of thing to happen so that
15 we're in kind of the problems that we have? We're kind of
16 all in this together I think as far as the educational system
17 goes.

18 CHAIRPERSON SHEEHAN: Would anyone like to address
19 that?

20 MS. PARK: Go ahead.

21 CHAIRPERSON SHEEHAN: Or was it rhetorical.

22 MR. ZIAN: Senator Margett, I'll endeavor to try
23 to answer that. Going from this lower enrollment to a higher
24 enrollment in the charter, there was a law that came along in
25 2002 that authorized these charter schools which authorized

1 charter schools to work with the school district as long as
2 they had eligibility and they could file through the district
3 or they could just simply -- and in this case, if Gilroy
4 Unified had the eligibility, they could simply notify the
5 school district board and the superintendent and as simply as
6 that, they can double overnight as long as the eligibility is
7 there.

8 Does that answer your question?

9 SENATOR MARGETT: Well, what about the facilities?
10 So they have the right to be able to double, but what about
11 the facilities to be able to take care of that.

12 MS. PARK: Well -- and that's how they get their
13 eligibility. Because they're notifying Gilroy saying we want
14 to establish this charter. We're going to take 300 kids.
15 They need that eligibility from the district in order to
16 establish their eligibility to build the school.

17 SENATOR MARGETT: But they --

18 MS. PARK: That eligibility will give them funds
19 to build that particular facility.

20 SENATOR MARGETT: But they haven't built yet.
21 They're just using --

22 MS. PARK: No.

23 SENATOR MARGETT: And their plans are to build I
24 guess? Is that it?

25 MS. PARK: Yes. That's why they're in here asking

1 for --

2 SENATOR MARGETT: Okay.

3 MS. PARK: -- funding.

4 CHAIRPERSON SHEEHAN: Right.

5 ASSEMBLY MEMBER COTO: I have a question.

6 CHAIRPERSON SHEEHAN: Get the money. Yes, go
7 ahead, Mr. Coto.

8 ASSEMBLY MEMBER COTO: It seems -- I'm familiar --
9 very familiar with the El Portal Leadership Academy. It's an
10 excellent school serving a very, very needy population, as
11 you've already heard the speakers. No need in reiterating
12 what they've already said, but I'd like to request that staff
13 work with the charter school -- the El Portal Charter School
14 and the Gilroy Unified School District to determine if the
15 Gilroy Unified will file on behalf of the charter school is
16 one point. In addition, I'd also like to request that the
17 staff explore other kinds of options, whatever options might
18 be out there, including financial hardship and that then they
19 report back to us -- to this Board in the next couple of
20 months to see how we might be able to accommodate their
21 funding request.

22 CHAIRPERSON SHEEHAN: Okay. Can I hold off --

23 ASSEMBLY MEMBER COTO: Sure.

24 CHAIRPERSON SHEEHAN: -- making -- until we -- I
25 know there are some other comments, and then we can go ahead

1 and decide. I think with regard to the first motion that you
2 had, it goes to the issue of the other options that the
3 school may have with the school district as to other ways
4 that they could get funding.

5 I don't know if -- Luisa, you want to --

6 MS. PARK: Sure. The district, as Joe Coto
7 mentioned, can go to the school district and request their
8 assistance to file on their behalf. The difference between
9 the charter school is that they're independent. They're not
10 dependent on the school district.

11 And by having this independence, they can also
12 request for a loan from the charter school fund. Whereas in
13 the regular School Facility Program, the state provides
14 50 percent. The district has to come up with the other 50
15 percent.

16 Now, I do believe that Gilroy is probably a
17 hardship school district. So we will work with them to
18 see --

19 CHAIRPERSON SHEEHAN: What options.

20 MS. PARK: -- what options and if they're willing
21 to file on behalf of the charter school.

22 CHAIRPERSON SHEEHAN: Right. Ms. Goldberg, yes.

23 ASSEMBLY MEMBER GOLDBERG: Yeah. I'm a little
24 confused though about this census system because I'm very
25 familiar, because my mother lived there for many years, with

1 Temecula and to describe it as rural, you know, you'd have to
2 go back 20 years.

3 MS. PARK: Yes.

4 ASSEMBLY MEMBER GOLDBERG: It was 20 years ago
5 rural when they moved there. It's not rural anymore.
6 There's no definition of rural that you could use to --

7 MS. PARK: Yeah.

8 ASSEMBLY MEMBER GOLDBERG: -- so how does Temecula
9 become rural and Gilroy, which is in farm country, become
10 suburban?

11 MS. CONSTANCIO: Well, that was the difficulty we
12 had. As you mentioned, there wasn't -- nowhere to point us
13 to in determining what was urban, rural, suburban. So we
14 found -- we basically went to the U.S. Census as something to
15 try and point us there. And we understand that it may not be
16 perfect and it doesn't meet everyone's needs, but
17 unfortunately at the time when we were starting to basically
18 develop the pilot program, that's where we went.

19 ASSEMBLY MEMBER GOLDBERG: I understand, but I'm
20 concerned because you could argue that they're -- and I have
21 nothing against Temecula. My mother lived there for years so
22 it's an area I know, but how do they get to be, when they're
23 clearly suburban now and everything about them is suburban --
24 how many points did they get for that because they've got
25 several -- couple of charter schools here that -- I'm just

1 looking at one, this French Valley which had only a total
2 score of 28. But I suspect that its being rural put it over
3 the top.

4 MS. CONSTANCIO: Actually the points did not come
5 into play for --

6 ASSEMBLY MEMBER GOLDBERG: Okay.

7 MS. CONSTANCIO: -- urban, rural, or suburban.

8 ASSEMBLY MEMBER GOLDBERG: Okay.

9 MS. CONSTANCIO: We actually had to establish
10 preference points based on low income status which was what
11 we used for the free and reduced lunch --

12 ASSEMBLY MEMBER GOLDBERG: And you're telling me
13 that the French Valley Charter in Temecula is lower income
14 than this school in Gilroy?

15 MS. CONSTANCIO: Well, I don't have the breakdown
16 of the points exactly, but --

17 ASSEMBLY MEMBER GOLDBERG: I'd find that really
18 hard to believe.

19 MS. CONSTANCIO: Well, there was three different
20 criteria. So it was the low income. It was whether they
21 were a nonprofit entity and then their percentage of
22 overcrowdedness.

23 ASSEMBLY MEMBER GOLDBERG: Okay.

24 MS. CONSTANCIO: That's what determined their
25 preference points.

1 ASSEMBLY MEMBER GOLDBERG: All right. So
2 comparing French Valley -- and again I have no argument with
3 them except they're not suburban -- I mean they are suburban.
4 They're not rural.

5 So French Valley gets funded at 28 points because
6 it is -- give me those three criteria again. It's not income
7 of the students, I can promise.

8 MS. CONSTANCIO: Percentage of overcrowded.

9 ASSEMBLY MEMBER GOLDBERG: Okay.

10 MS. CONSTANCIO: Low income and then if they're a
11 not for --

12 ASSEMBLY MEMBER GOLDBERG: Percentage of
13 overcrowded. The state -- didn't we just build them an
14 entire district out there. No, I mean seriously. Every time
15 I drive by -- drove out to my mom's house, there was another
16 new high school, junior high, or elementary school in
17 Temecula. They're overcrowded already?

18 MS. CONSTANCIO: Well, on how we determine the
19 overcrowding, there's actually a points range. There really
20 is a points range on -- depending on where you are. And then
21 the last piece was whether they're a not for profit entity.

22 ASSEMBLY MEMBER GOLDBERG: And is this school a
23 not for profit entity?

24 MS. CONSTANCIO: Gilroy is, yes.

25 ASSEMBLY MEMBER GOLDBERG: Okay. And is French

1 Valley Academy or Charter --

2 MS. CONSTANCIO: I would wager based on their
3 points that they're not nonprofit? Juan? Okay. Yeah, I
4 understood that, but we -- they're not, not for profit.

5 ASSEMBLY MEMBER GOLDBERG: So they are a for
6 profit school.

7 MS. CONSTANCIO: Yes. The reason actually they
8 got funded was we had only two projects in Region 4, and as
9 we worked our way through the matrix, when we got to
10 Region 4, they were the highest points in that region.

11 ASSEMBLY MEMBER GOLDBERG: Okay. But what we've
12 done though is we've funded a for profit over a nonprofit --

13 MS. CONSTANCIO: Um-hmm.

14 ASSEMBLY MEMBER GOLDBERG: -- in a suburban area
15 over rural/suburban area and a low income -- a higher income
16 community over a lower income community.

17 MS. CONSTANCIO: Possibly.

18 ASSEMBLY MEMBER GOLDBERG: That's -- when we wrote
19 all those rules in that bond, that was not what we intended
20 to happen.

21 MS. CONSTANCIO: Well, we wanted a full
22 spectrum -- full distribution across the state, so that's how
23 we got here.

24 CHAIRPERSON SHEEHAN: It hit the geographic, it
25 sounds like.

1 ASSEMBLY MEMBER GOLDBERG: I understand, but it
2 was not supposed to be the highest criteria geographically
3 disbursed.

4 CHAIRPERSON SHEEHAN: No. But I think what
5 they're saying is you take into account --

6 MS. PARK: Yeah.

7 CHAIRPERSON SHEEHAN: -- all of those and this is
8 the list that -- where they come up.

9 MS. PARK: Yes. That's the fallout.

10 CHAIRPERSON SHEEHAN: That's the issue.

11 ASSEMBLY MEMBER GOLDBERG: Well, I find it a bit
12 disheartening that this turned out this way because I don't
13 think that's what we really intended when we talked about
14 this. We wanted to -- we definitely wanted to fund lower
15 income and not for profits ahead of for profits. So somehow
16 or another, the geography thing has trumped everything it
17 appears.

18 CHAIRPERSON SHEEHAN: Well, but I don't think it
19 did. I think it's matter of the various criteria and what
20 the staff has said is plugging those in and coming up with
21 the list. But I don't think the geography trumped it.

22 ASSEMBLY MEMBER GOLDBERG: Well, no. On every
23 criteria except geography, the Gilroy school would do better.

24 CHAIRPERSON SHEEHAN: Well, but I think in terms
25 of how they --

1 ASSEMBLY MEMBER GOLDBERG: Income.

2 CHAIRPERSON SHEEHAN: -- balanced it --

3 ASSEMBLY MEMBER GOLDBERG: I doubt that they have
4 53 percent free and reduced lunch at French Valley.

5 MS. CONSTANCIO: I don't know that offhand, ma'am.

6 CHAIRPERSON SHEEHAN: They'd have to check on
7 that. Mr. Scott had a question and then Ms. Daucher.

8 SENATOR SCOTT: Well, one thing I don't think we
9 can do today is to analyze these 20 charter schools --

10 CHAIRPERSON SHEEHAN: I would agree with you.

11 SENATOR SCOTT: -- and determine which one is fair
12 and which one is unfair. Now if we want to ask the Board --
13 I mean excuse me -- the staff to come back and explain all
14 the criteria that is used and then we can determine whether
15 or not they have given the proper weight to various criteria,
16 we could do that. I don't know that we're going to be able
17 to open each one of these up and analyze them or at least I'm
18 not prepared to do that today.

19 The question -- there's two questions I have to
20 ask. Number one, I gather there's an limit as to the amount
21 of money that can be spent; is that correct?

22 MS. PARK: Yes.

23 CHAIRPERSON SHEEHAN: That's correct.

24 MS. PARK: Yes, that is --

25 SENATOR SCOTT: Have you used all the money?

1 CHAIRPERSON SHEEHAN: Yes.

2 SENATOR SCOTT: Okay. So clearly if we make a
3 decision today to include Gilroy Unified, we would be
4 compelled to take somebody else out; is that correct?

5 CHAIRPERSON SHEEHAN: That's correct, um-hmm.

6 MS. PARK: Um-hmm.

7 SENATOR SCOTT: And is -- that's -- and would it
8 mean that we would take out the very last one there? Are
9 they --

10 MS. PARK: No. Jacoby Creek project will not get
11 funded and then the San Francisco Unified School District,
12 there isn't enough funding to fully fund the project.

13 SENATOR SCOTT: Okay. So we would take out Jacoby
14 Creek.

15 MS. PARK: Yes.

16 SENATOR SCOTT: And San Francisco Unified are the
17 two last ones?

18 CHAIRPERSON SHEEHAN: Right.

19 SENATOR SCOTT: I guess what we're saying --

20 MS. PARK: The Jacoby Creek is further up on the
21 list. It's --

22 MS. CONSTANCIO: It's that part of that matrix
23 again because what'll happen is the --

24 SENATOR SCOTT: Okay.

25 MS. PARK: Yeah. There's a --

1 SENATOR SCOTT: I would like for us to work hard
2 at -- number one, I think if we need to reopen the whole
3 issue of, you know, what the criteria is and what the
4 separate weight should be on each of them, that's something
5 we could do. We could look at.

6 But I think if we could think of some inventive
7 way, either through future application or the process that
8 Assembly Member Coto suggested of the Gilroy Unified or
9 something, I -- I'm not prepared though today to make a
10 decision to take one out and put another one in. I don't
11 feel comfortable doing that until we have a fuller
12 explanation of what the criteria is that was used.

13 CHAIRPERSON SHEEHAN: All right. Ms. Daucher, did
14 you have a comment before we proceed?

15 ASSEMBLY MEMBER DAUCHER: Just these -- you know,
16 bonds are supported by the entire state and I think it is
17 important in fairness to have support from all different
18 segments of the state which is we have criteria that you
19 could pick at and say in this case, you know, maybe we would
20 have done something different based on need. Well -- and we
21 don't know -- even know the needs of the other school because
22 they're not here.

23 But I think we need to keep in mind that bonds are
24 supported by everybody and it needs widespread support by
25 everybody in order to pass and that's why we have geographic

1 as part of the criteria and the other things. And so, you
2 know, I'd be happy to talk about it. I think perhaps the
3 classification of urban and rural is something that we should
4 wrestle with perhaps, you know, although from what I
5 understand in this case, you pick the school nearest you
6 and --

7 MS. PARK: Yes.

8 ASSEMBLY MEMBER DAUCHER: -- and the charter gets
9 to pick the school nearest them?

10 MS. PARK: Yes, they do.

11 ASSEMBLY MEMBER DAUCHER: And so they could
12 designate this school or they could have picked another
13 school and perhaps alter -- but nobody can look ahead and see
14 which category's best for you to be in which is the dilemma.
15 And so it'd be nice if we could, you know, actually have the
16 criteria mirror what they are so it better reflects what they
17 are. And so that would be something I'd really like to look
18 at.

19 MS. PARK: Yes. And I would just like to mention
20 that early on when the application first came in they did
21 file as a rural. So we did contact the school district and
22 we told them that they fell into the suburban. And they did
23 respond to us, and this -- I'll just quote what was in the
24 letter.

25 It says, "While we believe that the school is

1 located in a rural area, we will agree to the
2 classification."

3 So early on we did have discussions about this and
4 they agreed to accept it based on the Bureau of Census and
5 the National Center of -- for Education Statistics.

6 CHAIRPERSON SHEEHAN: All right.

7 ASSEMBLY MEMBER GOLDBERG: I just have one more
8 question.

9 CHAIRPERSON SHEEHAN: Go ahead.

10 ASSEMBLY MEMBER GOLDBERG: If they had been rural
11 instead of suburban, would they have been funded?

12 MS. PARK: Yes.

13 ASSEMBLY MEMBER GOLDBERG: Oh, geez.

14 MS. CONSTANCIO: But someone else wouldn't.

15 ASSEMBLY MEMBER GOLDBERG: I understand.

16 MS. CONSTANCIO: Yeah.

17 ASSEMBLY MEMBER GOLDBERG: That happens in
18 everything we do.

19 CHAIRPERSON SHEEHAN: In all of them. Any -- did
20 you want to say one final --

21 MS. MENDIOLA: Yeah, one just final comment in
22 regards to the letter. I mean if we hadn't agreed to submit
23 our application as suburban, then we couldn't submit an
24 application because we would be submitting an application
25 with what would be considered as false information according

1 to the guidelines that were set there.

2 In other words, we were going to submit an
3 application. We were told, no, you're not -- we submitted
4 rural, said no, you're not rural. So if we continued to say
5 yes, we are rural, there's no appeals process through that
6 aspect of the whole process, so we had no choice but to say
7 let's go in what they're telling us that we are because
8 otherwise we can't submit and we wouldn't even be in the
9 running at all. So --

10 CHAIRPERSON SHEEHAN: Thanks. Ms. Daucher.

11 ASSEMBLY MEMBER DAUCHER: This is not unlike the
12 LA Unified issue with Watts -- was it the Watts Charter
13 School?

14 MS. PARK: That's correct.

15 ASSEMBLY MEMBER DAUCHER: And I'd like a report
16 back from -- as to whether the school district -- what -- you
17 know, whether the school district is going to work with these
18 folks and, you know, what the resolution is of both LA and
19 Gilroy. I'd like a report back.

20 CHAIRPERSON SHEEHAN: All right. Any other -- oh,
21 Mr. Margett.

22 SENATOR MARGETT: Yes. Just an observation. What
23 is -- best guess, do you think we're going -- these schools
24 that are -- that have won the application, for better words,
25 do you feel that they're going to use all the monies that are

1 there or there or our best guess that there'd be maybe a
2 percentage of that money come back? That's question number
3 one.

4 Question number two: On page 208, we have
5 300 million allocated, 2 and a half percent, \$7,500,000 for
6 administration. That's in code I believe or that's what --

7 MS. PARK: It's in the law.

8 SENATOR MARGETT: It's in law.

9 MS. CONSTANCIO: Yes.

10 SENATOR MARGETT: To administer that seems to be
11 rather heavy. Maybe -- I don't know what can be done there
12 and then the hazardous material waste fund. Is that a
13 percentage? How do we get that on these schools? How do we
14 get that into --

15 MS. PARK: It's a percentage.

16 SENATOR MARGETT: A percentage again. Well, I
17 don't know. In the big picture of things, maybe those are
18 areas that we can squeeze a little bit to maybe pick up some
19 of these schools that are on the edge.

20 MS. PARK: We did look at that, Senator Margett,
21 and even if we were to reduce some of those, we could -- the
22 administrative fee for the State Treasurer, we still could
23 not fund that particular district or the one that fell below
24 the line. We did look at that.

25 SENATOR MARGETT: You did.

1 MS. PARK: Yes.

2 SENATOR MARGETT: No more water to come out of the
3 sponge.

4 CHAIRPERSON SHEEHAN: Sounds like they squeezed it
5 as much as they could.

6 ASSEMBLY MEMBER COTO: So you want a motion now;
7 right? Is that --

8 CHAIRPERSON SHEEHAN: Ms. Goldberg.

9 ASSEMBLY MEMBER GOLDBERG: Did we have criteria
10 about profit versus nonprofit -- for profit versus nonprofit?

11 MS. CONSTANCIO: Yes. Nonprofit was those at the
12 501(c)(3) definition for nonprofit.

13 ASSEMBLY MEMBER GOLDBERG: And --

14 MS. CONSTANCIO: And they received 20 points if
15 they were a not for profit entity.

16 ASSEMBLY MEMBER GOLDBERG: They have a benefit.
17 How many of the schools that we're funding are for profit
18 schools?

19 MS. CONSTANCIO: Oh -- how many of the schools
20 were for profit.

21 CHAIRPERSON SHEEHAN: How many for profit versus
22 nonprofit?

23 MS. CONSTANCIO: I know we have a summary.

24 MR. SPEAKER: 30 out of the 34 are nonprofit.

25 CHAIRPERSON SHEEHAN: Are nonprofit?

1 ASSEMBLY MEMBER GOLDBERG: So we're funding only 4
2 for profit.

3 CHAIRPERSON SHEEHAN: 4 for profit.

4 MS. CONSTANCIO: Yes. 4 that are for profit.

5 CHAIRPERSON SHEEHAN: Okay. Mr. Coto.

6 ASSEMBLY MEMBER COTO: Again my motion would be
7 that I request that the staff work with the El Portal Charter
8 School and the Gilroy Unified to determine if Gilroy will
9 file on behalf of the charter school and then in addition to
10 that though, I'm requesting that staff explore other options,
11 include -- and some of them have been mentioned here;
12 right -- including financial hardship and that they report
13 back to us at -- in the next couple of months, see how we
14 might be able to come up with funding for --

15 CHAIRPERSON SHEEHAN: All right. So we have that
16 motion, and is there a second on that motion?

17 SENATOR LOWENTHAL: Second.

18 CHAIRPERSON SHEEHAN: All right. The under --

19 SENATOR MARGETT: Point of order, do we need a
20 motion on that? Can't we just direct staff?

21 CHAIRPERSON SHEEHAN: Yeah, we can direct staff to
22 do that and then we have to decide do you want an underlying
23 motion on the list in front of you.

24 SENATOR MARGETT: Oh, okay.

25 CHAIRPERSON SHEEHAN: Is there any objection to

1 directing staff to come back, work with the school district
2 to see if they can file on their behalf as well as looking at
3 some of the other criteria that could be addressed to assist
4 Gilroy?

5 ASSEMBLY MEMBER COTO: Yep.

6 CHAIRPERSON SHEEHAN: So staff will report back --

7 MS. PARK: We will do that.

8 CHAIRPERSON SHEEHAN: -- at our March 30th meeting.

9 And what is the will of the Board on the list that is before
10 you? Do we have a motion?

11 SENATOR MARGETT: I'll move it.

12 ASSEMBLY MEMBER DAUCHER: Second.

13 CHAIRPERSON SHEEHAN: We have a motion and a
14 second. Is there any further discussion on the list? All
15 those in favor --

16 MS. MOORE: One point of order.

17 CHAIRPERSON SHEEHAN: Oh, go ahead. Yes. Sorry.

18 MS. MOORE: I need to abstain from the Elk Grove
19 Unified School District item again and -- but I will be
20 voting on other -- all other projects.

*Include
in minutes*

21 CHAIRPERSON SHEEHAN: Okay. So with the one
22 abstention on the one project, all those in favor of the
23 list, signify by saying aye.

24 (Ayes)

25 CHAIRPERSON SHEEHAN: Any opposed?

include minutes

1 ASSEMBLY MEMBER GOLDBERG: I'd like to be recorded
2 as a no vote.

3 CHAIRPERSON SHEEHAN: As a no. Okay. Staff will
4 show that. Ms. Goldberg. All right. And hopefully Gilroy
5 will be able to come back with some suggestions for you.

6 MS. PARK: The next item is on Tab 15. It's the
7 Critically Overcrowded School Facility Program, and this
8 particular item is presenting a request to the Board to
9 transfer 269 million for the critically overcrowded. That is
10 available.

11 And I would like to point out under authority, the
12 second paragraph there, it says, "Education Code
13 Section 17078.30 also provides that available funds beyond
14 those reserved for preliminary apportionment shall be
15 transferred to the School Facility New Construction Fund and
16 may be available to the Board for apportionment for new
17 construction purposes." It does not say when, so it is up to
18 the pleasure of the Board.

19 CHAIRPERSON SHEEHAN: Great. Comments on this.
20 Ms. Goldberg.

21 ASSEMBLY MEMBER GOLDBERG: Yes. I actually --

22 CHAIRPERSON SHEEHAN: And then Mr. Scott.

23 ASSEMBLY MEMBER GOLDBERG: -- helped negotiate
24 that when we did the bond and I thought it was a great idea
25 at the time.

1 CHAIRPERSON SHEEHAN: You've changed your mind?
2 Is that --

3 ASSEMBLY MEMBER GOLDBERG: Well, no, only -- two
4 circumstances have changed. One circumstance is that we
5 have -- what'd you say left in the new construction --

6 MS. PARK: 4.9 billion out of Prop. 55.

7 ASSEMBLY MEMBER GOLDBERG: 4.9 billion and we
8 don't have that \$4.9 billion worth of applicants in the
9 pipeline or even near that. Is that an accurate statement?

10 MS. PARK: That's --

11 ASSEMBLY MEMBER GOLDBERG: And the other is, is
12 that we did pass with the Williams case settlement a
13 requirement that Concept 6 schools end by a certain date. So
14 I am bringing a proposal, AB-1416 that would say that only
15 for Concept 6 schools, if there are any left, that don't have
16 a building program that gets them off of Concept 6 in time
17 that we keep this money in the COS pot for additional time
18 just for Concept 6.

19 The regular COS pot, if they didn't get it in, I
20 have no problem with it. I would like to ask that we -- in
21 light of those two facts, one is, is that there's no shortage
22 of new construction money. And secondly in light of the fact
23 that we don't seem to be able to get all of the schools off
24 in a couple of districts off of Concept 6 without some
25 additional money that we wait and see what happens to AB-1416

1 before we actually make the transfer.

2 CHAIRPERSON SHEEHAN: So not take any action on
3 this at this time.

4 ASSEMBLY MEMBER GOLDBERG: That's right. And if
5 in fact nobody needs it, they've got enough plans to take it
6 off or if in fact --

7 CHAIRPERSON SHEEHAN: Come back and do it at a
8 future date.

9 ASSEMBLY MEMBER GOLDBERG: -- we -- right. Or in
10 fact the bill doesn't get out of one or another House or
11 side, we'll take the action and there's no harm no foul
12 because it's not like we're going to run out of money in the
13 new construction pot any time soon.

14 CHAIRPERSON SHEEHAN: All right. Mr. Scott.

15 SENATOR SCOTT: I would join in suggesting
16 deferral of action because there is no urgency about this and
17 I asked last time whether or not if we moved it into the new
18 construction we could then take a subsequent action to move
19 it back to the critically overcrowded. I believe there's
20 been an inquiry of Mr. Ness. He's not certain yet, but maybe
21 transferring it back would trigger a requirement in the bond
22 language that such could be made only with a two-thirds
23 approval vote in the Legislature. I'd like a little -- if
24 you could explore that a little bit because it isn't
25 necessary for us to take an action today.

1 MR. NESS: Right.

2 SENATOR SCOTT: And I would like to know the legal
3 angle on that as well is what Assembly Member Goldberg has
4 also suggested. So it's not that I will eventually vote
5 against this. It's just that I don't see a need for us
6 taking an action today.

7 CHAIRPERSON SHEEHAN: Okay. So you will come back
8 and clarify in terms of the legal --

9 MR. NESS: I will --

10 CHAIRPERSON SHEEHAN: Great. Ms. Daucher.

11 ASSEMBLY MEMBER DAUCHER: I think that's an
12 important point to me is whether it's two-thirds or not. But
13 my question is, because I remember it wasn't -- I wasn't on
14 the team that negotiated this and I think it was Bill Leonard
15 from our caucus and the Poochigian --

16 ASSEMBLY MEMBER GOLDBERG: It's actually
17 Mr. Poochigian -- Senator Poochigian.

18 ASSEMBLY MEMBER DAUCHER: Poochigian. Yeah. And
19 so my question is whether or not this was -- and I believe at
20 least in the discussion in my caucus, this was a big point of
21 negotiation, but I wasn't there -- whether it was a big point
22 of negotiation and whether the expectation of the deal that
23 was cut was that this would be moved. So then the question
24 becomes if your bill moves forward and I think your -- I
25 would agree that that is a good use of this money personally.

1 I think it should go for -- you know, we have an obligation
2 for Concept 6. I don't like Concept 6. But if there is a
3 deal that's been struck and people are going to be upset that
4 we're not living up to the deal, I think that's an important
5 point for future relationship in the Legislature.

6 So then the question becomes, okay, if you do move
7 it over, then the ease of getting it back via your bill -- if
8 it's a majority vote bill, then it's very easy to get it
9 back. If it's -- and that's why I say I think the two-thirds
10 is important.

11 So the two-thirds is a critical point to me and
12 it's also a critical point to me as to what Senator
13 Poochigian felt was the deal that he struck and whether this
14 is -- lives up to that, and I haven't talked to him.

15 ASSEMBLY MEMBER GOLDBERG: Well, I haven't talked
16 to him either, but having been there, I can tell you it was a
17 big deal and it was a big deal though because everybody
18 anticipated that the regular fund would run out of money.

19 CHAIRPERSON SHEEHAN: And that they would --

20 ASSEMBLY MEMBER GOLDBERG: And they didn't want to
21 keep this reserved if they were going to run out of money and
22 people would be waiting in the pipeline which is what was the
23 case before this was passed.

24 If there were school districts lined up -- any
25 school districts lined up that couldn't be served, I would

1 not have introduced the bill because I think a deal is a
2 deal.

3 But the deal was premised on the notion that we
4 were going to run out of money in the other pot and therefore
5 we didn't want to keep money set aside and hording it when it
6 could have been used somewhere else.

7 My information is, is it's very unlikely that
8 we'll use all of the 4 and some billion dollars for new
9 construction any time soon because so much of the state is
10 declining enrollment. And that may turn around and, you
11 know, and so on and so forth, but in the meantime, we've also
12 had a Williams case settlement which was not anticipated in
13 any of that discussion. And I did limit it just to those in
14 my bill because I really didn't want to change the rule --

15 CHAIRPERSON SHEEHAN: The deal.

16 ASSEMBLY MEMBER GOLDBERG: -- because we've made a
17 deal and I agreed and I signed off on it, but we were all
18 making the same assumptions, which was, is that there
19 wouldn't be enough money in the regular pot and this money
20 shouldn't just be held there waiting around.

21 ASSEMBLY MEMBER DAUCHER: Then in that case, what
22 I think is -- I think --

23 ASSEMBLY MEMBER GOLDBERG: But it was a big deal.

24 ASSEMBLY MEMBER DAUCHER: -- we need the answer on
25 the two-thirds --

1 ASSEMBLY MEMBER GOLDBERG: Yeah.

2 ASSEMBLY MEMBER DAUCHER: -- and I think we need
3 to touch base with Senator Poochigian and get some input. I
4 think that's a fair thing to do --

5 ASSEMBLY MEMBER GOLDBERG: I agree.

6 ASSEMBLY MEMBER DAUCHER: -- on this and then I
7 don't have a problem with getting the answers to those
8 questions and coming back and I for my money will tell him
9 that I think that the Concept 6 is a -- is something we just
10 have to do.

11 CHAIRPERSON SHEEHAN: All right. Any other
12 comments from the members on this? So it is agreed that
13 legal counsel will come back on the two-thirds issue to seek
14 the clarification that Mr. Scott has as well as the
15 discussions with the members who worked on the legislation.

16 ASSEMBLY MEMBER GOLDBERG: Yeah.

17 CHAIRPERSON SHEEHAN: We will postpone action on
18 this.

19 ASSEMBLY MEMBER GOLDBERG: And I'll commit to go
20 talking to Senator Poochigian as well.

21 CHAIRPERSON SHEEHAN: Okay. And we'll postpone
22 action and at the next meeting report back on those issues.
23 Did you have -- okay. All right. Everyone is comfortable
24 with that. Okay. Moving on.

25 MS. PARK: The next item on Tab 16 was Ceres and

1 that was withdrawn by the school district. We move now into
2 the regulation section, Tab 17, page 250, and Mavonne will
3 report on the Williams settlement and --

4 CHAIRPERSON SHEEHAN: Right. We're almost --
5 we're there almost.

6 MS. GARRITY: As you recall, last month the
7 Allocation Board approved the Williams settlement regulations
8 with the exception of a couple of items that define what
9 supplanting is, both in the Needs Assessment Program and the
10 Emergency Repair Program.

11 So the item was sent back to the Implementation
12 Committee. A couple of key folks in the settlement were
13 present, the Department of Finance as well as ACLU, and this
14 language that's before you was agreed to by the folks at the
15 Implementation Committee.

16 Basically what it says is that a district shall
17 fully fund their deferred maintenance funds as well as their
18 maintenance of facility funds and then either expend,
19 encumber, or dedicate those funds to school facility needs.

20 The Department of Finance was quite clear that the
21 term dedicate is flexible, that if a district dedicates those
22 funds to a certain need and their priorities change
23 throughout the year that they are able to change those
24 priorities. And with that, I ask you to accept them.

25 CHAIRPERSON SHEEHAN: All right. Are there any

1 questions from the members? Ms. Goldberg and then
2 Mr. Margett.

3 ASSEMBLY MEMBER GOLDBERG: I'll yield to
4 Mr. Margett.

5 CHAIRPERSON SHEEHAN: Okay.

6 SENATOR MARGETT: All right. I guess my only
7 question is a technical one. In other words, if they're
8 allowed, can they be encumbered for something else? I mean
9 are those funds there and they're going to have to be
10 expended and that's it. There's no manipulation or mirrors
11 with these funds.

12 MS. GARRITY: No. Those funds themselves are
13 already limited in their use and then the regulations specify
14 that they would need to be used for either items on their
15 five year deferred maintenance plan or the assessment done
16 within the Williams case and then the other --

17 MS. PARK: -- routine restrictive --

18 SENATOR MARGETT: But they can't be hijacked like,
19 you know, we're used to doing that around here. I mean
20 taking those monies and using them someplace else, hope that
21 we get the monies back into those accounts. We can't -- or
22 districts can't do that.

23 MS. GARRITY: No. Those funds are --

24 CHAIRPERSON SHEEHAN: Restricted.

25 SENATOR MARGETT: I think -- incidentally I think

1 that the deal that was struck here was very fair by all those
2 parties, near as I could tell.

3 CHAIRPERSON SHEEHAN: Did that answer your
4 question?

5 SENATOR MARGETT: That answered my question, yeah.

6 CHAIRPERSON SHEEHAN: Ms. Goldberg.

7 ASSEMBLY MEMBER GOLDBERG: Yes. I want to just be
8 sure that when we talk about dedicated, the requirement is
9 not intended to prevent districts from later shifting these
10 dedicated funds to other eligible maintenance projects if
11 it's not needed where it was dedicated.

12 SENATOR MARGETT: That's where I was coming from.

13 MS. GARRITY: That is correct.

14 ASSEMBLY MEMBER GOLDBERG: Okay. I just want to
15 be sure. Okay.

16 SENATOR MARGETT: Same thing.

17 ASSEMBLY MEMBER GOLDBERG: Okay.

18 CHAIRPERSON SHEEHAN: But the criteria for the use
19 of those remains the same.

20 ASSEMBLY MEMBER GOLDBERG: I would also like to
21 ask, Madam Chair, just so there's no ten years from now
22 somebody yelling at each other about this, there was a letter
23 evidently sent to Ms. Oropeza -- Jeannie Oropeza, by the
24 managing attorney in the plaintiff's case, dated
25 February 9th, which someone e-mailed me a copy of, and I'd

1 just like to include that in the minutes or the record --

2 CHAIRPERSON SHEEHAN: Okay.

3 ASSEMBLY MEMBER GOLDBERG: -- of this meeting.

4 Then we won't have to right about later what he said or she
5 said or that that was the understanding that this was what I
6 just said and with that, that's how they reached that
7 agreement.

8 CHAIRPERSON SHEEHAN: That is -- unless -- is
9 there any objection to that?

10 ASSEMBLY MEMBER GOLDBERG: If there's no objection
11 to that.

12 CHAIRPERSON SHEEHAN: Do you --

13 MS. GARRITY: May I ask if there was a response to
14 the letter from Finance?

15 ASSEMBLY MEMBER GOLDBERG: I don't know.

16 CHAIRPERSON SHEEHAN: Because I don't -- I don't
17 have the letter.

18 ASSEMBLY MEMBER GOLDBERG: I'm sorry. I didn't
19 realize that or I would have made copies, but I'll give it to
20 the Chair.

21 CHAIRPERSON SHEEHAN: We do not have the letter.

22 ASSEMBLY MEMBER GOLDBERG: It's my only copy so --

23 CHAIRPERSON SHEEHAN: In terms --

24 ASSEMBLY MEMBER GOLDBERG: I could just read it if
25 you want, but it's too long to read.

1 CHAIRPERSON SHEEHAN: -- of that -- yeah. I guess
2 one of the questions that I would have on this, Ms. Goldberg,
3 is that this letter is dated February 9th. The
4 Implementation Committee was February 11th. What we have
5 before us is what was the result of the discussions at the
6 Implementation Committee which I understand everyone agreed
7 to. So the only concern that I would have is that unless
8 there is some -- the author of this has a concern that
9 something was not addressed in these because I would hate for
10 another issue to have been brought up and get --

11 ASSEMBLY MEMBER GOLDBERG: All right. I have
12 e-mail exchange between some of the same folks and my office
13 because we requested clarification that is the 23rd of
14 February. Maybe that would be better to use than something
15 that came after --

16 CHAIRPERSON SHEEHAN: Yeah. Because it just --

17 ASSEMBLY MEMBER GOLDBERG: -- because it just had
18 the language I just said.

19 CHAIRPERSON SHEEHAN: You know, there may have
20 been other issues --

21 MR. ALLEN: -- to be helpful.

22 CHAIRPERSON SHEEHAN: -- raised at -- you know, I
23 don't want something that wasn't in there --

24 ASSEMBLY MEMBER GOLDBERG: I agree.

25 CHAIRPERSON SHEEHAN: -- coming back and --

1 ASSEMBLY MEMBER GOLDBERG: I'm not trying to muddy
2 the waters. I'm trying to clear them.

3 CHAIRPERSON SHEEHAN: -- biting us in the future.

4 ASSEMBLY MEMBER GOLDBERG: So I'll take my other
5 one back and you can have that one. This deals with the same
6 issue.

7 CHAIRPERSON SHEEHAN: Yes. Go ahead. Can you
8 identify yourself also for the record.

9 MR. ALLEN: Yes. My name is Brooks Allen. I'm
10 from the ACLU of Southern California and we're
11 representatives of the plaintiff's team. I think the letter
12 that --

13 CHAIRPERSON SHEEHAN: You're the e-mail writer
14 here I see.

15 MR. ALLEN: I -- my guess is once Ms. Goldberg
16 said that, that yes, absolutely.

17 CHAIRPERSON SHEEHAN: Okay.

18 MR. ALLEN: And that letter I think -- you can ask
19 Jeannie Oropeza about that. That was just a letter that we
20 actually talked about and discussed with her in terms of
21 trying to memorialize the common understanding and then folks
22 were asking for us to circulate that -- circulating before
23 the meeting. And there's nothing in there that's, you know,
24 inconsistent with what was decided at the Implementation
25 Committee meeting. None of that was -- intent was changed.

1 In fact -- you know, I don't know how much it
2 adds, but it does kind of provide the common understanding
3 behind the agreement and that type of thing.

4 CHAIRPERSON SHEEHAN: Okay.

5 MR. ALLEN: And for whatever help it is, I know
6 that Ms. Oropeza talked to Ms. Lehman after the receipt of
7 that letter and said absolutely, she feels comfortable with
8 that.

9 CHAIRPERSON SHEEHAN: Right. So I guess what the
10 issue would be, that the Board -- there seems to be
11 agreement --

12 ASSEMBLY MEMBER GOLDBERG: Right.

13 CHAIRPERSON SHEEHAN: -- that the intent of that
14 language -- the dedication -- the dedicate requirement is not
15 intended to prevent districts from shifting those funds to
16 other eligible maintenance projects in the future, to
17 dedicate to those, but to not address the issue Mr. Margett
18 had and that is dedicate them to some other use.

19 ASSEMBLY MEMBER GOLDBERG: No, no. Not at all.

20 MR. ALLEN: Right. Because I don't think anyone
21 on either side would want that to happen.

22 CHAIRPERSON SHEEHAN: All right. And if the
23 minutes of this meeting can reflect that, I think that
24 addressed the issue that Ms. Goldberg has.

25 ASSEMBLY MEMBER GOLDBERG: That's fine. That's

*Include
in
minutes
for*

1 all -- just, you know, sometimes we can't remember what we
2 said. I just thought --

3 CHAIRPERSON SHEEHAN: Right. Right. Because the
4 only concern is we're -- you know, what we are really acting
5 on are the regulations themselves and the language in the
6 regulations, but the minutes can reflect that was the
7 agreement that everyone had.

8 ASSEMBLY MEMBER GOLDBERG: That's my understanding
9 too.

10 CHAIRPERSON SHEEHAN: Okay. All right. ✓

11 MR. ALLEN: Absolutely. Sounds good to us. Thank ✓
12 you.

13 CHAIRPERSON SHEEHAN: All right. So any other
14 comments? We need a -- we have a -- do we have a motion on
15 the regulations?

16 ASSEMBLY MEMBER COTO: I'll move it.

17 ASSEMBLY MEMBER DAUCHER: Second.

18 CHAIRPERSON SHEEHAN: We have a motion and a
19 second to adopt the final two sections of the Williams
20 settlement regulations -- finally. All those in favor ✓
21 signify by saying aye.

22 (Ayes)

23 CHAIRPERSON SHEEHAN: Any opposed? Good. Thank
24 you for your work, Mavonne, on that. I know it took a little
25 longer than we all thought, but successful finally.

1 ASSEMBLY MEMBER GOLDBERG: It's nice to get
2 agreement though.

3 CHAIRPERSON SHEEHAN: Exactly.

4 MS. PARK: The next items on the agenda are
5 reports. There are several of them. They'll be presented by
6 the California Department of Education and the Division of
7 the State Architect, and Dave Zian will introduce each one
8 and then the presenters will come forward.

9 CHAIRPERSON SHEEHAN: Great. Thank you. Go
10 ahead, Dave.

11 MR. ZIAN: Madam Chair, at the December 2004
12 meeting, there were some questions raised by one of the
13 members regarding the site selection process criteria
14 utilized by the California Department of Education in school
15 sites that are funded under the School Facility Program, and
16 I understand Mr. Fred Yeager is here to provide a PowerPoint
17 presentation of the Title 5 regulation requirements that are
18 followed by CDE.

19 MS. MOORE: Yes. And I would like to just
20 introduce the item board in my face, but that's okay.

21 ASSEMBLY MEMBER GOLDBERG: You just turned blue.

22 MS. MOORE: And at the pleasure of the Chair
23 because I know it's been a long meeting, we'll be brief on
24 this. However, I do know, Senator Margett, your question was
25 on the cost of land, and I think your concern was around the

1 cost of land. And we were asked to address that issue as
2 well as our school site selection process.

3 And I just want to say by way of introduction that
4 we do not -- we are not involved in the cost of land in terms
5 of our approval process. That is part of what must be
6 considered at the local level during their processes for
7 selecting a site. And predominantly we are concerned about
8 safety. And we look at the issues of safety, and as
9 Mr. Yeager goes through this presentation, that is what you
10 will see.

11 And I don't want you to think that we are not
12 addressing the issue of cost. However, that is really more a
13 local issue and it is weighed in conjunction with all the
14 criteria that a local entity does and looks at as they select
15 a site and go through the very arduous process of purchasing
16 it.

17 CHAIRPERSON SHEEHAN: Mr. Scott, do you have a
18 question?

19 SENATOR SCOTT: Yes. Who pays for the cost of the
20 land? Does the state or do the locals?

21 MS. MOORE: It depends on what system they are
22 applying within. If they are a state project, it is a 50-50
23 project with the state, meaning that this Board approves
24 50 percent of the project cost and the other -- the remaining
25 50 percent is a local responsibility.

1 There are some districts that come before this
2 Board that come under hardship and that the state pays a
3 greater percentage of their project cost in those
4 circumstances. And then there are districts that don't even
5 come before this Board and they fund their projects locally
6 and in that case obviously they are expending 100 percent of
7 the project.

8 So if -- it really is in both the districts' and
9 the state's interest that school districts are very
10 sophisticated in their acquisition of property and in their
11 consciousness of price. But it is one amongst many criteria.

12 SENATOR SCOTT: That answers my question. I just
13 thought if the state paid all the price, there might not be
14 quite as strong a desire on the part of the locals to be
15 frugal.

16 CHAIRPERSON SHEEHAN: All right. Yes, if you
17 could proceed and certainly in the interest of time.

18 MR. YEAGER: And there is a copy of the
19 presentation in your packet.

20 CHAIRPERSON SHEEHAN: Yes. Everyone has a file on
21 their -- on the dais.

22 MR. YEAGER: Okay. As some legislative
23 background, Education Code 17251 charges the Department of
24 Education with the development of standards for school
25 districts to use in selecting school sites.

1 Those standards are contained in Title 5,
2 Regulations 14010 and 14011 which were last adopted by the
3 State Board of Education in November of 2000. You have a
4 copy of the Title 5 regulations also in your package
5 regarding both sites and plans.

6 Additionally, Education Code 17211 charges that
7 districts shall use those CDE standards in evaluating school
8 sites. 17212 speaks to the point that cost is not the
9 primary concern. It's in the total public interest that --
10 for which school sites should be evaluated.

11 For projects seeking State Allocation Board
12 funding, the Department of Education's approval is required
13 prior to receiving funding. If a district proceeds to fund a
14 school site locally, the Department of Education's approval
15 is not required, but they are required to use the Title 5
16 standards and to maintain their files locally to -- for -- if
17 there are complaints that they did not follow the Title 5
18 standards.

19 To give you an idea of the amount of work that
20 we've done in this past year, 111 sites have been approved,
21 102 new ones, 9 additions to existing sites, for over
22 2,500 acres.

23 And the top three counties, you see there are
24 Riverside, Los Angeles, and San Diego which comprise about
25 40 percent of those 111 school sites. The Department has

1 recommendations on how large a school site should be based
2 upon the enrollment and these are some common school
3 populations and the CDE recommended acres. Certainly a
4 44 acre high school in Los Angeles hasn't been seen in years.

5 ASSEMBLY MEMBER GOLDBERG: I'm sorry. I was about
6 to get hysterical.

7 MR. YEAGER: But as we do work with Los Angeles
8 and other urban districts where land is scarce, we do have a
9 small school site policy that takes into account multistory
10 construction, joint use opportunities with adjacent parks.

11 ASSEMBLY MEMBER GOLDBERG: That's the funniest
12 thing I've ever seen.

13 MR. YEAGER: This gives a brief overview of the
14 process that districts use to bring projects to the
15 Department of Education for approval. The district
16 identifies three potential sites -- three or more. The
17 Department of Education comes out and ranks those sites. The
18 district then identifies which site they wish to pursue,
19 prepare the required studies, submit that to the Department
20 of Education, and we would review for compliance with the
21 laws and regulations, issue the approval, and they would take
22 that along with other documents to the Office of Public
23 School Construction for funding.

24 And a little more detail on each of these. The
25 school districts really do the -- most of the work in

1 identifying school sites. They are familiar with their local
2 needs, the population trends, where land is available. We do
3 offer several publications that will guide them in making
4 these decisions. The School Site Analysis and Development
5 Guide was where we got those acres that we saw before. And
6 the School Site Selection and Approval Guide discusses some
7 of the processes and provides some checklists and other
8 guidance for districts to use in looking at school sites.

9 Districts will often work with their local
10 planning agencies to identify available parcels and their
11 district architect to see if a parcel of land can reasonably
12 be developed as a school.

13 Factors that districts should use in bringing
14 forth sites for approval is safety is number one, and you see
15 the others there: environmental, location, is it where the
16 kids are, are utilities available. You see cost is on the --
17 in the consideration.

18 This is our first involvement with the sites where
19 we would come out and evaluate three or more sites that the
20 district has identified. We would identify any special
21 studies that we can tell just by looking at the property.
22 There are certain things you obviously can't tell that, if
23 there's toxics in the soil, but you can see indications of
24 pipelines, power lines. We will provide those comments. We
25 will rank them and then determine if it is approvable.

1 That's a recommendation as to whether this is reasonable to
2 pursue, to continue to put more time and effort and money in
3 to bringing forward to a final determination.

4 The district would then select their site,
5 considering among other factors the Department's
6 recommendation, the consistency with district needs, is it
7 where they need it, mitigation costs -- that could be for
8 wetlands -- ease of acquisition and purchase price.

9 They would submit the list that you have in your
10 document called the SFPD 4.01. There's now 13 items required
11 by law and regulation to submit and here are some of the main
12 ones: the Department of Toxic Substance Control approval, a
13 geological hazard study which investigates seismic, flooding.
14 The CEQA document, the Planning Commission report to -- have
15 the local planning agency give an opinion as to whether the
16 school site is consistent with local land uses, and the
17 aeronautics review within two miles of runway.

18 And that complete list is in your package.

19 There are situations for financial hardship
20 districts that qualify through OPSC's financial hardship
21 status to get what -- hardship districts to get what is
22 called a contingent site approval which allows for the early
23 release of site acquisition funds so that districts can
24 acquire the property and continue on with the planning.

25 An environmental hardship district is -- requires

1 the determination of the Department of Toxic Substance
2 Control that the remediation work will take six months or
3 longer.

4 For contingent site approval, you complete all the
5 items on that list except that you do not need the final CEQA
6 document and the final DTSC clearance.

7 We will continue to work with districts throughout
8 the process. After we approve the plan, we will work with
9 them in early planning of the school site, meet with the
10 local agencies, confer with the Office of Public School
11 Construction on off-site improvement perhaps, and coordinate
12 activities with Department of Toxic Substance Control.

13 And finally here are just some of the other
14 agencies -- state-level agencies that may be involved:
15 Caltrans, Division of Aeronautics, Division of Mines and
16 Geology does seismic, Water Resources, Division of Safety of
17 Dams. There are probably an endless number of local agencies
18 that the school district deals with from local planning
19 commissions, water agencies, park districts, that the
20 Department doesn't work directly with. Those are something
21 that school districts work with at the local level to comply
22 with those rules.

23 So that in a nutshell is it.

24 CHAIRPERSON SHEEHAN: I'm impressed. That was
25 very good. Questions from members. No. Good. Thank you.

1 I think that gives us a better understanding of the process.
2 Kathleen, did you want to add anything?

3 MS. MOORE: I didn't have anything to add from the
4 Department's perspective, but as a practitioner, I would just
5 like to I think assure a lot of Board members that there's a
6 great deal of painstaking processes at the local level to
7 acquire property and that cost definitely is a consideration
8 particularly as it's, you know, every -- for every dollar
9 spent, you know, 50 percent of that is coming from the local
10 area and local school boards really are -- have to be
11 responsive to their constituents.

12 And it is -- it's probably one of the more
13 difficult issues that school districts deal with in terms of
14 facilities is acquiring property. It's always controversial.
15 It's particularly controversial at the high school level, and
16 I admire many of the practitioners in the field that
17 continuously have been able to acquire property and build
18 schools.

19 SENATOR MARGETT: Well, I think -- I guess where
20 I'm coming from -- the reason for asking for the report is,
21 you know, there's such an inordinate amount of money that
22 goes in just to site preparation, just the utilities, just
23 the roads, the streets, the sewers, getting the electrical
24 lines in there. And as long as that aspect is considered --
25 and I'm sure that it is -- but those are getting to be huge

1 costs as I reviewed costs on this construction site. That
2 seems to be just horrendous. That's what kind of blew Ceres
3 out of the water as I recall with their request for
4 additional money. And that's the reason for the request.

5 CHAIRPERSON SHEEHAN: Any other questions? Thank
6 you. That was great, Kathleen. Thanks for -- next issue is
7 the State Architects; is that correct, Dave?

8 MR. ZIAN: Yes. Madam Chair, we'll just skip
9 over, go to Tab 20, page 262 in the agenda. In introducing
10 this item, we do have a representative from DSA, Mr. Richard
11 Conrad, but as a brief introduction --

12 MR. CONRAD: We have -- I have a team too.

13 MR. ZIAN: Great. Okay.

14 CHAIRPERSON SHEEHAN: A team from there.

15 SENATOR SCOTT: All right. Dennis Bellet and I'm
16 sorry, I don't know the other gentleman.

17 MR. CONRAD: Aaron Noble.

18 MR. ZIAN: Okay. Great. And there was some
19 concern at the implementation phase of this program relating
20 to the Americans with Disabilities Act and the potential for
21 it being triggered when you get into these Emergency Repair
22 Programs projects authorized under SB-6.

23 We have looked at it and spoken with
24 representatives at DSA and included in the agenda is a report
25 that deals with projects that would be exempt and I'm

1 assuming the representatives will be prepared to talk about
2 dollar thresholds that if you stay under would not trigger
3 the ADA requirements, and lastly when these requirements are
4 triggered.

5 Our position in the program would be that
6 incidental ADA requirements triggered as a result -- in a
7 room would only be the cost that could be born by the
8 Emergency Repair Program. So with that, I'll turn it over to
9 Mr. Conrad.

10 CHAIRPERSON SHEEHAN: Go ahead, Richard. Why
11 don't you introduce yourself for the rest of the members.

12 MR. CONRAD: Chairwoman Sheehan and members,
13 Richard Conrad, Acting State Architect. Have you all had a
14 chance to review the report we prepared?

15 CHAIRPERSON SHEEHAN: We all have the report in
16 our books.

17 MR. CONRAD: Well, it lays out generally the
18 requirements for accessible review for what we would call
19 modernization projects or existing buildings that will be
20 modified in some manner or form and there are requirements
21 associated therewith.

22 Aaron Noble who's our -- on behalf of the Code and
23 Policy Unit of the DSA for access regulations could give you
24 some of the specifics about the cost thresholds, things like
25 that. I will say that it's not easy to give a statement that

1 will apply to everything.

2 Most of these projects are -- because you're in
3 existing facilities, some may be -- God knows what the age
4 is, but -- and the conditions may vary dramatically, so it's
5 hard to say if you have this, you'll do this. A lot of it
6 depends on how you scope the project, what you intend to do.

7 Obviously the emergency repairs are pretty -- you
8 know, you would know what those are, but depending upon the
9 scope of the repairs and what part of the building or
10 facilities would be impacted, then you might have a trigger
11 that would require accessibility upgrades based on the cost
12 of the work and where the work occurs in the buildings.

13 So with that broad -- and I'm sure it confused you
14 more than you -- confused, but Aaron can touch about any
15 elements of that which you would like to have, you know, more
16 clarification on.

17 CHAIRPERSON SHEEHAN: Okay. Questions from the
18 members? I think the report was very clear.

19 ASSEMBLY MEMBER GOLDBERG: Yeah, I do too.

20 CHAIRPERSON SHEEHAN: Do you have a -- yeah. I
21 think it was helpful and I think we understand in terms of
22 you can't always know what is going to trigger it, but, you
23 know, there may be times.

24 ASSEMBLY MEMBER GOLDBERG: Well, I think that's
25 kind of my concern. I was on the board of LA Unified about

1 20 years ago and ADA was not as big an issue, but it was
2 still an issue, and we got dinged a couple of times after the
3 fact on things that we thought were in the exception column.
4 And I guess I'm trying to figure out how much information
5 we're going to give districts about how to deal with this
6 question. I guess that's really my big interest in this
7 because there's no -- I agree with you. There's really no
8 way to know. On the other hand, districts that do routine
9 modernization don't need any more information. They are
10 already doing it and, you know, but there are a lot of these
11 districts that may not have done a modernization project in a
12 long time, may not be aware of this, that without knowing a
13 lot of information from us about what thresholds are and what
14 structural means -- that where we got it.

15 We said, oh, these weren't structural. They said,
16 did you open a wall at any time for any reason. We didn't
17 know that that was structural if all we were doing was adding
18 to the wiring. And we got dinged pretty badly.

19 So I'm just saying I think whatever -- the point
20 of the questions that I had was to make sure that we send out
21 to people who are going to do things in this program what
22 structural is, what thresholds mean --

23 CHAIRPERSON SHEEHAN: Well, and guidance --

24 ASSEMBLY MEMBER GOLDBERG: -- and some guidance on
25 how to do this.

1 CHAIRPERSON SHEEHAN: -- to assist them in --

2 ASSEMBLY MEMBER GOLDBERG: Again those that are
3 regularly up here at modernization projects, I don't think
4 will need that help, but there are a lot of districts that
5 aren't regularly up here for modernization projects that
6 might be involved in this.

7 MR. CONRAD: Well, we had some guidelines and
8 guidance documents that would probably provide that
9 information. Now whether it needs -- they need to be --
10 please don't be offended -- if they needed to be dumbed down
11 so that people can get a better understanding of what they're
12 looking at when they see it. Sometimes we have a tendency to
13 be a little bit more technical because we think we're going
14 to be dealing with design professionals who should know the
15 terminology --

16 ASSEMBLY MEMBER GOLDBERG: And many of them will,
17 but there are those that don't, and I'd hate to have people
18 get into big, big trouble because they didn't know that
19 anytime you open a wall -- at least it was 20 years ago. I
20 don't know if that's still true today, but 20 years ago, if
21 you opened a wall for anything --

22 MR. CONRAD: That requirement's not changed.

23 ASSEMBLY MEMBER GOLDBERG: Okay. Well, see, but
24 it's pretty easy not to know that.

25 MR. CONRAD: Sure. Absolutely.

1 CHAIRPERSON SHEEHAN: Well, and I think one of the
2 things would be for the school districts -- and some of them,
3 as Ms. Goldberg said, who haven't been through this who may
4 be new to the modernization to know you are available. I
5 don't want to say accessible -- or I could have used that
6 term I guess.

7 MR. CONRAD: Well, we are accessible as well. In
8 fact we encourage --

9 CHAIRPERSON SHEEHAN: That's literally.

10 MR. CONRAD: And let me just say we encourage
11 school districts to contact us early for information and
12 hopefully guidance when they -- you know --

13 CHAIRPERSON SHEEHAN: And I think that's helpful,
14 you know, for your availability and also for the office to
15 make sure school districts know there is a resource available
16 if you have questions before you start going into this.

17 Ms. Daucher, did you have a comment?

18 ASSEMBLY MEMBER DAUCHER: Just a comment. This
19 can be a big expense to a district that isn't covered by our
20 program; correct?

21 MR. CONRAD: Potentially, yes.

22 ASSEMBLY MEMBER DAUCHER: Yes. And so I guess my
23 question is more what is the impact of this on schools and is
24 there a big pent-up need there for a funding category for
25 this kind of very unexpected cost, not anybody's fault at the

1 local level, and if we could just get some feedback from the
2 districts as to whether this is an area of interest, if we do
3 future bonds or whatnot, that we ought to look at a category
4 like this for the future.

5 MS. PARK: We can do that.

6 CHAIRPERSON SHEEHAN: Okay. Any other questions
7 from the staff? Thank you, all of you, and thank you for the
8 report in here.

9 MR. CONRAD: Aaron can go now, but Dennis has to
10 stay.

11 CHAIRPERSON SHEEHAN: Sorry?

12 MR. CONRAD: Dennis has to stay for the next item.

13 CHAIRPERSON SHEEHAN: Oh, okay.

14 MR. CONRAD: You're not through with me yet.

15 CHAIRPERSON SHEEHAN: All right. Onto the next
16 one.

17 MR. ZIAN: Okay. Madam Chair, Tab 21, page 268 of
18 the agenda. I'll deal with the issue that is a part of our
19 office dealing with the legality issue. The first part of
20 the item deals with whether or not a modular constructed
21 school in its entirety from a school district piggybacking
22 onto another school district's modular construction contract
23 was legal.

24 And we have in the last item that was presented at
25 the January Board endeavored to address that with our legal

1 counsel's opinion. If I can speak for Mr. Ness, there were
2 some irregularities that appeared in his opinion in terms of
3 how it was interpreted by school districts. However, there
4 is no court precedent right now at present and absent any,
5 you know, precedential situation where there has been a
6 lawsuit, we are leery of staff to say that there's a problem
7 with this, and we believe as staff that there would need to
8 be some kind of a legislative change to specify whether this
9 is okay or not to do this piggybacking absent some kind of a
10 court challenge and court precedence.

11 So beyond that, there was a second issue dealing
12 with the on-site and in-plant inspections performed under the
13 auspices of the Division of State Architect, and at this
14 point, I will turn it over to Mr. Richard Conrad and
15 Mr. Dennis Bellet.

16 MR. CONRAD: And we provided as well --

17 CHAIRPERSON SHEEHAN: Right.

18 MR. CONRAD: -- some information about the
19 inspector -- or how we test them and how they are selected by
20 school districts or manufacturers with our approval and the
21 processes they utilize for their inspection activities. And
22 be happy to respond to any questions that you might have.

23 CHAIRPERSON SHEEHAN: And all of the members
24 should have the report in there in terms of the process that
25 they go through, and I assume as you go through it and any

1 other issues you need to, you know, improve in your
2 inspection process, you've taken those into account over the
3 years.

4 MR. CONRAD: We are --

5 CHAIRPERSON SHEEHAN: Continuous improvement.

6 MR. CONRAD: Absolutely. We are initiating what
7 we've termed the DSA Academy and the first unit going in
8 there is our inspector testing and training elements which
9 have been in place for five, six years -- more formally in
10 place.

11 And we would like to think that we have continuous
12 improvement. I mean we get complaints from the inspectors
13 and we get complaints from everybody that deals with the
14 inspectors, so we know we must be doing something right if
15 not everybody's happy. So we're continuing as best we can to
16 identify those things that we can improve -- and continue to
17 do so.

18 CHAIRPERSON SHEEHAN: Questions from the members
19 on this? Ms. Goldberg.

20 ASSEMBLY MEMBER GOLDBERG: Yes. The monitoring of
21 inspectors is really my concern. And on page 2 of your
22 report, you talk about periodic visits to the manufacturing
23 plant.

24 You know, we've had fights for at least 30 years
25 over field act and the difference between field act and

1 others is what?

2 MR. CONRAD: Continuous inspection.

3 ASSEMBLY MEMBER GOLDBERG: Continuous inspection.

4 Okay. So now we're getting further and further arm's length
5 with these modules that are manufactured. Who hires the
6 inspector at a manufacturing plant that does modular --

7 MR. BELLET: The -- maybe I should clear up one
8 thing before I get into that detail. There is full-time and
9 continuous inspection hired by the school districts for the
10 individual relocatable buildings that they have -- that
11 they're purchasing from the manufacturer's plants.

12 The periodic visits are done by our field
13 engineers, our structural engineers, just to make sure that
14 the --

15 ASSEMBLY MEMBER GOLDBERG: How often is periodic?

16 MR. BELLET: As often as they can. Generally
17 around once a month, they go out there. That's typical for
18 all school sites, relocatable as well as out on the sites.
19 And we have about --

20 ASSEMBLY MEMBER GOLDBERG: See, we just had the
21 biggest one of these modular firms, Turnkey, go belly up.
22 And I would have to say to you I am having thought to try to
23 be able to use existing buildings when we have a lot of them
24 that were vacant that are not vacant anymore in LA, but we
25 did for a long time and being told no, no because there's no

1 way to go back and do continuous inspection.

2 I am very concerned about whether or not we have
3 continuous inspection at these manufacturing plants
4 especially in light of some testimony we had the last time we
5 were here by an inspector who said he went to a plant and
6 they had to call the inspector to come.

7 Now they couldn't be continuously inspecting there
8 if they had to call him to come. Now, you know, I can't
9 verify that. That was anecdotal information, but I'm
10 concerned -- now when the largest company that was doing this
11 is out of business, people coming and going. I'm concerned
12 that we are lowering our standard of continuous inspection.

13 How would you respond to that concern?

14 MR. CONRAD: Well, let me respond first, then
15 Dennis can fill in. The inspectors -- by our regulations,
16 in-plant inspectors are to be there continuously. You know,
17 now should they not comply with the regulations under which
18 they're there, you know, we -- were we to find out about
19 that, we would take action which would in all likelihood
20 would be to decertify them and have them removed, with the
21 concurrence of the school district that hired them --

22 ASSEMBLY MEMBER GOLDBERG: But if you only go once
23 a month, how would you know?

24 MR. CONRAD: Well, we get verified reports
25 periodically, and so you can generally tell -- well -- we get

1 evidence that might allow us to have an understanding more
2 frequently than just a month, but --

3 CHAIRPERSON SHEEHAN: And then you do a spot
4 inspection or you'll go out and --

5 MR. CONRAD: Well, that -- yes. That's -- we
6 would respond should any -- we do now for --

7 ASSEMBLY MEMBER GOLDBERG: Well, I know you
8 respond, but who would call?

9 MR. BELLET: There could be several parties that
10 could call to say that an inspector wasn't there and a school
11 district could send out a party that would -- since they're
12 paying for the inspector, they could make sure that they're
13 there. We might spot the person. The manufacturer -- it's
14 to their benefit also to have an inspector there. It's
15 another layer of quality control. Might say that that
16 person's not there. There is generally -- the majority of
17 the relocatable buildings are a steel-frame building and
18 there's a welding inspector required to be there. There
19 could be a report from that person that that person's
20 missing.

21 And -- let's see. Finally the designer, although
22 it's not very frequent, less than once a month, that goes out
23 to make sure that it's being built according to the approved
24 plans also. The --

25 ASSEMBLY MEMBER GOLDBERG: And you don't share any

1 of my concerns then.

2 MR. BELLET: Yeah. I think we have a very good
3 technique for picking up as best we can given -- we do have
4 continuous inspection and the spot checks, same as on
5 permanent school construction. And so, yeah, I think we
6 provide definitely a very good program in that regard.

7 And there are times things do get missed and it's
8 evidenced by the times when we find things that are wrong and
9 we correct it. And there -- it happens. Just as -- I would
10 say maybe just as frequently in permanent construction as in
11 the modular construction. I don't think there's significant
12 differences between the two.

13 MR. CONRAD: Whether we share your concerns, we
14 recognize the fact that we deal with this periodically
15 because it happens so --

16 ASSEMBLY MEMBER GOLDBERG: Well, then in light of
17 all of that, I'll just leave this off for now and maybe come
18 back to this at some other point in time. But I would like
19 to ask -- and maybe -- whether we need a motion or not, you
20 can tell me, Madam Chair -- to formally ask the Attorney
21 General to make a determination of the legality of the
22 piggyback contracts so that we don't keep going through
23 this -- request an opinion from the AG's office.

24 CHAIRPERSON SHEEHAN: Okay. Have you talked to
25 the -- Garry, have you talked to the AG's office on this --

1 MR. NESS: No, I haven't.

2 CHAIRPERSON SHEEHAN: -- in your research? Okay.
3 All right. No. We can certainly send a letter seeking --
4 I'm not sure what the timing would be on that because
5 sometimes when, you know, you ask, it may be a while, but
6 certainly we could --

7 MR. NESS: We're looking for a formal published
8 opinion, it takes some time.

9 CHAIRPERSON SHEEHAN: Right. I know it does, but
10 we can certainly make that request on behalf of the --

11 ASSEMBLY MEMBER GOLDBERG: Well, I think, you
12 know, we're going to -- we have a report that says that, you
13 know, we've got -- well, I'll just make --

14 CHAIRPERSON SHEEHAN: That's fine. Yeah.

15 ASSEMBLY MEMBER GOLDBERG: We don't need a motion?

16 CHAIRPERSON SHEEHAN: No. I think we -- unless
17 there's any objection from the Board members, we certainly
18 can --

19 ASSEMBLY MEMBER GOLDBERG: Okay.

20 CHAIRPERSON SHEEHAN: -- seek an opinion.
21 Mr. Coto, did you have --

22 ASSEMBLY MEMBER COTO: No, I just wanted to see if
23 there was a need for a formal motion, but i guess not. We're
24 just going to -- actually going to do it; right?

25 CHAIRPERSON SHEEHAN: No, I think if there's no

1 objection, we can direct the staff and legal counsel to send
2 a letter on our behalf.

3 ASSEMBLY MEMBER GOLDBERG: One other question.

4 MR. NESS: I'd have it for your signature as the
5 Chair.

6 CHAIRPERSON SHEEHAN: Okay. Um-hmm.

7 ASSEMBLY MEMBER GOLDBERG: One other question
8 would be does the SAB have the authority to ask for a
9 moratorium on new piggyback contracts pending the AG's -- do
10 we have that authority?

11 MR. NESS: I would say not.

12 CHAIRPERSON SHEEHAN: Right. I'd --

13 MR. NESS: We don't control the contracts --

14 CHAIRPERSON SHEEHAN: Right.

15 MR. NESS: -- that are issued by the school
16 districts, so that would --

17 CHAIRPERSON SHEEHAN: I think that's definitely a
18 gray area. But the first one in terms of asking --

19 ASSEMBLY MEMBER GOLDBERG: Who would have that
20 authority?

21 MR. NESS: Well, the school districts I suppose
22 would have control over how they contract and assuming that
23 they can purchase through the piggyback mechanism property
24 that they will use that to purchase these portable buildings
25 or modular buildings. So it's a statutory authority that

1 they have to use, so I would presume that -- have to be a
2 legislative enactment to change the piggyback statute --

3 CHAIRPERSON SHEEHAN: To prohibit --
4 specifically --

5 ASSEMBLY MEMBER GOLDBERG: Well, I'm looking at
6 page 268 --

7 CHAIRPERSON SHEEHAN: -- prohibit the --

8 ASSEMBLY MEMBER GOLDBERG: -- under the
9 competitive bidding section of the discussion. SAB legal
10 counsel opined that if its interpretation is adopted by the
11 courts, the work required to set and install the modular
12 buildings would not be authorized under the piggyback
13 statute.

14 MR. NESS: Right.

15 ASSEMBLY MEMBER GOLDBERG: Okay. So if it would
16 not be authorized and yet this continues to go on --

17 CHAIRPERSON SHEEHAN: Well, but I think what legal
18 counsel's suggesting is that it is an interpretation and
19 until a Court opines on the legality of that, it is a
20 lawyer's interpretation of what the statute is.

21 MR. NESS: Right.

22 CHAIRPERSON SHEEHAN: Short of either a Court
23 interpretation or further legislative clarification of that
24 statute would be my reading of that.

25 ASSEMBLY MEMBER GOLDBERG: I see. Okay.

1 MR. NESS: That's -- yes.

2 ASSEMBLY MEMBER GOLDBERG: All right. Well,
3 then --

4 MR. NESS: That's my intent.

5 ASSEMBLY MEMBER GOLDBERG: All right. Well, I
6 would --

7 CHAIRPERSON SHEEHAN: So we will seek the Attorney
8 General's -- another lawyer's opinion of the statute and see
9 if they come up with the same or similar and maybe a court
10 case will wind its way through at some point.

11 MR. CONRAD: Madam Chair, may I make a --

12 CHAIRPERSON SHEEHAN: Yes. Go ahead.

13 MR. CONRAD: -- response to the former -- previous
14 question by Assembly Member Goldberg. We have developed
15 regulations to address existing buildings and in essence have
16 them post continuously inspected.

17 Obviously we don't do that, but there are
18 mechanisms and standards have been developed over the last
19 probably 10, 12 years under the auspices of FEMA that
20 actually we can utilize now to assess existing buildings and
21 have them modified adequately to have the level of safety or
22 compliance as a newly built building.

23 ASSEMBLY MEMBER GOLDBERG: Maybe we can sit down
24 away from this room and have you explain to me how that gets
25 done.

DSA

1 MR. CONRAD: I'd be very pleased to do that. At
2 your convenience.

3 ASSEMBLY MEMBER GOLDBERG: Thank you.

4 CHAIRPERSON SHEEHAN: Right. And if any other
5 members want to avail them -- I'm sure Mr. Conrad and his
6 staff would be happy to make --

7 MR. CONRAD: We have experts. Some of them
8 working on this for four years. We have it down to a
9 science.

10 CHAIRPERSON SHEEHAN: Exactly. Great. Okay.
11 Next item.

12 MR. ZIAN: Okay. Madam Chair, Tab 22, page 277.
13 This is our last report. We can celebrate.

14 CHAIRPERSON SHEEHAN: Very good.

15 MR. ZIAN: And this is a companion item to the
16 Ceres item which was --

17 CHAIRPERSON SHEEHAN: Correct.

18 MR. ZIAN: -- withdrawn, but it deals with the
19 issue of the scope of the problem for similar districts that
20 are financial hardship funded during that period and rather
21 than trying to address something we don't really identify the
22 whole problem here yet, what we have done is worked
23 collaboratively with the Coalition for Adequate School
24 Housing to develop a survey to get more data from school
25 districts in these type of situations.

1 We've developed a list and through that
2 collaborative effort, we'll hopefully be reporting to the
3 Board in the near future regarding the scope of the problem
4 and we'll just go from there.

5 CHAIRPERSON SHEEHAN: Great. Ms. Daucher, did you
6 have anything? This was an issue I know that came up during
7 Ceres and --

8 ASSEMBLY MEMBER DAUCHER: No. I want to wait for
9 the report.

10 CHAIRPERSON SHEEHAN: Great. Okay.

11 MS. PARK: That concludes the agenda --

12 ASSEMBLY MEMBER DAUCHER: But I have --

13 CHAIRPERSON SHEEHAN: Sorry.

14 ASSEMBLY MEMBER DAUCHER: I would like to ask for
15 two -- make two comments --

16 CHAIRPERSON SHEEHAN: Sure.

17 ASSEMBLY MEMBER DAUCHER: -- before we close
18 session. One -- and it's kind of related to Ceres, but just
19 in the more I get into this, I would like staff -- to request
20 that staff do a report to us at some point on hardship
21 funding and the equity in hardship funding.

22 In the Ceres case, we learned that, you know, if
23 you're a 50-50 district, not a hardship district, and you run
24 into their problems, you can add two things.

25 If you're a -- you know, a financial hardship

1 district, there are some different issues that occur. And
2 then, you know, there are issues of districts -- the timing
3 of when you become hardship and whether or not it's equitable
4 to everybody in terms of do we have regulations that allow
5 some to benefit more than others, and I just would like a
6 report on what the experts in our SAB staff here feel about
7 that, just so we can explore that a little bit.

8 I don't have a preconceived notion. I just want
9 to make sure that we are cognizant of what's going on out
10 there.

11 And the second issue is -- with the Board's
12 permission. I had someone talk to me about residual
13 modernization grants and the more I get into it, the more
14 complex it is, and it's not just something you can say it's
15 good, it's bad, we ought to do this or that. The reality is
16 that you do a modernization project, sometimes you have a
17 little bit of leftover funding.

18 And the issue is whether we ought to be able to
19 bundle that funding and put it at another site away from
20 where the eligibility was created.

21 And, you know, I think there -- I don't even
22 understand it well, but I would like the staff to give us a
23 report and at some point when we have a shorter meeting have
24 a discussion about it.

25 CHAIRPERSON SHEEHAN: All right. Sometime we'll

1 have a shorter meeting.

2 Okay. Go ahead and -- Ms. Park.

3 MS. PARK: Well, that concludes the meeting and
4 our next Board meeting is March 30, 2005.

5 CHAIRPERSON SHEEHAN: Great. All right. So
6 without any objection, this meeting is adjourned. Thank you
7 all.

8 (Whereupon the public meeting was concluded at
9 6:22 p.m.)

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