

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CALIFORNIA STATE ALLOCATION BOARD

PUBLIC MEETING

STATE CAPITOL
ROOM 444
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, JUNE 26, 2019

TIME: 4:07 P.M.

Reported By: Peter Petty
eScribers

1 APPEARANCES:

2 MEMBERS OF THE BOARD PRESENT:

3 GAYLE MILLER, Chief Deputy Director, Policy, Department of
4 Finance, designated representative for Keely Bosler,
Director, Department of Finance

5 DANIEL KIM, Director, Department of General Services

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

8 JUAN MIRELES, Director, School Facilities and Transportation
9 Services Division, California Department of Education,
designated representative for Tony Thurmond, Superintendent
of Public Instruction

10 SENATOR SCOTT WILK

11 SENATOR CONNIE LEYVA

12 ASSEMBLYMEMBER ADRIN NAZARIAN

13 ASSEMBLYMEMBER PATRICK O'DONNELL

14 ASSEMBLYMEMBER JORDAN CUNNINGHAM

15 REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

16 LISA SILVERMAN, Executive Officer

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

LISA SILVERMAN, Executive Officer

19 BARBARA KAMPMEINERT, Deputy Executive Officer

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

22 TOM PATTON, Assistant Chief Counsel

23

24

25

P R O C E E D I N G S

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MS. MILLER: Good afternoon, everyone. I'm going to call the meeting of the State Allocation Board to order. Ms. Jones, will you call the roll, please.

MS. JONES: Certainly. Senator Wilk.

SENATOR WILK: Present.

MS. JONES: Senator Leyva.

Senator Roth.

SENATOR ROTH: Here.

MS. JONES: Assemblymember Nazarian.

MR. NAZARIAN: Present.

MS. JONES: Assemblymember O'Donnell.

Assemblymember Cunningham.

Juan Mireles.

MR. MIRELES: Here.

MS. JONES: Cesar Diaz.

MR. DIAZ: Here.

MS. JONES: Daniel Kim.

MR. KIM: Here.

MS. JONES: Gayle Miller.

MS. MILLER: Here.

MS. JONES: We have a quorum.

MS. MILLER: Thank you. Before we start our agenda items, I wanted to welcome our new member who isn't

1 quite here yet, but just to let you know that Assemblymember
2 Jordan Cunningham is joining the Board and Mr. Gallagher
3 will not be on the Board. So we will hope to see him later
4 and welcome him then. So I'm happy not to be the newest
5 person here today.

6 So next, Ms. Silverman, if you have the public --
7 if you have the **Executive Officer's summary**, please.

8 MS. SILVERMAN: Yeah. Do you want to --

9 MS. MILLER: Oh, wait. Do I want to do the
10 **Minutes** first? Yeah. Sorry. May we approve the Minutes
11 first from our last Board meeting.

12 SENATOR ROTH: so moved.

13 MR. NAZARIAN: Second.

14 MS. MILLER: Moved by Senator Roth. Seconded by
15 Mr. Nazarian. Ms. Jones, please call the roll.

16 MS. JONES: Senator Wilk.

17 SENATOR WILK: Aye.

18 MS. JONES: Senator Roth.

19 SENATOR ROTH: Aye.

20 MS. JONES: Assemblymember Nazarian.

21 MR. NAZARIAN: Aye.

22 MS. JONES: Juan Mireles.

23 MR. MIRELES: Aye.

24 MS. JONES: Cesar Diaz.

25 MR. DIAZ: Aye.

1 MS. JONES: Daniel Kim.

2 MR. KIM: Aye.

3 MS. JONES: Gayle Miller.

4 MS. MILLER: Aye.

5 MS. JONES: And that motion carries. Thank you.

6 MS. MILLER: Great. Thank you. Okay. Now we're
7 on to the **Executive Officer's Statement.**

8 MS. SILVERMAN: Yep.

9 MS. MILLER: Thank you.

10 MS. SILVERMAN: So we have a few things to share
11 tonight. So we wanted to update the Board on the full-day
12 kinder facilities grant program and so we wanted to
13 highlight last month we took action on 12 projects for
14 \$37 and a half million. We did share with the Board last
15 month we had 261 projects for \$324 million for the first
16 funding round, so that was great news. Oversubscribed
17 definitely.

18 Second filing round closed on May 30th and they're
19 competing for the \$60 million that remains and that's 349
20 applications that came through the door for nearly
21 \$432 million. So a lot of interest in the full-day kinder
22 program. So looking forward to provide those grants and
23 those awards in the fall for the Board to take action on.

24 We wanted to give the Board an update on the
25 priority funding apportionments that reflect the spring bond

1 sale. That's nearly \$222 million in bond awards and so
2 those projects have until July 23rd to activate their
3 program, and just to give the Board an update, as of
4 June 7th, there was about \$110 million that has been
5 disbursed. So they have again till July 23rd to come for
6 the program cash.

7 We have about a handful of projects with career
8 tech education and they have different timelines. So those
9 projects have 12 months to perfect, so they have until
10 April 23rd of 2020 to come in with the Division of State
11 Architect approval and Department of Education approval as
12 well. So we will be -- continue to communicate with
13 districts about their program cash and I'm sure
14 (indiscernible) the door before the July 23rd deadline and
15 again the goal is to abrogate all program cash.

16 We also wanted to highlight there was a priority
17 funding round filing deadline that closed June 6th. We had
18 nearly 777 million -- actually over \$777 million in projects
19 that came to the door for that certification round. That
20 was over 196 projects.

21 What that means is those projects are definitely
22 eligible for the fall grant -- fall bond sale and so those
23 certifications are valid from July 1st to December 31st and
24 again, that's great news for the fall bond sale and that's
25 great news for those projects.

1 The next item we wanted to highlight is we have a
2 career tech education facilities program stakeholder meeting
3 and that meeting is July 24th from 1:00 to 3:00 and that
4 will be here in the State Capitol in Room 4202 and the goal
5 of that meeting is to talk about the current funding order
6 for the career tech program.

7 So again we'll have it webcast and we'll actually
8 be producing our item in public notice ten days before the
9 meeting. So again looking forward to getting a lot of
10 public input on the funding order for career tech education.

11 And then we will not have a meeting in July. So I
12 just wanted to share that update as well. And so our next
13 meeting will be August 28th at 4:00 o'clock.

14 MS. MILLER: Great. Thank you very much. Is
15 there any public comment at this time? No? Then we will
16 move to the next item which is the **Consent Agenda**, please,
17 Ms. Silverman.

18 MS. SILVERMAN: Yeah. Consent Agenda is ready for
19 your approval.

20 MS. MILLER: Great. Are there any questions from
21 the committee on the Consent Agenda?

22 MR. DIAZ: Motion to approve.

23 MS. MILLER: Great.

24 MR. NAZARIAN: Second.

25 MS. MILLER: Thank you. Moved by Mr. Diaz.

1 Seconded by Mr. Nazarian. Any public comment? No? Great.

2 Ms. Jones, please all the roll.

3 MS. JONES: Senator Wilk.

4 SENATOR WILK: Aye.

5 MS. JONES: Senator Roth.

6 SENATOR ROTH: Aye.

7 MS. JONES: Assemblymember Nazarian.

8 MR. NAZARIAN: Aye.

9 MS. JONES: Juan Mireles.

10 MR. MIRELES: Aye.

11 MS. JONES: Cesar Diaz.

12 MR. DIAZ: Aye.

13 MS. JONES: Daniel Kim.

14 MR. KIM: Aye.

15 MS. JONES: Gayle Miller.

16 MS. MILLER: Aye.

17 MS. JONES: That motion carries.

18 MS. MILLER: Great. Thank you very much. The

19 next item on our agenda is the **Status of Fund Releases**.

20 Ms. Silverman.

21 MS. SILVERMAN: Yeah. So if I can direct your
22 attention to Tab 5 and 6. So Tab 5, we just wanted to share
23 with the Board on page 97 is just the activity of the bond
24 sale being released, as I shared with you earlier.

25 In May we dispensed \$59 million and again the

1 Board took action on the end of April for those bond
2 proceeds. And so as we get closer to the July deadline,
3 we'll show more activity come the August Board. So that
4 will reflect the \$200 plus million that we'll be disbursing.
5 So that's great news.

6 And then as part of the Consent Agenda, on
7 page 99, again that's reflective of all of the bond proceeds
8 we do have. In the Consent Agenda, you did approve over
9 \$158 million in project awards, so that's great news as
10 well, and we do have some closeout and rescission activity
11 as a result of the Consent Agenda. So that's the highlight
12 of the Status of Funds.

13 MS. MILLER: Great. Thank you. Is there any
14 public comment on this month's fund releases? No? Then
15 we're going to move onto the status of funds -- well, we did
16 that at the same time.

17 MS. SILVERMAN: We did that, yes.

18 MS. MILLER: Yes. I did this last time too.
19 Okay. Then we're going to move to Tab 6 and we're going to
20 hear the Farmersville Unified in Tulare and San Bernardino
21 appeals together, correct, Ms. Kampmeinert?

22 MS. KAMPMEINERT: Yes. We'll give the --

23 MS. MILLER: Okay.

24 MS. KAMPMEINERT: -- presentation together and the
25 districts are also here to provide comments --

1 MS. MILLER: Great.

2 MS. KAMPMEINERT: -- and answer questions.

3 MS. MILLER: Thank you.

4 MS. KAMPMEINERT: So with that, the first appeal
5 is for Farmersville Unified in Tulare County and this can be
6 found in the appeal section on page 117 of your agenda.

7 Farmersville is requesting to retain unspent funds
8 from the completion of a new construction project at Freedom
9 Elementary School and a little history on this project. The
10 district received an apportionment in December 2011 for a
11 little over 4 million in funding to construct an eight
12 classroom addition.

13 As is shown on the table on page 117, the state
14 grant for the project was approximately 2 million with
15 additional financial hardship assistance in the amount of
16 1.79 million and the district contribution of 241,000.

17 The district completed the project and in 2017
18 submitted the final expenditure report and declared \$248,000
19 in unspent funds.

20 In accordance with the SFP regulations, OPSC
21 requested that the district either return the savings and
22 have that amount reduced from the financial hardship
23 assistance provided from the Freedom Elementary project or
24 apply the funds to reduce financial hardship assistance to a
25 future project in the next three years.

1 The district opted to appeal and requested to
2 retain the savings for other high priority capital facility
3 needs.

4 Staff does not support the district's request as
5 we believe that the request to retain savings is
6 inconsistent with the language and intent of the statute and
7 regulations governing financial hardship assistance.
8 However, the district maintains that the regulation
9 requiring the return of savings is contrary to how savings
10 is treated in the SFP statute and the district further
11 maintains that the requirement for financial hardship
12 districts to return savings is discriminatory.

13 And for reference, the specific statutes that are
14 the topic of this discussion are Education Code
15 Sections 17075.10, 17075.15, and 17070.63(c), the text of
16 which can be found on page 121 of the agenda for your
17 reference.

18 And the district relies on Ed Code 17070.63(c)
19 which states in part that any savings achieved by the
20 district's efficient and prudent use of funds shall be
21 retained by the district for other high priority capital
22 outlay purposes.

23 And for projects under the SFP where districts are
24 making their matching share of funds, OPSC acknowledges that
25 savings can be retained by districts. However, the district

1 maintains that the statute should also apply to financial
2 hardship projects and that, therefore, the regulation
3 section -- SFP regulation section 1839.103 which requires
4 the return of savings is inconsistent with the law.

5 We disagree with this assertion. The function of
6 the financial hardship program is to enable districts to
7 participate fully in the SFP. It allows districts who
8 qualify to receive additional funding from the state based
9 on a district's financial constraints, and statute provides
10 the Board with distinctly separate authority for financial
11 hardship under Ed Code Sections 17075.10 and 15, and those
12 sections further include the authority to adopt regulations
13 to determine the amount of funds that will be provided
14 through financial hardship funding.

15 When the Board did adopt regulations, it required
16 that savings would be returned and that was done under the
17 Education Code which specifically states that the Board
18 shall adopt the regulations to determine the amount that may
19 be provided and the eligibility under the article.

20 And the regulation does identify that the unspent
21 funds may not be retained for other high priority capital
22 projects. So the district's claim that the regulations are
23 inconsistent with statute does not appear to consider the
24 authority provided under this particular statute.

25 So we believe that the regulation requiring the

1 return of unspent funds from financial hardship projects is
2 legal and that the Board's authority to create a regulation
3 to require this is clearly provided for in Education Code
4 and this is how financial hardship's been handled for almost
5 20 years.

6 The program was intended to assist the districts
7 in providing their matching share and it was never intended
8 to leave hardship districts in the position of retaining
9 unspent grant funds after the completion of the project.

10 We've discussed this at length with legal counsel
11 who fully concurs that this is the correct application of
12 Education Code Section 17075.15 and the related regulation.

13 With that, I'd like to transition to San
14 Bernardino's appeal which begins on page 143 of the agenda.
15 The project -- so the specific arguments we just discussed
16 here with relation to Farmersville are also related to the
17 San Bernardino appeal and then the San Bernardino appeal has
18 a few other areas for consideration.

19 But the project up for discussion is for an
20 overcrowding relief grant project at Middle College High
21 School and that was from funding that started with
22 Proposition 1D. And the district did receive an
23 apportionment in February 2010. The project funding summary
24 is on page 144 and that table will show that the total
25 project cost was 35.7 million with a state share of

1 17.9 million.

2 The financial hardship funding was in the amount
3 of 17.7 million and there was a district contribution of
4 approximately \$200,000. The district completed the project
5 and submitted the final expenditure report in July 2015
6 which indicated unspent funds in the amount of approximately
7 3.2 million.

8 Like Farmerville, the district is disputing the
9 requirement to return the funds or to use them to offset
10 financial hardship on a future financial hardship project.

11 So for the other -- in addition to the statutory
12 discussion, the district has raised a few other areas for
13 consideration. First, the district maintains that because
14 their project was funded under the overcrowding relief grant
15 project that the Santa Ana Unified School District vs. State
16 Allocation Board court case can be used to justify its
17 appeal request.

18 Staff acknowledges that the Superior Court did
19 indeed decide on the matter of savings in the overcrowding
20 relief grant program. However, the Court's decision did not
21 include consideration of the statute related to financial
22 hardship funding. That was because Santa Ana had made their
23 local match for the project that was the subject of the
24 lawsuit.

25 So we maintain that it is the financial hardship

1 regulations that require the return of the unspent funds
2 which is separate from the regulations concerning the
3 overcrowding relief grant program.

4 Secondly, the district also points to a memo from
5 1999 issued by OPSC that states that districts that have
6 savings on a financial hardship project can retain them for
7 purposes of other high priority capital outlay and we have
8 researched this memo and reviewed OPSC's and the Board's
9 past practices and procedures after this memo was issued.

10 The memo does appear to be a misinterpretation of
11 the financial hardship regulations. It also appears to be
12 the only time that it is mentioned that financial hardship
13 savings can be retained and subsequent guidance from OPSC
14 just three months later and actually every publication
15 following, a sampling of which we've included in the agenda
16 on page 147, does provide the correct application of the
17 regulation and that savings must be returned.

18 So we do not support the appeals and we maintain
19 the position that financial hardship assistance was only
20 intended to help districts who could not make their matching
21 share so that they can participate fully in the SFP. To
22 date approximately 166 million has been collected in unused
23 financial hardship funds and it's been returned to the
24 program and reallocated for other construction projects, and
25 as I mentioned before, we've worked extensively with legal

1 counsel and we do believe that the Board was on solid ground
2 back in the beginning of the program when they established
3 the financial hardship regulations and that the regulation
4 is in keeping with the goal of the financial hardship
5 assistance.

6 With that, I'd like to turn it over to the
7 districts.

8 MS. MILLER: Thank you very much. Would the
9 districts like to make their way up here, please. And,
10 Mr. Cunningham, welcome. This is my second meeting, so I'm
11 very happy not to be the newest person, but I've already
12 messed up once, so --

13 Thank you. Welcome. If you could please state
14 your names as well.

15 DR. SEVILLANO: Paul Sevillano, Superintendent.

16 MS. MILLER: Great. Thank you. What --

17 DR. SEVILLANO: Farmersville Unified.

18 MS. MILLER: Great. Thank you.

19 MR. CLAIR: Nick Clair, legal counsel for
20 Farmersville Unified.

21 MR. HENDERSON: Phil Henderson, legal counsel for
22 San Bernardino City Schools.

23 MR. PACE: Thomas Pace, Director of Facilities,
24 San Bernardino, and I appreciate the sign that says don't
25 sit on the glass. Thought about sitting on the table

1 myself.

2 MS. MILLER: Really?

3 MR. PACE: No. But I appreciate the guidance.
4 It's very clear.

5 MS. MILLER: It says it up here as well. Thank
6 you. Go ahead.

7 DR. SEVILLANO: I would like to thank you for
8 hearing our appeal today. My name is Dr. Paul Sevillano,
9 Superintendent of Farmersville Unified School District.
10 Farmersville Unified is a rural school district located in
11 the Central Valley. 91 percent of our students are
12 qualified for free and reduced lunch and 43 percent of our
13 students are identified as English learners.

14 Our appeal today is based on the following. In
15 2012, the district received state financial hardship funds
16 to add an additional building to Freedom Elementary which
17 moved sixth grade students from the junior high school to
18 relieve school overcrowding.

19 District staff used hardship funding strategically
20 and realized a savings of \$248,000 on the project. The
21 district used the savings on another modernization project
22 to resolve a costly change order to address discovery of
23 underground storage tanks and removal during a replacement
24 of air conditioning in our cafeterias and classroom upgrades
25 to meet Williams compliance.

1 Because hardship funds were expended on high
2 priority facility needs, the district will be forced to
3 return the savings from our general fund which will impact
4 the district programs that benefit our students.

5 The district was surprised to learn that an
6 inconsistent exception to the Legislature statutory rule
7 that applies only to financial hardship districts. Had the
8 district known at the time it would be required to return
9 the savings realized on the project, the district would have
10 added additional classrooms and other less high priority
11 improvements to the project.

12 It would be imprudent for the district to not make
13 use of every dollar available and faced with a use it or
14 lose it choice, we will of course use it. Instead the
15 district took the action the Legislature intended and
16 utilized the savings we realized through our own efforts on
17 other urgent facility needs.

18 It is unfair that wealthy school districts are
19 rewarded for prudent project management, while we are
20 encouraged to spend funds on unnecessary single projects
21 rather than addressing the critical facility needs and
22 infrastructure needs of our district.

23 In our case, the district did exactly what the
24 Legislature intended. We made every effort to control costs
25 and to prudently manage the project and as a result, we were

1 able to address other critical facility needs.

2 We did not do what the State Allocation Board's
3 inconsistent policy encouraged, making unnecessary
4 expenditures on a single project while ignoring the other
5 critical infrastructure needs of our district.

6 The Office of Public School Construction request
7 for the return of the project savings at this stage will
8 impact the district general fund and impact important
9 programs for our students.

10 We hope that you fully consider this policy of
11 unequal treatment on less advantaged school districts that
12 will impact our students and similarly situated students
13 statewide. Thank you.

14 MS. MILLER: Thank you very much.

15 MR. PACE: Once again, my name's Tom Pace. I'm
16 the Director of Facilities for San Bernardino City Unified
17 School District. I bring the message of our superintendent,
18 board, and community here this afternoon and like to largely
19 thank those that we've sat with and discussed our point of
20 view for your time and effort in understanding our
21 perspective and I think understanding how the ORG projects
22 are funded is important to understand our argument.

23 When you look at the ORG program, it is a 50-50
24 program for new construction, 50 percent coming from the
25 state, the grant share, and in order to qualify for the

1 grant share, you have to have eligibility or entitlement,
2 and there's an exchange that occurs in giving that
3 eligibility and this alternate currency, you get state
4 funds. You get 50 percent of the project.

5 Under hardship, we proved that we had the
6 inability to raise local funds. We received hardship funds
7 to make up the remaining 50 percent. We had 3 million in
8 savings. We inquired as to how OPSC treats savings. They
9 treat it the same way from the two separate pots. So if you
10 have 3 million left over, 1.5 of that is considered state
11 share, grant share, and 1.5 is considered local share.

12 And you may be wondering why we're trying to
13 retain savings given that we received the benefit of a new
14 school, and I think that that's a fair question to ask and I
15 hope largely to answer that question right now.

16 So in nonhardship, savings is looked at the same
17 way under the ORG program. If a district -- the neighboring
18 district to ours has savings of 3 million on an equivalent
19 project, the savings is considered 1.5 million state share,
20 1.5 local share.

21 What that district can do -- nonhardship can do is
22 they can take that \$3 million in savings, put that back into
23 another qualifying project, and receive an additional
24 \$3 million in state funding. In the end, the district next
25 to ours can build another project for only \$1.5 million of

1 local contribution.

2 What we're told is you got a new school. Return
3 your money and we will not return eligibility. I think
4 what's lost in this argument is the state share is given in
5 exchange for eligibility. Okay.

6 It's punitive to hardship districts to ask for
7 those funds back and I'll tell you why it's punitive. When
8 we lose eligibility, we lose the ability to get back into
9 the program and while our neighboring school districts can
10 build with their savings -- and the example I gave you on
11 nonhardship -- for \$1.5 million of local savings, a
12 neighboring district can get an additional \$4.5 million in
13 state funding when we're asked to return the state share,
14 the local share, and we do not get eligibility back.

15 What we are telling the students of our district
16 and small school districts is that because your parents
17 bought a home in an area that does not see assessed value
18 growth, you do not get the same value of education that
19 neighboring school districts can.

20 Classifications based off of wealth are
21 inappropriate. The idea of returning savings does not help
22 us meet the need of our school district. We serve over
23 50,000 students. 5,000 of them are homeless. The idea to
24 return the savings back to the state to fund other projects
25 outside of our area we feel is inconsistent with statute and

1 with case law and that's essentially why we think that we
2 should retain savings.

3 We think that the allocations once made are full
4 and final. Our Governor even made the same argument with
5 the Federal Government over the bullet train. He said once
6 Congress allocates money to the state, it needs to stay in
7 the state. It does not go back.

8 That idea of once allocated should hold true and I
9 think that one of the things we also forget is the citizens
10 of our two communities pay taxes. The bonds that the state
11 issues are paid for out of the general fund from taxes
12 generated from our communities. To return savings is
13 punitive to communities and our two communities serve high
14 need students and I think that that's largely what we
15 believe is that it's inconsistent with statute, case law.
16 We have need and the allocations were made.

17 MS. MILLER: Thank you for your time. Are there
18 any questions from the members?

19 MR. NAZARIAN: Yes.

20 MS. MILLER: Mr. Nazarian.

21 MR. NAZARIAN: So do you have a project ready to
22 go?

23 MR. PACE: Yes, sir.

24 MR. NAZARIAN: So do you have a project that
25 you've applied for at this point that you can apply these

1 funds to?

2 MR. PACE: We have high capital projects that
3 we're in design for that we could apply these funds to right
4 now, and in my mind, the ORG funds --

5 MR. NAZARIAN: I'm sorry. Have you applied for
6 (indiscernible).

7 MR. PACE: The ORG closed. So for us, we would
8 have to apply either in modernization or new construction.

9 MS. MILLER: Right.

10 MR. NAZARIAN: But this has been going on for some
11 time, so why not -- why haven't you applied so that then we
12 can consider whether or not the money -- because we have
13 made that exception. We have approved appeals like that,
14 but if there's nothing in cue --

15 MR. PACE: We have projects that are in cue.

16 MS. MILLER: But I think --

17 MR. PACE: Modernization. But the ORG program is
18 closed, which I think is another point is we're returning
19 funds back to a program that is closed. There is no ability
20 for districts to apply for ORG projects.

21 MS. MILLER: Right. I'm going to actually correct
22 that.

23 MR. PACE: Yeah.

24 MS. MILLER: So the \$166 million -- so the -- this
25 is a practice of over 20 years as you know, I think.

1 Farmersville has actually return hardship savings before on
2 four different occasions and while we understand that the
3 need in each district is so great, part of what we face as a
4 state is how do we get the most amount of money out to the
5 most amount of districts.

6 So the \$166 million that has been returned to the
7 program and, although I'll rely on Mr. Patton and staff to
8 correct me, but it does go back out. It doesn't -- there --
9 and that is part of the state's role and this is -- and
10 there's always attention as we know in making sure that the
11 state actually serves the maximum amount of schools
12 possible.

13 So I do just want to point out in San Bernardino,
14 of the \$35.5 million that you have for this project, the
15 district only contributed \$196,762.

16 MR. PACE: We contributed eligibility for our
17 state share.

18 MS. MILLER: Right. Absolutely. And I'm not
19 disagreeing with that, but I do want to -- the issue here to
20 Mr. Nazarian's point about other projects doesn't only speak
21 to San Bernardino or Farmersville. There's also a broader
22 question about the huge need in the state that is really,
23 really significant and is much greater than any one of your
24 districts.

25 Ms. Silverman, do you want to state --

1 MR. PACE: Could I quickly respond to the
2 larger --

3 MS. MILLER: Could you let Ms. Silverman just to
4 make sure I got it right --

5 MR. PACE: Oh, sure.

6 MS. MILLER: -- because again --

7 MS. SILVERMAN: So I do understand there's two
8 issues here. So there's \$9 million currently in the
9 overcrowded relief grant funds that haven't been allocated.
10 We have two projects that haven't been disbursed because we
11 are waiting for the disposition not only of this appeal
12 because -- and we have program funds.

13 So depending on the outcome so the -- we left the
14 program open and there's two projects waiting on the
15 workload list and those projects are listed in the
16 information section on page 314. That's Covina Valley and
17 Chafee and those are overcrowded relief unprocessed grants.

18 So depending on the outcome, the projects
19 potentially could get funded.

20 MS. MILLER: Right. And I just -- one final
21 point. I don't want to conflate the overcrowding relief
22 with the financial hardship because this appeal specifically
23 applies -- you know, we're using -- we're kind of conflating
24 the two and what this appeal is based on and the law it is
25 based on is on financial hardship and not overcrowding

1 relief.

2 So I do want to keep those two items discrete.

3 And I'm sorry, sir. Please.

4 MR. PACE: No. And I think there's -- I would
5 agree with you on two items.

6 MS. MILLER: Oh, good.

7 MR. PACE: So let's agree on the face that
8 statewide we have lots of needs.

9 MS. MILLER: Um-hmm.

10 MR. PACE: I would ask the question if we're
11 concerned about need and funding other projects, why do we
12 allow other districts to retain savings that were generated
13 from the state. If we want to allocate greater --

14 MR. NAZARIAN: And that's why I was asking if you
15 had a project. I'm sorry I'm speaking out of turn,
16 Ms. Chair.

17 MS. MILLER: No, no.

18 MR. NAZARIAN: That's why I was asking if you had
19 submitted a project and you had something in cue because
20 even if it was submitted later than most other projects have
21 been in cue or already approved, the fact that you're
22 already in the process -- we've approved funding for other
23 school districts in that manner. So that -- you know, if
24 you've done a great job with savings, then it goes back and
25 you can continue financing your projects, but --

1 MR. PACE: And we have projects in line, yes, sir.

2 MR. NAZARIAN: I don't think that's the case. Am
3 I mistaken here?

4 MS. KAMPMEINERT: It would be applied as an offset
5 to any future financial hardship as opposed to any
6 additional funding and the overcrowded relief grant program,
7 this is -- the only two projects that are left are those two
8 that are on the list. We are not accepting any new
9 applications for the overcrowded relief grant program.

10 MS. MILLER: Mr. Patton and then Mr. Cunningham,
11 the Mr. Diaz.

12 MR. PATTON: I just want to interject. For me to
13 be able to follow the argument and the discussion, it's very
14 important that there not be a conflation of project types.

15 MS. MILLER: Right.

16 MR. PATTON: So when the question is asked do you
17 have another project in cue, the answer's going to be of
18 course we do. The question, though, is do you have another
19 qualifying financial hardship program in cue to which you
20 can redirect these funds.

21 MS. MILLER: Oh. Thank you.

22 MR. PACE: So the answer to that question, Tom --
23 I appreciate the clarification -- is no.

24 MS. MILLER: Thank you for that. Mr. Kim.

25 MR. KIM: Thank you. I appreciate you traveling

1 all the way out here to talk about this. It seems like
2 there are two separate issues, one regarding do you want to
3 keep your money and two is you want to retain eligibility.

4 So with respect to keeping money, it sounded like
5 from the initial testimony that this was a surprise that you
6 wouldn't be able to retain the funds, but our understanding
7 is you've just returned monies on two other projects within
8 the past couple months. So it doesn't seem like it was a
9 surprise, so it would be inconsistent for us to actually
10 approve this and it would be inconsistent for you to
11 actually receive the funds.

12 So it seems to me that you knew what the program
13 intent and what the policy's been for the past 20 years.
14 That's one thing.

15 MR. PACE: So when you say you, because we have
16 two parties, I'm assuming that the district that returned
17 funds recently in the last two months is Farmersville?

18 MR. KIM: Yes.

19 MR. PACE: Okay. Gotcha'. Just --

20 MR. KIM: I'm sorry. Oh, I'm sorry. You're from
21 San Bernardino.

22 MR. PACE: Just wanted to make sure that we were
23 clarifying the royal you.

24 MR. KIM: It seems like -- so there's -- okay. So
25 I'm sorry. I got those two wrong. So in terms of keeping

1 the money, we don't do that typically. We haven't done that
2 for the past 20 years. I think the Board has assumed that
3 hardship funds is different from the other matching funds
4 because basically the matching funds, there may be an
5 incentive to keep the money. You already have a large local
6 match associated with that. So there may be some -- there's
7 a difference there versus having pretty much a hundred
8 percent funding.

9 You have a match on top of a match and any excess
10 funds there, it would seem like that money should go to
11 other schools that qualify for hardship because, like
12 Ms. Miller said, there is so much need out there. There's
13 so many more hardship districts than there is funding
14 available. So that's one thing.

15 The other thing is in terms of eligibility, I
16 think we can talk about that, but I guess it comes down to
17 this is oftentimes zero sum. So my understanding, just
18 looking at page 314, in your own district if the funds were
19 returned back to the program, a school within your own
20 county would be receiving those funds; is that correct?

21 MS. KAMPMEINERT: Yes.

22 MR. PACE: (Indiscernible) funds we would return
23 would go -- okay. Chafee, I see what you're saying.
24 Gotcha.

25 MR. HENDERSON: If I can make a quick point. I'm

1 sorry. Go ahead, Madam Chair.

2 MS. MILLER: So is it to the point specifically
3 and then we --

4 MR. HENDERSON: Yes, to this point specifically
5 because he reiterated the point you made, Chairwoman, is
6 that is again these savings are desperately needed from
7 districts. I guess nobody's addressing the point that
8 you're only doing that on the back of the financial hardship
9 districts, the poorer districts in the state. All the other
10 districts in the State get to keep the savings.

11 There are needs in the state. The program works
12 that savings get to be kept by the districts and everybody
13 has eligibility that they use and financial hardship
14 districts are just like those districts. But all of the
15 savings comes out of financial hardship with the needier
16 districts.

17 MS. MILLER: I'm going to let Mr. Diaz speak and
18 I'm going to clarify that point about how the math actually
19 works and how financial hardship districts may do better.

20 MR. DIAZ: Thank you, Madam Chair, and I'll let
21 you do that because I was going to point out something --

22 MS. MILLER: No, no --

23 MR. DIAZ: -- the differences of the program as
24 well in terms of the matching funds and the financial
25 hardship district actually receiving more money and so per

1 the regulation and even we're talking about the statute, you
2 are receiving more money to actually accomplish your
3 programs and so we would like to see those other districts
4 actually receive that kind of funding as well.

5 But one mention about the statute and how the
6 interpretation doesn't really correlate with our legal
7 counsel's interpretation and 20 years of actual Board
8 practice and policy to actually distribute back into the
9 program and then distribute within the county, what exactly
10 in the statute and in the regulation do you see an
11 inconsistency with because I don't really necessarily see
12 that.

13 MR. HENDERSON: I will absolutely address that.
14 The regulation is unenforceable because it does violate the
15 statute.

16 You are absolutely correct that the statute allows
17 you to implement regulations, to implement the statutory
18 requirements. 17075.63 specifically states the entire
19 program, districts get to keep savings and neither .10 or
20 .15 allow you to override that statute.

21 Yes, you can write regulations that implement it,
22 but the regulations can't violate another statute and that
23 statute still exists.

24 And if I can make -- I'm sorry. Go ahead.

25 MR. DIAZ: Finish your point, but I would like to

1 ask a point of privilege through the Chair. Can we have
2 Mr. (indiscernible) respond to those.

3 MR. HENDERSON: You made another point at the
4 beginning, Mr. Diaz. At the beginning there, you stated the
5 district is in essence giving a hundred percent of the
6 funding. I understand that and for other districts it's
7 going to be 50 percent, I don't remember OPSC offering us
8 50 percent of the savings. They want it all back.

9 Every other district gets to keep in essence what
10 you're saying is 50 percent savings because they contributed
11 the other 50 percent, but for financial hardship districts
12 who financially could not come up with the money, you're
13 saying give us a hundred percent of the savings back.

14 That is a disparate impact and disparate treatment
15 of districts that are frankly poorer than nonfinancial
16 hardship districts.

17 MS. MILLER: I'm going to actually let Mr. Patton
18 respond.

19 MR. HENDERSON: Okay.

20 MS. MILLER: And then if you want to add --

21 MR. HENDERSON: Oh absolutely.

22 MS. MILLER: Thank you.

23 MR. HENDERSON: I like listening to Mr. Patton.

24 MR. PATTON: Thank you. By way of background, and
25 I think some of the people here know, I have not gotten to

1 know every member of the Board, but I've been working with
2 the program for about 12 years, since 2007 when I was a
3 Deputy Attorney General and I was litigation counsel to OPSC
4 and to the Allocation Board.

5 And I went through a long piece of litigation over
6 financial hardship funding and claims of violation of equal
7 protection under Serrano vs. Priest and that culminated in a
8 District Court of Appeal, Fourth Appellate District,
9 Division 2, decision in Monica Sanchez vs. State of
10 California, November 19, 2009.

11 And the argument was made there that these
12 hardship district children have -- cannot be disparately
13 treated. They cannot be -- they have to be -- the argument
14 was that the formula for funding was inadequate to get them
15 to the level of the wealthiest districts in the state and
16 I'm here to tell you that was flat out rejected by the Court
17 of Appeal.

18 The question is not does a hardship district have
19 the same amount of funding as Beverly Hills. The question
20 is, is a constitutionally adequate level of education
21 provided as required by Serrano vs. Priest and we made -- we
22 pointed out the question is not -- you know, it's
23 interesting when I hear the argument we're being treated
24 disparately.

25 Well, financial hardship districts are being

1 treated disparately. They're receiving more grant monies
2 than any other districts. That's the disparate treatment.

3 And the premise of this program is that any monies
4 that are not needed to fund both the state and the local
5 match share which has now been made by the state, any of
6 those monies go back to the fund to fund further financial
7 hardship projects, which is why it's very important not to
8 conflate the types of programs.

9 I don't agree at all with the argument that the
10 general statute 17070.63(c) that talks about any savings
11 achieved by the district's prudent expenditure shall be
12 retained by the district for the reason that 17075.15 did
13 very expressly give the Board the authority to adjust to
14 defer the local financial contribution and to adopt regs to
15 determine the amount of funding that may be provided through
16 the hardship program to a district.

17 So I have advised and I will continue to take the
18 position that the Board is authorized to have adopted
19 1859.103 as its governing regulation and the equal
20 protection argument to me is -- it's a red herring. It
21 doesn't fly.

22 As long as Serrano vs. Priest mandate of a
23 constitutionally adequate education is provided, the
24 hardship program is satisfying constitutional standards.

25 MR. PACE: So could I ask you a question, sir?

1 MR. PATTON: Sure.

2 MR. PACE: So hardship -- there's two types of
3 hardship. There's facility hardship and financial hardship.
4 Would you say then that both of those two exceptions should
5 return savings?

6 MS. SILVERMAN: That's not the issue.

7 MR. PACE: Because the hardship provisions, it's
8 not talking solely about financial hardship. It's talking
9 about facility hardship and financial hardship. So would
10 you say that savings has to be returned in both cases?

11 MR. PATTON: I would have to ask Ms. Silverman to
12 clarify because now I think we're going to conflate two
13 concepts here.

14 MS. MILLER: So I think I'm going to actually
15 bring it back to the Board. I think some of these
16 conversations -- you know, Mr. Patton is obviously
17 available. So I mean are there any other questions from the
18 Board? Mr. Mireles.

19 MR. MIRELES: We are very sympathetic to the
20 position that districts who achieve project savings should
21 be able to reinvest them into other projects. However,
22 granting this appeal would invalidate our Board's
23 regulations. That hasn't just been approved by this Board,
24 but they've also approved by the Office of Administrative
25 Law and they've been in effect for years.

1 What we would propose, we would be open to having
2 a discussion of future regulatory changes if the Board would
3 so choose, but because we have this regulation that's been
4 in place for years and has been enforced in other districts,
5 we believe that we're bound by this regulation.

6 MS. MILLER: Thank you for that. Any other
7 questions?

8 MR. CLAIR: (Indiscernible)

9 MS. MILLER: Why don't we let the Board ask
10 questions and then we'll come back to you for a response.
11 Thank you very much. Senator Wilk. Nothing? Any other
12 questions from the Board? Okay. Thank you.

13 MR. CLAIR: So just on that last point because
14 this is something that -- oh, I'm sorry. Just on that last
15 point, the Sacramento Superior Court and the Santa Ana (ph)
16 decision wrote the Board's argument in opposition to the
17 petition makes much of the fact that the regulation -- same
18 regulation at issue here -- was validly adopted with no
19 public comment until now.

20 However, the fact that the public may not have
21 opposed the regulation is no reason to accord deference to
22 the Board's interpretation.

23 So just because something's been done for a long
24 time or that it has Office of Administration review doesn't
25 mean that the regulation's valid.

1 I kind of want to get back to --

2 MS. JONES: I need you to speak up.

3 MR. CLAIR: Oh, I'm sorry. I want to get back to
4 the regulation itself because it doesn't just say that all
5 savings shall be retained by districts. It says all savings
6 that are realized by the efficient and prudent expenditure
7 of state funds shall be retained by school districts.

8 The Legislature in creating the statute put its
9 legislative intent within the statute. The Legislature said
10 we want to encourage school districts to retain savings, all
11 school districts, all project types, no exceptions.

12 This regulation creates such an exception and I
13 want to hammer on that a little bit because the purpose --
14 what we keep getting at or what I keep hearing is that we
15 want to have as much funds available to as many projects as
16 possible.

17 The Legislature could have done that. They could
18 have required savings to be returned in all cases -- sorry.

19 MS. JONES: That's okay. I just (indiscernible).

20 MR. CLAIR: In all cases, in some cases, they
21 could have let the State Allocation Board create exceptions.
22 They could have wrote that into the regulation and the
23 regulation I very much disagree allows -- the statute that
24 you rely on for the creation of this regulation, I very much
25 disagree provides that authority and in fact, the regulation

1 at issue here itself does not cite that statute as the basis
2 of its authority.

3 MS. MILLER: Thank you for that. So I'm going to
4 get back to little math explanation. So I think what's at
5 issue here is we're talking about all districts in general,
6 but those that receive financial hardship assistance receive
7 effectively more funding because you're getting beyond the
8 normal 50 or 60 percent of a project at the time the award
9 is allocated.

10 So I think when we talk about savings at the
11 backend, you have to remember that 50-50 initial match --
12 and I -- so I'm concerned about when we're talking about the
13 intent of the legislation, it's not just one section of the
14 legislation or the regulation in isolation. It's a matter
15 of understanding the entirety of the program.

16 MR. CLAIR: And I would say --

17 MS. MILLER: Sorry. Microphone. I'm going to let
18 both of you comment and then see if there's a motion from
19 the Board and we'll do them separately.

20 MR. HENDERSON: Your point is very well taken and
21 the reason why that was written in that way is so financial
22 hardships can have full participation. By taking a hundred
23 percent of the savings back, we are not fully participating
24 in the program.

25 MS. MILLER: Right.

1 MR. HENDERSON: You're taking the money -- in
2 Mr. Pace's example at the beginning is a very good one. His
3 neighboring district gets to use those funds.

4 MS. MILLER: Right.

5 MR. HENDERSON: You're taking them back for
6 another district. That's not how the program works. We get
7 full and final amount at the beginning determining the
8 amount of funding, which is what you're allowed to write a
9 reg for, that's the full and final apportionment at the
10 beginning.

11 That's not determining the use of the savings.
12 That's not what the statute was supposed to allow.

13 MR. CLAIR: And the --

14 MS. MILLER: Final comment?

15 MR. CLAIR: Yeah. The regulation -- the idea that
16 the regulation is to extend the greatest number of funds
17 isn't even accomplished by the regulation. You create a
18 system where you're encouraging school districts to spend
19 every penny so that they don't have to return savings.

20 And so you're encouraging wasteful spending by the
21 school districts which is exactly what the statute when the
22 Legislature created it was trying to avoid. They were
23 trying to encourage the efficient and prudent expenditure of
24 funds, not a system where you're encouraged to spend every
25 dollar on every last thing at every classroom, do some extra

1 landscaping so that you don't have to return savings.
2 That's what the Legislature intended. This regulation is
3 entirely counter to that.

4 MS. MILLER: Despite the fact that Farmersville
5 has returned funds four times and San Bernardino has
6 returned them more than once.

7 MR. CLAIR: There's (indiscernible) to making
8 these appeals and that (indiscernible) for them than the
9 amount of savings at issue.

10 MS. MILLER: Okay. Any final questions from the
11 Board? So I think we'll take them as two separate; is that
12 correct? Okay. So we'll start with the Farmersville. Is
13 there any other public comment -- anyone in the audience
14 that wants to speak? No? Is there a motion?

15 MR. KIM: I'll make a motion to go forward with
16 the staff recommendation that the district be required to
17 return excess funds declared from its financial hardship
18 project.

19 ASSEMBLYMEMBER CUNNINGHAM: Second.

20 MR. MIRELES: Can you guys please clarify, staff.

21 MS. KAMPMEINERT: Yes. Past administrative action
22 was to require the district to return funds, so we don't
23 actually need a motion to do that. If there's no motion,
24 alternatively, staff's action stands.

25 MS. MILLER: So, Mr. Kim, would you like to

1 withdraw your motion then?

2 MR. KIM: I will withdraw my motion.

3 MS. MILLER: Thank you. Okay. There is no
4 motion. So we'll move on to San Bernardino. Is there any
5 additional public comment for San Bernardino? Seeing none,
6 is there a motion to grant the district's appeal?

7 There is no motion, but we thank you all for being
8 here this afternoon and for your time.

9 MR. PACE: We appreciate your time.

10 MS. MILLER: Thank you very much. Thank you.

11 MR. PACE: Thank you, Tom. You got the good name.

12 MS. MILLER: Next on the agenda is the **Biggs**
13 **Unified appeal.** Ms. Kampmeinert.

14 MS. KAMPMEINERT: Yes. So our third appeal is for
15 Biggs Unified in Butte County and it begins on page 181 of
16 your appeal section. This is also related to financial
17 hardship but a slightly different issue.

18 The district is requesting that the Board grant
19 financial hardship assistance other -- what is called other
20 evidence.

21 If you go to page 183 of your Board item, it will
22 show you the criteria that are considered when determining
23 whether or not a district is eligible to receive financial
24 hardship assistance. This starts from statute and then
25 further has regulations identifying the process.

1 And the first step is for a district to be levying
2 the maximum developer fees and then there are four other
3 secondary qualifying criteria. The first three we can do
4 administratively at the OPSC level and if the district does
5 not meet the first three criteria, then the fourth option is
6 to come before the Board with other evidence.

7 The criteria include whether or not a district has
8 passed a bond -- Proposition 39 bond for the maximum amount
9 possible in the past two years. In the case of Biggs, the
10 district has been unable to pass a local bond in their four
11 prior attempts.

12 The next option would be for a district to
13 demonstrate that they have a total bonding capacity of
14 \$5 million or less. For Biggs, they are at 17.5 million, so
15 they cannot come in administratively under that option.

16 And the third administrative option is to have a
17 bonded indebtedness of at least 60 percent of the district's
18 total bonding capacity and the district's currently at zero
19 percent, so we cannot do that administratively either.

20 Little info about the projects: These are
21 modernization projects for four school sites and the total
22 amount of financial hardship assistance being requested is a
23 little over \$3 million.

24 The district does have -- in addition to that
25 \$3 million request, the district does have about \$436,000 in

1 cash on hand to contribute.

2 The district is requesting other evidence due to a
3 few factors, one of which -- you can look at page 182 and
4 see the history of the district's attempts at local bonds
5 beginning in 2008. And in February and November of 2008,
6 the district did go out to its local community and attempt
7 to pass a bond to provide its matching share for the
8 modernization projects.

9 Those bonds did not pass and in 2009 -- end of
10 2009 and it actually carried over to January 2010, the
11 district appealed before the Board requesting financial
12 hardship other evidence for that factor as well as a few
13 other things with the district's finances at the time.

14 At the time, the Board had a robust discussion
15 about the financial hardship other evidence approval and
16 debated the issue. Some of the concerns raised included
17 whether or not the state should provide assistance in cases
18 where a district does not pass a bond and if that's a valid
19 reason for financial hardship other evidence.

20 Ultimately, at that time, the decision was to
21 provide design only funding so the district could get
22 started on these projects and then go back out to the local
23 community and attempt another bond.

24 So the district did do that. They've got their
25 plans designed and approved. They submitted their

1 construction applications. They attempted in 2012 and most
2 recently in 2018 to pass a bond at the local level.
3 However, those attempts were unsuccessful, which is what
4 brings them back before the Board today.

5 A few other things that we have looked at and
6 explored with the district is related to their ability to
7 explore other financing options for these projects, perhaps
8 a certificate of participation or any other options
9 available.

10 They have included a letter in their appeal from
11 the Butte County Office of Education which discourages the
12 district from taking on additional debt. They ran a
13 scenario, I believe it was about 3.7 million which is
14 roughly what they need to complete the modernization
15 projects and that would be an annual payment of about
16 \$250,000 and the COE discouraged that.

17 We did also hear from the district that they are
18 expecting to have housing coming in from FEMA related to the
19 families that were displaced by the Camp fire up in Paradise
20 area and that these students will be attending two school
21 districts, Gridley and then overflow from whatever Gridley
22 cannot accommodate as well as districts -- residing within
23 the Biggs Unified boundaries.

24 That would lead to students attending the schools.
25 However, we did note that these are modernization projects,

1 so the work being done will not actually add capacity for
2 those students, but it will enhance the facilities the
3 students would attend, both the Biggs students and the
4 Paradise students.

5 We've also included on page 182 -- I'm sorry --
6 actually page 251 and 252 of the agenda, a past history of
7 where the Board has been on prior appeals related to other
8 evidence and it's been a bit of a mix depending on the
9 individual circumstances of the district.

10 The Board has approved some, denied some, approved
11 design only funding for some appeals. So it's really been
12 dependent on the individual circumstances.

13 The last two appeals that we have heard related to
14 financial hardship other evidence in 2017 and 2018 related
15 to districts that had some unique circumstances. In one
16 case, it was related to a health and safety issue and the
17 Board granted design funding and then the district went out
18 and passed a bond and in the other case, it was a
19 combination of federal funding being at risk along with
20 being just over that \$5 million threshold which hasn't been
21 adjusted since the inception in about two decades and as
22 well as having the unique circumstance where the school is
23 on a military base, so all of the families were driving in
24 and the voters were not attending that school.

25 So that was factored into the past appeal as well.

1 We are unable to administratively approve the
2 district's request. The Board -- they have to come in under
3 the Board for other evidence.

4 So this does appear to be standard modernization
5 work and the circumstances that are different from when the
6 Board grappled with this in 2009, 2010 appears to be pretty
7 similar in that the district's local community still does
8 not support the bond, but they have gone out two more times
9 to try.

10 There are two options for your consideration on
11 this appeal if the Board is inclined. So the first option
12 would be to grant the district's request for funding for
13 unfunded approvals including financial hardship.

14 However, if the Board does not choose to go down
15 that path, the district would still be eligible for
16 modernization funding for these projects on a 60-40 basis.
17 So they're still eligible for the state share and that is
18 the second option to approve those items with a 60-40
19 matching share and then that would allow the district time
20 to figure out at the local level how to move forward with
21 the projects.

22 With that, I'm happy to answer any questions and I
23 believe the district is here as well.

24 MS. MILLER: If the district would like to come up
25 and does the Board have any questions for Ms. Kampmeinert?

1 No. Thank you. And if you could also please state your
2 names for the record. Thank you.

3 MR. KAELIN: Doug Kaelin, Superintendent, Biggs
4 Unified School District.

5 MS. RAGAN: Pam Ragan, Financial Officer, Biggs
6 Unified School District.

7 MS. CUNNINGHAM: Elona Cunningham, Jack Schrader &
8 Associates.

9 MS. MILLER: Please, go ahead.

10 MR. KAELIN: As I stated, my name's Doug Kaelin.
11 I'm the Superintendent of Biggs Unified. First, I'd like to
12 thank you for taking the time over this last week to hear
13 our issues within our district.

14 Biggs Unified School District is a small, rural
15 community in Central Sacramento Valley with a population of
16 about 2,000 people. We located about 60 miles north of
17 Sacramento, 30 miles south of Chico.

18 The schools serve as a focal point for many
19 community activities. School facilities are used by our
20 community and are a central part of the social fabric of our
21 community. While the school district always prides itself
22 on maintaining our facilities, eventually age takes over,
23 similar to my foot I guess.

24 Our permanent facility is over 50 years of age and
25 our portables are 20 years old. As you've been informed,

1 the district requests for financial hardship approval under
2 other evidence for funding of our modernization projects.
3 In 2010, the SAB approved the district for design funds
4 under other and the district was required to attempt a bond.

5 We've tried bonds twice for modernization since
6 that time and have been unsuccessful.

7 OPSC states that it only supports requests for
8 financial hardship status under other and unique or severe
9 circumstances. The Biggs Unified School District does have
10 a unique or severe circumstance as evident by the following.

11 Our district is located in a have and have not
12 community comprised primarily of farmers, owners, and
13 workers where 67 percent of the district students qualify
14 for free and reduced lunch.

15 Students who are socially economic disadvantaged
16 and in need of the most support are further disadvantaged by
17 being housed in substandard facilities through no fault of
18 their own. The daily school experience is a critical factor
19 in their sometimes fragile lives.

20 All of our district permanent facilities are
21 beyond 50 years of age and are in desperate need of repair
22 and our portable buildings are beyond the 20 years of life
23 expectancy.

24 The district has a strong sense of pride and
25 maintains facilities as best that we can with limited

1 facility funding, but the facilities are now requiring
2 significant infrastructure upgrades due to their age.

3 Biggs Unified School District is adjacent to the
4 Camp fire as mentioned earlier, the most destructive fire in
5 the history of California. A total of 540 FEMA trailers
6 will be going in our area. 450 will be in an adjacent
7 community and 90 will be going into Biggs. 450 of those
8 trailers are scheduled to be in place by August just prior
9 to school starting.

10 Based on our primary estimates, there could be
11 possibly 590 students, K-12, generated from that housing
12 project.

13 The district has unsuccessfully attempted four
14 bonds. The district facilities needs go beyond
15 modernization eligibility. Therefore, bond amounts exceed
16 the district's matching share.

17 As stated earlier, the Butte County Office of
18 Education has advised strongly against us issuing a COP in
19 an amount due to the negative impact it would have on our
20 district and it is not sustainable for our district to make
21 long-term debt service payments.

22 The state has invested \$628,000 in the district
23 and has contributed \$70,000 to draw plans for modernization.
24 The plans have been drawn and we have made every attempt to
25 provide our match.

1 Based on unique circumstances, we request
2 financial hardship status under other. The facility
3 hardship funding request for the approval of this appeal is
4 a little over \$3 million. The district has \$435,799
5 available out of our capital facilities for this project.

6 While any single element on this list may not
7 create a unique circumstance, the cumulative effects of all
8 three of these elements, our free and reduced numbers, our
9 unsuccessful four attempts to pass a bond, our inability to
10 issue debt, and the impact of the most devastating Camp fire
11 create unique circumstances.

12 We respectfully request that you support our
13 appeal. Thank you for your time.

14 MS. MILLER: Thank you. Any other comments?
15 Okay. Please may I get questions from the Board and then
16 open up for public comment.

17 ASSEMBLYMEMBER GALLAGHER: Well, I'm the
18 assemblyman that represents --

19 MS. MILLER: Oh, please, sir. I'm sorry. Of
20 course. I'm sorry, Mr. Gallagher.

21 ASSEMBLYMEMBER GALLAGHER: That's all right.
22 Yeah.

23 MS. MILLER: This is what happens when you abandon
24 us. Thank you, Mr. Gallagher.

25 ASSEMBLYMEMBER GALLAGHER: So just briefly, you

1 know, to the Board. I think that, you know, the key
2 question here is are there unique circumstances presented by
3 this appeal and I think there definitely is.

4 As we heard earlier this year, the Paradise
5 Unified School District -- the need to expedite that bond
6 money because of everything that's happened in Paradise.

7 What has also happened is in addition to trying to
8 help Paradise School District get back on its feet, many
9 people have been dispersed into the outer communities. So
10 here just next week, 1,300 people are moving into a FEMA
11 site in Gridley which is in -- Biggs and Gridley are right
12 next to each other. The school district serves both areas.

13 And so there will be an impact to this school as
14 well as many people are living, you know, outside of
15 Paradise in the region and we're experiencing these very
16 real impacts to all our facilities.

17 So I think, you know, that spells out the unique
18 circumstances in this case. In addition to this is a
19 district that has tried multiple times to try and pass a
20 local school bond, but it is an area where a lot of people
21 are on fixed incomes.

22 I think as was pointed out, there's a very high
23 level of free and reduced lunch and so it is hard to
24 convince the community to add an additional cost on top of
25 it. And again, I think they've done it both in 2008, 2012,

1 and just this last year in 2018.

2 It's not like they're not trying to get that local
3 match. They've been really working hard to get that. So I
4 just think with all those things considered, I think it
5 spells out those unique circumstances category to grant this
6 appeal and so I just ask for your special consideration of
7 what I think is a very unprecedented case. Thank you.

8 MS. MILLER: Thank you very much, sir. Thank you.
9 Any other -- yes.

10 ASSEMBLYMEMBER CUNNINGHAM: Yeah. I have a few
11 questions for the gentleman from Biggs. So there's FEMA
12 trailers that are housing families that have been displaced
13 by the fire, correct?

14 MR. KAELIN: There will be.

15 ASSEMBLYMEMBER CUNNINGHAM: There will be. Okay.
16 When are those going to be placed?

17 MR. KAELIN: First phase, the 450 trailers are due
18 to be occupied August 15th.

19 ASSEMBLYMEMBER CUNNINGHAM: Okay. And then --

20 MR. KAELIN: There's 90 going into Biggs and
21 those -- they haven't given us a date on those.

22 ASSEMBLYMEMBER CUNNINGHAM: Okay. And then so
23 your estimated number of students that are going to be
24 matriculating to your district based on the trailers that
25 will be sited within your district boundaries is what again?

1 MR. KAELIN: Students going into the FEMA housing
2 that is in Biggs Unified which is about seven miles away,
3 they're anticipating based on the number of trailers,
4 socioeconomic data that there's possibly 450 students from
5 those.

6 ASSEMBLYMEMBER CUNNINGHAM: Okay. And so I'm
7 looking at page 188 of our materials here and I believe it's
8 your application or your -- excuse me -- your appeal request
9 and it sets forth some factors and what you're seeking to
10 use these funds for should your appeal be granted and I'm
11 seeing replacing roofs, modernizing HVAC, modernizing
12 restrooms and buildings to be ADA compliant, and replacing
13 20-year-old portables.

14 So is it fair to say that these things that you're
15 listing here that you would use these funds to do are things
16 that would benefit both the new students that are displaced
17 from the fire and also your existing students?

18 MR. KAELIN: 100 percent yes.

19 ASSEMBLYMEMBER CUNNINGHAM: Okay. And with
20 respect to -- my last question is with respect to this last
21 attempt at the bond, I see that it's 54 percent yes, but
22 it's a very small number of votes.

23 MR. KAELIN: Correct. Yes.

24 ASSEMBLYMEMBER CUNNINGHAM: (Indiscernible) around
25 25 people and you're at 55; is that right?

1 MR. KAELIN: That's correct.

2 ASSEMBLYMEMBER CUNNINGHAM: Okay. I just wanted
3 to point that out because it seems like the effort certainly
4 has been made on that end. Sounds like you came up a little
5 short. With that -- and I apologize for not recalling this,
6 but was that vote on that bond before or after you got word
7 that there would be displacement from the Camp fire?

8 MR. KAELIN: That vote -- I could be off a day or
9 two, but basically two days prior to the Camp fire.

10 ASSEMBLYMEMBER CUNNINGHAM: Was the vote.

11 MR. KAELIN: Was the vote, yes.

12 ASSEMBLYMEMBER CUNNINGHAM: Okay. So at the time
13 that the voters made their votes on your last request for a
14 bond, the Camp fire had not happened yet, so that presumably
15 was not in the voters' minds when they --

16 MR. KAELIN: Correct. The Camp fire did not
17 happen yet.

18 ASSEMBLYMEMBER CUNNINGHAM: Okay. Thank you.

19 MR. GALLAGHER: May I just add to that,
20 Assemblyman, that -- I mean it is -- it's a very small --
21 both of these areas are small school districts, so really,
22 you know, any amount of impact is going to be probably
23 greatly -- more greatly felt, if you will, and so you've got
24 both Gridley and Biggs. They're, you know, two communities
25 that are basically right next to each other in southern

1 Butte County. So --

2 MS. MILLER: Thank you. Senator Leyva.

3 SENATOR LEYVA: Thank you, Madam Chair. I am new
4 to the State Allocation Board, but I can't think of anyone
5 that would qualify more for financial hardship assistance.
6 It seems like you guys have done everything that you can
7 possibly do. Do we need a motion?

8 MS. MILLER: We do need a motion.

9 SENATOR LEYVA: At the time that it's appropriate,
10 I would move that we go with option one because I think it
11 would put a further hardship on the district to ask them to
12 come up with matching funds at this time. So I'll just
13 throw that out for consideration to the Board.

14 MS. MILLER: Thank you, Senator. Were there --
15 Mr. Diaz and then I'll entertain that motion. Thank you.

16 MR. DIAZ: Thank you, Madam Chair, and thank you
17 for coming to visit with us and, you know, explaining kind
18 of the situation.

19 When we met, we talked about the different
20 attempts to actually finance locally and try to attempt to
21 get matching dollars. I am curious, though, you said it was
22 four times, right?

23 MR. KAELIN: Yes, sir.

24 MR. DIAZ: On the last try -- most recent I should
25 say because hopefully you'll go back for more and keep

1 trying -- you went for a higher amount and can you explain,
2 sir, the rationale behind or -- if you lost three times
3 before, why not try to, you know, convince the voters for a
4 smaller amount.

5 MR. KAELIN: So the first two times we lost, I was
6 not the superintendent of the district. I've been there the
7 last eight years. So as I -- we lost the first time I was
8 there and then when we started having community stakeholder
9 meetings, you know, trying to engage our stakeholders in to,
10 you know, here's our modernization plans, you know, what's
11 missing here, what would you like, what is important to you,
12 one of the things that kept coming up was our elementary
13 school which is a TK-8 school does not have a gymnasium type
14 facility.

15 So for their wintertime activities and stuff,
16 they're in a very small multiple purpose room. So one of
17 the items that kept coming up was, you know, is there any
18 way we can get a small gym for the elementary school and it
19 came up over and over again. So the increase in our bond
20 was to look at trying to put in a small gym thinking that
21 that was an item that came up a lot from our stakeholders,
22 that we might pull in some more yes votes. And we got more
23 yes votes, just not enough.

24 MR. DIAZ: Thank you.

25 MS. MILLER: Thank you. Any other questions from

1 the Board? Mr. Kim.

2 MR. KIM: This is a question to Ms. Silverman
3 first. Should Biggs receive the funds, a pot of money is
4 coming from the financial hardship funds and that would be
5 that much less money for the school districts that already
6 qualify under financial hardship and have done all of these
7 other criteria.

8 MS. SILVERMAN: So the money will be coming from
9 the modernization pot, so yeah. It's -- so they would meet
10 the qualification if the Board approves them and so they
11 would again have their projects funded so they would get
12 their match as a result of that. So there'd be less funds
13 available from the modernization pot of funds.

14 MR. KIM: And those schools already qualify under
15 the financial hardship requirements. They're all free and
16 reduced lunches, English learning populations and like.

17 The other question I have is generally speaking I
18 know -- I think we can all be very sympathetic to the school
19 district and the situation you're under. I'm just wondering
20 if we said yes in this case, what would be the policy
21 argument to say no to other school districts in very similar
22 situations.

23 Unfortunately, we going to have fires throughout
24 the state. We're going to have other natural disasters like
25 this. Neighboring schools maybe in Chico and the like, how

1 would we say no or would we say yes to those and then just
2 deplete the funds for those schools that are already
3 qualified.

4 MR. KAELIN: Is that a question, Mr. Kim?

5 MR. KIM: It's a rhetorical question.

6 MS. MILLER: Thank you.

7 MR. KAELIN: I've got an answer for you, but
8 (indiscernible) be the right one.

9 MS. MILLER: Any other questions from the Board?
10 No. Any public comment?

11 So I -- this is obviously very tough and a tough
12 one for my second time. You know, it is -- all the victims
13 of the Camp fire and the families that have been displaced
14 is obviously incredibly difficult and we do have a process
15 where the Board gets to make decisions based on these
16 special circumstances.

17 And what I do want to say is that and to Mr. Kim's
18 point, to the extent that this were to pass today and as the
19 Department of Finance and having to look at the whole state,
20 you know, we will abstain from this appeal.

21 But I do think it's important that we note for the
22 record and for everyone to know that in no way would this be
23 considered precedential in the future, that these special
24 circumstances are in fact special. You've done the data.
25 You have had four bond attempts.

1 I hope that the -- what Board's actions today will
2 do will actually help the district understand the need for
3 local matches and local bonds because it is disappointing
4 that many school districts go out. They increase their debt
5 service. Everybody in the district is paying for it and I
6 do think that there's a skin in the game argument that we
7 all need to make in school construction because there are
8 finite dollars and it's unfortunate because every time we
9 make a decision for one district, there is another district
10 that loses.

11 So that is equally difficult. So I just -- I
12 really, really want to make the point that this isn't
13 precedential whatsoever and that when someone looks at this
14 later and comes to Mr. Patton that this isn't seen -- this
15 is seen as a consequence of the Camp fire and not a
16 consequence of not being able to pass a bond to make the
17 matching dollars because I think that's a really important
18 distinction in terms of the integrity of school finance and
19 going forward.

20 So with that, we had a motion from Senator Leyva.
21 Was there a second?

22 SENATOR ROTH: Second.

23 MS. MILLER: Second. Ms. Jones, may we call the
24 roll. Was there -- did you have a question, Senator Wilk?
25 Did I cut you off?

1 SENATOR WILK: No. I'm very excited to vote.

2 MS. MILLER: Okay. Good. I'm sorry about that.

3 Then may we call the roll, please.

4 MS. JONES: Yes. Senator Wilk.

5 SENATOR WILK: Aye.

6 MS. JONES: Senator Leyva.

7 SENATOR LEYVA: Aye.

8 MS. JONES: Senator Roth.

9 SENATOR ROTH: Aye.

10 MS. JONES: Assemblymember Nazarian.

11 Assemblymember O'Donnell.

12 MR. NAZARIAN: Come back to me, please.

13 MS. JONES: Okay.

14 ASSEMBLYMEMBER O'DONNELL: I'm an aye. O'Donnell,
15 aye.

16 MS. JONES: Assemblymember Cunningham.

17 ASSEMBLYMEMBER CUNNINGHAM: Aye.

18 MS. JONES: Juan Mireles.

19 MR. MIRELES: Aye.

20 MS. JONES: Cesar Diaz.

21 MR. DIAZ: Aye.

22 MS. JONES: Daniel Kim.

23 MR. KIM: Nay.

24 MS. JONES: Assemblymember Nazarian.

25 (Abstention by Assemblymember Nazarian)

1 MS. JONES: Thank you. I'm sorry. That motion
2 did carry.

3 MS. MILLER: Seven to one and that motion carries.
4 Thank you. And thank you for coming up here and good luck
5 with the school year.

6 We're now moving to item seven as the room clears
7 out -- to the administrative costs of the school facility
8 program. Ms. Silverman.

9 MS. SILVERMAN: Yeah. Two more items. Hang in
10 there. We're almost done. So I just wanted to direct your
11 attention to Tab 7, page 261. We wanted to highlight that
12 back in 2014 we had a reservation of funds for
13 administrative costs for the school facilities program and
14 at that time, Proposition 1D, we were nearly exhausted of
15 the program funds.

16 So Proposition 51 did pass and again we didn't
17 have a set-aside reservation of the program funds to
18 administer the program. It is uniquely not part of the Bond
19 Act. So as a result, we wanted to highlight to the Board
20 that, guess what, we have -- we need to set aside some
21 program funds.

22 So we wanted to check in and just to realize that
23 not only do the program funds cover the program for us, the
24 Office of Public School Construction, but it also covers
25 Department of Education and their ability to administer the

1 program as well from their end because they have a
2 responsibility to review district sites, construction plans,
3 and their approvals as well.

4 And the Controller's Office also has a part of
5 that program as well. They also will have a new act to
6 perform, reviewing the local audits. They also disperse the
7 funds back to the school districts as well, so as we dole
8 out apportionments, so they have a roll.

9 And so when we reserve a reservation of funds back
10 in 2014, we had a set reservation of 52 million and that
11 reservation was based on the declining workload. Well, that
12 reservation didn't carry us through the 1920 [sic] budget
13 year as anticipated.

14 So not only we have an estimation for the next
15 three years, but we also want to do an additional carve-out.
16 So how's this work? We wanted -- again, it's obviously a
17 transparent process, but we also wanted to share with the
18 Board how the allocation would work.

19 So if I can direct your attention on page 263. So
20 we have four sets of program funds available. That's new
21 construction, modernization, career tech, and charter
22 schools. So there was \$7 billion proposition and so the
23 spread would be 43 percent of the two largest programs, new
24 construction and modernization, and a 7 percent spread
25 between the career tech and charter school program.

1 So that represents how we would spread the
2 administrative cost for our department, Department of
3 Education, and Controller's Office. That's \$17.2 million
4 annually. Multiply that by the years.

5 There is also an offset for the school site
6 utilization fund. We collect that for unused site fee.
7 That's nearly about 4 million a year and that is offset from
8 the bond cost as well.

9 So we do that prorated over the next three years.
10 That's about \$39.6 million for the program needs. Again, if
11 we don't reserve these funds now, we will have no one to
12 process these grants. So that's really important for us.

13 And there's a shortfall for the anticipated budget
14 year for 1920 [sic]. That reservation again didn't carry us
15 through. So we wanted to share with the Board, there's
16 \$4.3 million that we do need for that anticipated year.

17 So this coincides with the Budget Act. So we just
18 don't carve out money. We work again with the Legislature
19 and the Budget Act to conform that act. So our
20 recommendation is to have the Board approve this reservation
21 of funds for the \$39,673,764 million plus the \$4.3 million
22 set aside and we would post that to the status of funds.

23 And again, the goal is to reserve these funds for
24 the next two years so that way we can continue our program.

25

1 SENATOR ROTH: So move.

2 MS. MILLER: Okay. Thank you. Is there any
3 public comment? We have a motion by Senator Roth. Is there
4 a second.

5 ASSEMBLYMEMBER O'DONNELL: Second.

6 MS. MILLER: Second by Mr. O'Donnell. May we
7 please call the roll.

8 MS. JONES: Senator Roth.

9 SENATOR ROTH: Aye.

10 SENATOR ROTH: Senator Wilk.

11 SENATOR WILK: Aye.

12 MS. JONES: Senator Leyva.

13 SENATOR LEYVA: Aye.

14 MS. JONES: Assemblymember Nazarian.

15 MR. NAZARIAN: Aye.

16 MS. JONES: Assemblymember O'Donnell.

17 ASSEMBLYMEMBER O'DONNELL: Aye.

18 MS. JONES: Juan Mireles.

19 MR. MIRELES: Aye.

20 MS. JONES: Cesar Diaz.

21 MR. DIAZ: Aye.

22 MS. JONES: Daniel Kim.

23 MR. KIM: Aye.

24 MS. JONES: Gayle Miller.

25 MS. MILLER: Aye.

1 MS. JONES: And that motion carries.

2 MS. MILLER: Great. Thank you.

3 MS. SILVERMAN: One more last item. Hang in
4 there. We're almost done.

5 MS. MILLER: Yeah. We appreciate it. So the next
6 item --

7 MS. SILVERMAN: -- is the career tech education
8 future funding cycles. So direct your attention to
9 page 266. Proposition 51 had a \$500 million for the career
10 tech education program funds and we had disbursed of two
11 funding cycles for \$250 million and we still have
12 \$250 million left to allocate.

13 So we wanted to highlight how do we proceed with
14 the remaining program funds. So there's been a heavy
15 interest in the program. So we had -- the last funding
16 cycle was allocated in May for 125 million. The last
17 remaining project did go out as part of the Consent Agenda.

18 So with that, the program was established and it
19 had a number of different funding cycles as I shared with
20 you in the past. Some of the funding order was created and
21 the funds were divided among geographical locales and
22 service regions.

23 The first two funding cycles were funded based on
24 the service regions where the funding order was determined
25 by the CDE score and also the geographical locale. For each

1 cycle since then, the projects were ordered by the
2 Department of Education score and the geographical locale
3 only.

4 So between 2006 and 2014, there have been three
5 funding cycles and that was almost a \$466 million
6 distribution of funds.

7 And again, as I stated, Proposition 51 with the
8 \$500 million allocation of funds, again the goal is share
9 with the Board how do we proceed with the remaining
10 \$250 million.

11 This program has been oversubscribed. So the last
12 interest in the program, again there was a 32 percent
13 program grant allocation. What does that mean. That means
14 we have an abundance of applications that came through the
15 door and we can only award only 32 percent of the program
16 grants to those folks who did apply for the program.

17 I know last month we didn't actually take an
18 action item forward, but we did have a lot of interested
19 parties speak to the Board and definitely had a lot of heart
20 and we really had a lot of concerns about what they had to
21 share and take that interest, you know, with how we want to
22 proceed in the future.

23 So what we wanted to share with them was -- they
24 actually had a lot of concerns about their scores and the
25 process and we wanted to share that, you know, again,

1 there's a public stakeholder meeting about how we proceed in
2 the funding order and the funding cycle. So we definitely
3 would like to take those comments in how we proceed in the
4 future and how we disburse the funds.

5 So again, the goal is to get as much stakeholder
6 feedback on how we fund those projects in the future. So
7 what we would like to share with those stakeholders is your
8 score is important and, you know, don't feel like you're
9 left out because you have an opportunity to share -- to keep
10 your scores if you didn't change anything in your program.

11 So you don't necessarily have to go to CDE to have
12 a reevaluation of your program score. So that's one thing
13 we really want to highlight to you.

14 But if you did have your program change, then you
15 will have to have your project reevaluated by the Department
16 of Education and have it rescored. But again, the goal
17 is -- with the last funding cycle is have the Board adopt
18 \$250 million and provide the six funding cycle and declare
19 the application open and any application that's not funded
20 by December 31st, 2021, will be returned without further
21 Board action.

22 So we would like to proceed with that action.

23 MS. MILLER: Right. Thank you very much.

24 SENATOR ROTH: So move.

25 MS. MILLER: We have a motion. May we have -- I

1 know we have three folks that asked to speak at public
2 comment. Please come on up: Emily Shaeer, Melanie
3 Patterson, and Glenn Sparks. And if you could again state
4 your name for the record. And we're really grateful to
5 everyone that came last time and talked about the importance
6 of this program and, Mr. Mireles, while we're talking about
7 this, obviously this is a joint program with CDE --

8 MR. MIRELES: Um-hmm.

9 MS. MILLER: -- and the State Allocation Board and
10 we do just want to emphasize -- I know you know how
11 important this is and you're part of the finance family, but
12 the timing of this program is incredibly important that
13 folks can get this money out the door and I think we
14 probably have a shared goal of making sure that we can do
15 whatever we can to expedite the timing so that these folks
16 can really start putting these funds to use because they are
17 so limited.

18 But with that, please state your names again for
19 the record.

20 MR. SPARKS: My name is Glenn Sparks, Director of
21 Adult and Career Education for Pleasanton Unified School
22 District.

23 MS. SHAEER: My name is Emily Shaeer representing
24 Santa Barbara Unified School District.

25 MS. PATTERSON: Melanie Patterson, Rocklin Unified

1 School District.

2 MS. MILLER: Great. Thank you for being here.

3 Ms. Shaeer, were you going to speak on behalf of everyone or
4 is everyone sharing comments?

5 MS. SHAEER: Everyone is speaking --

6 MS. MILLER: Okay. Great. Go ahead then.

7 MR. SPARKS: It's okay. Well, thank you --

8 MS. MILLER: We have a motion and --

9 MR. SPARKS: Thank you for your time and I'll try
10 to be brief.

11 MS. MILLER: Absolutely.

12 MR. SPARKS: I appreciate it. I appreciate
13 staff's analysis too for the \$250 million recommendation,
14 round six. To me that makes a lot of sense.

15 We put in three applications in Pleasanton to, you
16 know, revamp new facilities and again to scoring -- and I
17 know it's a human process and things are all over the map a
18 little bit -- two passed. One did very well. One just
19 passed and the other one did not.

20 It's a little tough because even though they're,
21 you know, three different sectors and, you know, get their
22 score by different set of folks in different buildings, they
23 were done in collaboration because we're putting together at
24 CT building -- a dedicated CT building using district bond
25 as a match.

1 So it's interesting because there was such
2 collaboration with (indiscernible). The subjectivity to the
3 applications was pretty wide.

4 And so with respect to the staff analysis on the
5 scoring, a couple of things real quick. I appreciate not
6 needing to resubmit if there is -- in grant applications for
7 a new score, for example, if there's no change in the
8 application, the project score, and the project budget.

9 But I almost think most if not all apps would have
10 challenges with the project budget piece because it is
11 construction costs and all the changes. So that one I'm not
12 just clear on in terms of, you know, six months go by and
13 20 percent increases in some cases for costs.

14 So I would almost think that districts would send
15 different types of figures in perhaps, maybe not. So just a
16 little more clarification on that would be helpful.

17 And then the other thing is does the district --
18 say you have to reapply because you do have just enough
19 difference or just enough tweak six months to a year later.
20 Then you run the risk of having lower scores.

21 So do we take the bird in the hand of the two apps
22 that passed with the scoring threshold or if there are
23 slight tweaks to those apps, they could get looked at a
24 whole different set.

25 And I know it's very hypothetical and it's a human

1 process and that could happen, but it seems like you're
2 almost competing with what you have done.

3 So if there was just a little bit more comment or
4 thought given to the scoring process for the apps that met
5 the scoring threshold and we unfortunately, even though two
6 passing apps, were part of the 150 or whatever that did not
7 get funded because we didn't meet the top 70 or 72 for round
8 five.

9 So just some comments. We appreciate the creative
10 thinking. Grateful that there's 250 million and we're going
11 to keep swinging regardless, but it was a little frustrating
12 to have three very, very similar applications be so widely
13 scored. Anyway, thank you for your time.

14 MS. MILLER: Thank you for your time.

15 Mr. Mireles, do you want to --

16 MR. MIRELES: Yeah. Really quickly, on the
17 scoring, in terms of the scores and the applications
18 submitted to our department, we do have two funding cycles
19 that were (indiscernible) to Prop. 51 and I just want to
20 clarify that, you know, in terms of the scores that we
21 provide, you can use the highest of the two -- I'm talking
22 about the same application -- and submit that score to OPSC
23 for funding.

24 So just make sure that that's clarified that even
25 though you may receive a lower score for one of the

1 applications during a funding cycle, you can always use the
2 highest to submit a funding request to OPSC.

3 MR. SPARKS: Thank you.

4 MS. MILLER: Thank you.

5 MS. SHAEER: Yes. Thank you. I did want to state
6 that, Glenn, this is -- we haven't met before. So this is
7 not the one I've been in communication with. So I'm glad to
8 you see here and contributing.

9 And I also did want to mention --

10 MS. MILLER: Would you mind just stating your name
11 for the record.

12 MS. SHAEER: Yes. I'm sorry.

13 MS. MILLER: Thank you.

14 MS. SHAEER: My name is Emily Shaeer. I'm from
15 Santa Barbara Unified and I've been working a variety of
16 districts, over 20 districts, and I'm just acknowledging
17 that I have not met or spoken with Glenn before.

18 I did also want to address -- raise awareness that
19 there were a few others who wanted to join us today, but
20 because the recommendation came out on Monday evening at
21 8:00 p.m., there was some confusion about that and people
22 were under the impression that it had been pulled from the
23 agenda and so they were not able to come because they had
24 changed plans at the end of last week. So I'm speaking on
25 their behalf as well. I just wanted to bring that forward.

1 And I am -- as the last time, I am going to read
2 this just to make sure that I get to all of it. All right.

3 MS. MILLER: I am going to remind you guys that
4 you have a motion and a second, so -- this is a point --
5 this is a situation of taking yes for an answer, but --

6 MS. SHAEER: Okay.

7 MS. MILLER: But we do appreciate you coming all
8 the way up here.

9 MS. SHAEER: All right. I do appreciate the
10 opportunity to address this Board again today on behalf of
11 the Santa Barbara School District as well as over 20 other
12 school districts I've been communicating with recently.

13 I also appreciate the opportunity to meet with
14 each one of you in the last two days or your chief of staff
15 or other representatives. Those conversations were an
16 important part of this process and were brought to bear in
17 what I'm going to share right now.

18 And I am here today for two primary reasons:
19 Number one, to support the OPSC's recommendation to release
20 250 million in a sixth and final funding cycle for CT
21 facilities funding under Prop. 51 and encourage this Board
22 to support efforts to expedite this funding cycle to
23 mitigate many of the concerns I have raised regarding the
24 high scoring applications that are currently unfunded.

25 The second reason I am here is to emphasize the

1 importance of reevaluating the funding model and to thank
2 the OPSC for organizing a stakeholders meeting to take place
3 on July 24th to discuss that funding model and explore
4 possible options for changing it so that it functions more
5 effectively.

6 First, I want to speak why it's important to
7 release the 250 million sixth and final funding cycle and do
8 whatever is possible to expedite the cycle and get the money
9 out to school districts so they can move on projects as soon
10 as possible.

11 At the May 22nd SAB meeting and even as recently
12 as yesterday, I was proposing that we should allocate some
13 of the remaining 250 million to capture some of the high
14 scoring projects currently on the unfunded list from the
15 fifth funding cycle. I spoke with many of you about that.

16 In the last 22 hours, however, I have had
17 opportunity to speak at length with Lisa and Barbara from
18 OPSC as well as Juan Mireles, Fred Yeager, and John Gordon
19 from CDE and I have a full understanding of the legal issues
20 with this suggestion and why it is not possible to consider
21 and I wanted to just voice those particularly because I
22 spoke with members about this yesterday.

23 I wanted to share with this Board that there is a
24 liability risk in doing what I proposed because by
25 allocating more money to projects that were submitted during

1 the fifth funding cycle, that effectively extends the fifth
2 funding cycle beyond the 125 million cap that was put into
3 place previously and that is a liability risk and was
4 determined to be a liability risk by both legal counsel for
5 the SAB and legal counsel for the CDE and they did not
6 confer with each other. So they independently arrived at
7 the same conclusion that pursuing this course of action is
8 not advisable under the law.

9 And I thought that was important to share with
10 you.

11 I also want to thank -- I do want to thank the
12 Board members who were in support of our proposal and in
13 support of the spirit of it which was to both honor the high
14 scoring projects sitting in limbo as well as to expedite the
15 process of getting the funding out into the field.

16 I would also like to share with you that both Lisa
17 and Barbara from OPSC pursued this option and explored it
18 and that Juan, Fred, and John from CDE were very interested
19 in pursuing it as well.

20 I do think it's important to bring (indiscernible)
21 for the CDE. Expediting the process in this manner was
22 their preference. They would have loved and preferred and
23 maybe even jumped for joy to see the money go out into the
24 field to fund the high scoring applications that their
25 division has already meticulously scored, which was we

1 talked about.

2 These are significant to review and they're
3 comprehensive and they take a significant effort to
4 evaluate. So alas -- or perhaps we should celebrate -- both
5 legal counsel gave a thumbs down to this course of action.

6 And given that the next best option is to approve
7 the 250 million for the sixth and final funding cycle and to
8 reevaluate and reform -- possibly reform the funding model
9 that will be utilized for the sixth funding cycle.

10 Doing this will address many of the concerns I
11 raised with you on May 22nd and in our meetings in the last
12 two days.

13 I was able to gain clarity through my meetings
14 with some of you about the way changes to the funding model
15 can be implemented. There were questions about whether this
16 was possible to achieve for the sixth funding cycle and it
17 is.

18 As I understand it -- and, Lisa and Barbara, you
19 can correct me, of course -- OPSC initiates this process
20 which they are doing through the July 24th stakeholders
21 meeting. Then OPSC would prepare a recommendation for the
22 SAB to approve before implementation and I want to thank you
23 both, Lisa and Barbara, for your time for speaking with me
24 about your intention to perhaps even have a second
25 stakeholders meeting after the July 24th meeting and prior

1 to presenting a recommendation to SAB regarding the funding
2 model.

3 Also thank you for explaining how it is possible
4 to implement for the sixth funding cycle if there were
5 changes. This is very important to many districts and I am
6 glad that the funding model is going to be revisited and I
7 do expect a good turnout in the July 24th meeting
8 (indiscernible) there are a variety of concerns that we have
9 discussed in our meetings related to the funding model.

10 One suggestion is to reevaluate town locales and
11 perhaps reclassify them as rural so that they can be moved
12 out of the suburban category.

13 Another suggestion is to allocate funds
14 proportional to the number of applications submitted by each
15 locale and under that model, rural schools would only be
16 competing against rural schools. Suburban schools would
17 only be competing against other suburban schools, et cetera.

18 And of course, these are just two of many of the
19 suggestions that stakeholders will bring forward at the
20 July 24th meeting, and I plan to attend and I look forward
21 to participating.

22 As Board members, I appreciate your engagement and
23 awareness of these issues --

24 ASSEMBLYMEMBER O'DONNELL: Madam Chair, could we
25 just kind of keep it to the motion.

1 MS. MILLER: Yes.

2 ASSEMBLYMEMBER O'DONNELL: I think we're getting
3 pretty wide here.

4 MS. MILLER: Yes. That's a fair point,
5 Mr. O'Donnell. Do you want to wrap it up because again you
6 have a motion and a second.

7 MS. SHAEER: Yes. Actually, these final points
8 are I think important.

9 MS. MILLER: So I think, Ms. Shaeer, I'm going to
10 recommend that maybe we end it there and, Ms. Patterson, if
11 you have any final comments --

12 MS. SHAEER: Yes. Can I just say one final thing.

13 MS. MILLER: One final thing.

14 MS. SHAEER: Yes. Thank you. I'm glad that
15 everyone is in support and I really just want to emphasize
16 that we need to expedite the process and the timelines to
17 get the money out.

18 MS. MILLER: Absolutely. I think everyone agrees
19 with you. So let's stop there and then --

20 MS. SHAEER: Wonderful.

21 MS. MILLER: Thank you.

22 MS. SHAEER: Thank you. I appreciate the motion
23 and the second and will move on.

24 MS. MILLER: Thank you. Thank you. So we have --
25 Mr. Mireles, maybe --

1 MR. MIRELES: Just a quick comment.

2 MS. MILLER: Yes.

3 MR. MIRELES: On OPSC's defense, the reason why
4 the item was late because we were working together coming up
5 with a proposal and, yes, we were exploring the possibility
6 of using existing scores because we know that there's a lot
7 of high quality programs out there.

8 As you noted, there are some concerns from legal
9 counsel, not just the SAB's rep, from ours and that's why we
10 have this option before you.

11 So we thank OPSC for their patience and we look
12 forward to working together to jointly administer the
13 program.

14 MS. MILLER: Great. Thank you. I appreciate
15 that. And to Ms. Silverman and Ms. Kampmeiner, thank you
16 taking the time to really expedite this program.

17 So we have -- I can't remember. We have a motion
18 by Senator Roth and a second by Mr. O'Donnell. May we
19 please -- any other public comment? No. Thank you. May we
20 please take the roll on the \$250 million allocation.

21 MS. JONES: Yes.

22 SENATOR ROTH: Senator Wilk.

23 SENATOR WILK: Aye.

24 MS. JONES: Senator Leyva.

25 SENATOR LEYVA: Aye.

1 MS. JONES: Senator Roth.

2 SENATOR ROTH: Aye.

3 MS. JONES: Assemblymember Nazarian.

4 MR. NAZARIAN: Aye.

5 MS. JONES: Assemblymember O'Donnell.

6 ASSEMBLYMEMBER O'DONNELL: Aye.

7 MS. JONES: Juan Mireles.

8 MR. MIRELES: Aye.

9 MS. JONES: Cesar Diaz.

10 MR. DIAZ: Aye.

11 MS. JONES: Daniel Kim.

12 MR. KIM: Aye.

13 MS. JONES: Gayle Miller.

14 MS. MILLER: Aye.

15 MS. JONES: And this motion carries.

16 MS. MILLER: Great. Thank you very much and thank
17 you for being here. We have our final informational item by
18 Ms. Silverman. That's it.

19 MS. SILVERMAN: (Indiscernible) if the members
20 want to vote for the other open items, Consent Agenda.

21 MS. MILLER: Oh, we can. I think -- are there
22 members -- if you voted on everything, please feel free to
23 go. We have a couple items we have --

24 MS. JONES: The Minutes for Senator Leyva, how do
25 you vote on the Minutes?

1 SENATOR LEYVA: I'd love to.

2 MS. JONES: How do you vote?

3 SENATOR LEYVA: Aye.

4 MS. JONES: Okay. Thank you. And also while I
5 have you here, can you tell me how you vote on the Consent.

6 SENATOR LEYVA: Aye.

7 MS. JONES: Okay. Thank you. And then
8 Assemblymember O'Donnell, I need your vote on the Minutes.

9 ASSEMBLYMEMBER O'DONNELL: Aye.

10 MS. JONES: And on Consent.

11 ASSEMBLYMEMBER O'DONNELL: Aye.

12 MS. JONES: Okay. That wraps that up. Thank you.

13 MS. MILLER: Great. Is that everyone? Thank you
14 very much. This meeting is adjourned.

15 (Whereupon, at 5:39 p.m., the proceedings were
16 adjourned.)

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TRANSCRIBER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF SACRAMENTO)

I, Mary C. Clark, a Certified Electronic Court Reporter and Transcriber, Certified by the American Association of Electronic Reporters and Transcribers, Inc. (AAERT, Inc.), do hereby certify:

That the proceedings herein of the California State Allocation Board, Public Meeting, were duly transcribed by me;

That the foregoing transcript is a true record of the proceedings as recorded;

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on June 30, 2019.

Mary C. Clark
AAERT CERT*D-214
Certified Electronic Court
Reporter and Transcriber