APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

JEFFREY McGUIRE, Chief Deputy Director, Department of General Services, designated representative for Daniel Kim, Director, Department of General Services

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

NICK SCHWEIZER, Deputy Superintendent of Public Instruction, Services for Administration, Finance, Technology & Infrastructure Branch, California Department of Education (CDE), designated representative for Tom Torlakson, Superintendent of Public Instruction

SENATOR LONI HANCOCK

SENATOR CAROL LIU

SENATOR BOB HUFF

ASSEMBLYMEMBER ADRIN NAZARIAN

ASSEMBLYMEMBER SUSAN BONILLA

ASSEMBLYMEMBER ROCKY CHAVEZ

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Executive Officer

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

LISA SILVERMAN, Executive Officer
BARBARA KAMPMEINERT, Deputy Executive Officer

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

JONETTE BANZON, Staff Counsel
CHAIRPERSON ORTEGA: Good afternoon, everyone. I'll call to order the State Allocation Board meeting for April 20th. If you could please call the roll.

MS. JONES: All right. I'll go up to the podium.

CHAIRPERSON ORTEGA: Great.

MS. JONES: Senator Hancock.

Senator Liu.

Senator Huff.

SENATOR HUFF: Here.

MS. JONES: Assemblymember Nazarian.

Assemblymember Bonilla.

Assembly Chavez.

ASSEMBLYMEMBER CHAVEZ: Here.

MS. JONES: Nick Schweizer.

MR. SCHWEIZER: Here.

MS. JONES: Cesar Diaz.

MR. DIAZ: Here.

MS. JONES: Jeffrey McGuire.

MR. McGUIRE: Here.

MS. JONES: Eraina Ortega.

CHAIRPERSON ORTEGA: Here.

MS. JONES: We have a quorum.

CHAIRPERSON ORTEGA: I'd like to welcome Senator
Huff to our meeting today, a former State Allocation Board member. So thank you for joining us again. And then welcome to Chief Deputy Director Jeffrey McGuire who will be sitting as the delegate for the DGS Director.

And we'll let the record show that Assemblymember Bonilla has also joined us.

MS. JONES: Got it.

CHAIRPERSON ORTEGA: Oh, and Senator Hancock.

SENATOR HANCOCK: I came in as you were calling the roll.

CHAIRPERSON ORTEGA: Yes. So let's go ahead and start with the Minutes from the January 27th and February 24th meetings. Are there any comments or questions from Board members. Seeing none, is there a motion?

MR. DIAZ: I'll motion.

CHAIRPERSON ORTEGA: Motion by Mr. Diaz. We have a motion. Second?

MR. McGUIRE: Second by Mr. McGuire. All in favor of approval of the Minutes say aye.

(Ayes.)

CHAIRPERSON ORTEGA: Any abstentions or objections?

SENATOR HUFF: Abstention not having been there.

CHAIRPERSON ORTEGA: Great. Abstention by Senator Huff.
MS. JONES: Got it.

CHAIRPERSON ORTEGA: That action is approved. Lisa, if you don't mind, I'm going to skip ahead to the action items while we have a quorum.

MS. SILVERMAN: Sure. That's all right.

CHAIRPERSON ORTEGA: We'll go to the first action item which is under Tab 6 and that would be the Klamath-Trinity appeal. Barbara.

MS. KAMPMEINERT: All right. Thank you.

CHAIRPERSON ORTEGA: Thank you.

MS. KAMPMEINERT: The Klamath-Trinity School District has submitted an appeal for five health and safety projects. The district is a small district with just over a thousand students and they are located in a remote region of Northern California in Humboldt County.

Over 85 percent of the district students are on Native American lands and, in addition, they have over 90 percent free and reduced lunch as well.

They have some severe health and safety issues at multiple campuses within the district related to a contaminated water supply as well as mold issues, leading to the closure of multiple facilities across campuses within the district.

And on page 112 of your agenda, staff is recommending that the Board take several actions to assist
the district. Parts of these projects meet the health and
safety requirements of the program, but there are some
aspects of these projects that make it where we cannot
approve this administratively.

But we do support that the Board consider the
following recommendations to provide some funding to help
the district get the kids back into the classrooms.

On page 112, Recommendation I relates to
replacement funding. The district has submitted cost
estimates to repair these schools, and under the regulations
of the program, they have exceeded the 50 percent threshold
and do qualify for replacement funding.

However, the state funding formula for those
programs does not take into account unique circumstances
such as what the district is facing.

Because they are very remote, the costs to do the
construction are higher because they have to bring in both
workers and supplies. They don't have a local pool of
contractors they can work with.

In addition, the climate of the area is very wet,
and so they need to have special considerations when they
constructing their facilities.

So as the Board has considered in the past for
districts that have had historic buildings under the Seismic
Mitigation Program where it wasn't feasible for them to do
replacement projects within the state funding for
replacement, Klamath-Trinity is requesting to use
replacement funding to rehabilitate the facilities to remove
the mold and repair them for four of the schools.

You can see them listed in the chart there on
Attachments D, E, F, and G. And staff does support the
district's request to do this.

The second recommendation relates to Jack Norton
Elementary School which is not a mold project currently, but
had a contaminated water supply and the district needed to
connect into another source of water for the school.

There was an issue with the DSA approval date on
this in which the district let contracts before obtaining
DSA approval, but as soon as both DSA and the district
realized it would require DSA approval, they worked together
to quickly achieve DSA approval and have taken care of that.

But we would recommend that the Board provide
funding of the project given the circumstances.

And then the third recommendation relates to four
of the projects, three of them with mold issues and then the
Jack Norton project with the contaminated water supply.

Part A would provide apportionments for the
projects today outside of the priority funding process.

Because of the situation of having to close the
schools and then also recently in February, the district
learned that multiple other facilities on their school sites have mold issues as well, so they've had to close the schools and reconfigure and they are not in all of their facilities right now.

So we are recommending that the Board approve the district's request to receive immediate apportionment today so that cash can be provided to them very quickly so that they can continue with the work of remediating the mold and also reimburse them financing that they had to take out in order to get some of the facilities usable.

There is a Part B on this because one of the projects, the Hoopa Valley High, we're still finalizing the numbers with the district on the actual costs.

So we would be asking that the Board approve that in concept so that we could come back at the next scheduled Board meeting with a consent item for Hoopa Valley High to take the same action and provide an apportionment for which the district could submit and a fund release immediately after the future Board action. I can answer any questions.

CHAIRPERSON ORTEGA: Okay. Thank you, Barbara. And I do have speakers on this item, Mindy Natt and John Ray, if you'd like to come on down. There's a microphone here. Welcome.

MS. NATT: My name is Mindy Natt. I'm a councilmember for the Yurok Tribe and I'm coming down where
to -- in support of this funding. We need funding for our schools.

The Yurok Tribe is the largest tribe in California with over 6,000 tribal members, and currently, in the Klamath-Trinity School District, there is 90 percent tribal members that are in the school -- or that are Native children.

And so it's really important for the council to have good drinking water for our kids at Jack Norton School. There's two schools that are within the Yurok Reservation and they're Jack Norton and Weitchpec, and Jack Norton -- it has mold problems and the water is contaminated and they can't -- they haven't been drinking out of the Owl (ph).

And it's really important for the tribe to, you know, be able to support our kids and make sure that our kids have a good education, just like down here in the big city.

We are in a little part of the reservation and I feel like sometimes we get neglected and we don't get the education that we deserve.

So I just want to thank you guys all for supporting this and -- so thank you.

CHAIRPERSON ORTEGA: Thank you.

MR. RAY: Hi, my name is Jon Ray. I'm the proud
Superintendent of Klamath-Trinity and I just wanted to thank you for your time, also be here to answer any questions, but I'd also like to publicly recognize the office staff of OPSC.

Lisa Silverman, Barbara, and her staff have gone over and above to help us out and spend the hours to try and make this work. So thank you.

CHAIRPERSON ORTEGA: Thank you. Any comments from Board members?

ASSEMBLYMEMBER BONILLA: Move the item.

MR. DIAZ: Second.

CHAIRPERSON ORTEGA: Okay. Motion and a second to approve the staff recommendations. I think -- all in favor.

(Ayes.)

CHAIRPERSON ORTEGA: Any nays? Passes unanimously. Let's move onto the next action item which is the Santa Ana appeal.

MS. KAMPMEINERT: Okay. The next appeal that we have is from Santa Ana Unified, and this relates to a project that received funding under the Overcrowding Relief Grant Program, and this is for Heninger Elementary.

And the project is complete and going through the close-out process, and it was reported that the district had about $2.7 million worth of savings.

And in its appeal, the district is requesting to
retain the savings from this project.

    The staff -- when the request came in, we did deny the request originally because the staff position is that the regulations as written do require that projects under the Overcrowding Relief Grant Program return any savings that are not spent on that particular project back to the State.

    And then what happens after that is that the savings goes back into the Overcrowding Relief Grant Program and it's used to fund other projects.

    The regulations have been in place for eight years. Up until this point, we've had no public comment and no concerns raised, and we have had multiple districts that have remitted savings from ORG projects in the past.

    Santa Ana has provided a legal opinion that they believe that there is a statutory basis that would not require the return of savings and they also have stated that the regulation doesn't state that savings needs to come back.

    We have evaluated the legal opinion and spoken with legal counsel and believe that the original regulation did have statutory basis and is a valid regulation. It did go through the public process. It went through the Office of Administrative Law. No comments were raised at that time with concern related to retaining savings.
Then also in the event that savings is not required to go back to the program, there are six projects that did not receive bond authority for the Overcrowding Relief Grant Program in the last round.

The program was oversubscribed for the last round and in a past Board action, the Board determined that those projects could remain on a workload list, and in the event that any funding was returned to the program, the projects could then be funded at a later date.

We do have six projects representing about $23 million that are waiting for funds to be used for Overcrowding Relief Grant purposes.

Right now, we don't foresee any additional ORG fully rescinding, so the only source of funding for those six projects would be the return of savings to the program.

In addition, we have several other programs that have regulations that do require that the return of savings go back, and those programs stem from Prop. 1D where there were limited pots of funds and the policy decision by the Board at the time was to try to spread the funding for the Overcrowding Relief Grant Program, Career Technical Education Facilities, and Charter School Facilities -- to spread those funds to as many projects as possible because it was a limited funding source.

So that was the balance between requiring
districts to return the savings.

In the New Construction Program, there is the ability for districts to retain savings with the efficient use of funding. However, that funding source had more money available to it, so it's not been an issue so far.

So we do believe that the regulations are valid and that they are supported by statute and that Santa Ana and other districts would be required to return ORG savings.

However, in the event that the Board does choose to grant the appeal, we would also suggest that the Board consider the impacts to the other projects that have already returned savings because there are multiple districts that have returned over $7 million in savings back to the program, but from an equity standpoint, we would seek direction on what to do about the savings that have previously been returned and that if the appeal is approved, we would also request direction on whether we should be coming back with regulations to clarify.

And I'd be happy to answer any questions.

CHAIRPERSON ORTEGA: Okay. Should we start with hearing from the folks from Santa Ana at this point, unless there are any questions. Seeing none, let's go ahead and call up the Santa Ana folks. I have Alan Reising and Rick Miller.

DR. MILLER: Good afternoon. I'm Dr. Rick Miller
from Santa Ana Unified School District and I represent the
district and over 55,000 students.

As has been pointed out, we have an appeal because
we think that there are some other things that are in play
here.

We believe we have exercised purposefully fiscal
prudence and stewardship which is consistent with our
understanding of the California Education Code 1707.63(c)
which specifically says any savings achieved by the
district's efficient and prudent expenditure of these funds
shall be retained by the district in the county fund for
expenditure by the district for other high priority capital
outlay purposes.

In our view, those other high priority projects
are also ORG projects. We have 228 temporary mods that are
still out there that need to be replaced. They're in all
kinds of condition as you might imagine, and our students
are not adequately housed.

This was an initiation on our part based on our
understanding of the code and where this was all going, and
so we would urge your support of our appeal overall.

We also believe that with these shovel-ready
projects that we were an original part of the ORG
legislation. In fact, I think we were the poster district,
if you will, at the time.
Our students -- over 90 percent of them are free and reduced eligible. 60 percent of our kids are ELL and over one-third of our sites exceed the State's maximum site density as we do this.

Going forward, we think that this is a policy decision, and it's really a statement to us as districts about where you want us to go and it's really a statement of choice as we understand it.

On the one side, we think there's a clear indication in the code that we need to have stewardship, and the stewardship then goes back to increasing the reduction of those modular units that are in our district, and I said we have 228, on the one side.

On the other side, the idea seems to be to expend all available funds and we certainly could have done that. There were choices we made to not go that direction.

So that's the choice. Stewardship on the one side, expend the funds on the other side. And we thank you for your attention in this matter.

CHAIRPERSON ORTEGA: Okay. Thank you, Dr. Miller. I earlier referenced an Alan Reising -- sorry -- from Glendale Unified. Nice to see you again.

MR. REISING: From Glendale. Thank you. Thank you. So Allocation Board members, my name is Alan Reising. I'm the Administrator of Facilities for Glendale Unified
School District.

I'm here today to lend my district's support of the appeal that is currently before you from Santa Ana Unified School District.

Just basically agree with all the comments from Dr. Milles, but I did want to speak quickly to -- as fiscal stewards to the State and local funds that we're responsible for.

I'm just a little concerned about the adoption of this policy could set an incentive where districts wouldn't necessarily be required to be good stewards of those funds. It essentially could set up an incentive for inefficient use of those funds.

By being efficient with what we do, we want to save those funds. We want to return those back to the communities and schools that we serve to get the most use out of those funds.

So we do as a district -- we would like to support Santa Ana Unified and urge the Board to approve this appeal moving forward. Thank you.

CHAIRPERSON ORTEGA: Thank you. Okay. And I also have Ronna Wolcott from Newhall Unified. Ms. Wolcott.

MS. WOLCOTT: Hello. I'm the Assistant Superintendent for Business Services for Newhall School District, and I'm actually here to urge you to vote no on
this appeal, being one of those districts that is still waiting on that list for funding.

We have two projects on the list. We submitted back in 2013 and we have been patiently waiting in the hopes that ultimately there will be savings. That is how the program has been running all these years. Other districts have benefited from that same policy.

The two projects in question were already completed with local bond funds, but we were only able to complete of removing portable classrooms at one site because we have a lack of State funding.

So those two sites are small elementary schools. We're a small district. We had the fastest growing city in California in the early '90s. Lots and lots of portables.

Our community thankfully has been supporting our efforts to get these portables off with permanent classrooms so we can return our students to good classrooms, and also in terms of site size, these two projects -- one is about six and a half acres, the other one slightly over seven, which both are below the recommended standard.

So I would urge you to continue the policy that has been in place and to deny this appeal. Thank you.

CHAIRPERSON ORTEGA: Thank you. Open it up for questions or comments from Board members.

ASSEMBLYMEMBER CHAVEZ: Yeah.
CHAIRPERSON ORTEGA: Yes. Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: First of all, I'd like to acknowledge the fact that I visited Santa Ana and I would also like to reaffirm what the superintendent said that the facilities that they built are very good, but also identify he had some extremely poor facilities.

So I recognize the fact that there is a great need at Santa Ana and the facility I saw was a block with overcrowding and they didn't even have a playground.

What I want to hear is from the staff because it's clearly a need for Santa Ana, but I would imagine it's clearly a need throughout the State. That's why I'm a supporter of the school bond coming forward or this ballot initiative.

What is the fair way to deal with this because we're dealing with probably needs throughout the State?

What's the practice because there was a discussion made by the superintendent that was their agenda, they could reutilize their money.

So could I have an opinion on that, what's the rule say?

MS. KAMPMEINERT: Well, the way the program is currently structured, the original policy was set to make sure that needs throughout the State were covered. So that was why it went into effect.
And when Overcrowding Relief Grant applications come in, they are ranked on the density of the school site. So it's not first in/first out, but there were individual filing rounds for these projects.

And schools that have higher pupil densities were ranked higher. So we would go down the list in order of pupil density until we ran out of bond authority.

So the policy and the way the program was structured was identified to address those schools that have the highest need. We --

ASSEMBLYMEMBER CHAVEZ: So in that case, Santa Ana was recognized with the highest need. That's why they received the money.

MS. KAMPMEINERT: For the applications that they submitted --

ASSEMBLYMEMBER CHAVEZ: Yes.

MS. KAMPMEINERT: -- project by project. So for the projects that they are planning to do or plan to use the savings for, those have not come through the program, so I don't have the answer to where those would have fit in, in comparison to the other applications that are outside the bond authority.

ASSEMBLYMEMBER CHAVEZ: But the money that they were allocated for the project they did, now the return savings that come from that, was the policy that that return
to the State Allocation Board to be reallocated to other 
schools with -- down the pecking order -- down the list?

MS. KAMPMEINERT: Yes. That was the policy and
that is how the regulations read. The savings come back and
then the Board took further action when determining whether
or not to close that final round when we ran out of bond
authority initially, and the Board decided let's not send
these applications back. Let's wait and see if savings
return because if savings return, then we can keep going
down the final round.

So there are only six projects waiting in the
program. There are no further application periods because
essentially the bond authority has been used up. So those
projects are waiting to see what happens.

ASSEMBLYMEMBER CHAVEZ: Thank you.

CHAIRPERSON ORTEGA: Okay. Any other comments?

Senator Hancock.

SENATOR HANCOCK: Yeah. It seems to me that if we
were to change our policy now, we would have to go back and
pay $7 million to the schools that gave their money back.

That would leave even less money for the schools
down on the list; right?

MS. KAMPMEINERT: That's correct.

SENATOR HANCOCK: So I don’t really see any way
for us to do this in a way that's consistent and orderly at
this stage of the game, but I am curious about
Section 1859.103 that seems to say districts can keep money
that they save for other high priority projects that has
been there in the law, but we made a policy decision that we
were not going to do that?

MS. KAMPMEINERT: Well, it's -- to the statute
for -- the statute that guides that refers also to the
program for unhoused pupils.

So when initially the policy was being made,
because there was a reference in that same Ed Code section
to unhoused pupils, ORG does not house unhoused pupils.
It's a separate program. It's not the New Construction
Program.

So the Board's broader authority to set
regulations is what was used to harmonize the statute under
those two programs.

So the regulation was written with statutory
authority because that piece of Ed Code does not apply -- or
there's also a few other things that can happen in New
Construction that are referenced there, like allowing the
creation of portable classrooms, and the ORG statute
specifically prohibits the creation of ORG statute [sic].

So part of what the Board does when they're
setting those regulations has clarified those statutes. So
it was not against statute initially.
CHAIRPERSON ORTEGA: Thank you, Senator Hancock.

Any other comments? Senator Huff.

SENATOR HUFF: So having been recycled here myself, I recall when Santa Ana was the poster child for why, you know, we needed to have some funds like this.

I guess I struggle with this because I know the need is in Santa Ana, and yet you have the other districts with the need also. You have rules that have been in place. Everybody went into that knowingly.

Santa Ana benefited significantly. Other schools are still waiting in line.

And so it seems that perhaps the policy is unfair. I think there's wisdom in having a policy that encourages good stewardship, and this policy that we currently have perhaps does not, but it seems like changing the policy in the middle of this process is flawed.

So while it's probably too late to do anything about this, I would say going forward we have a policy that returns half the money that a school saves to themselves and the other half goes back into the pot.

I don't know how we equitably divide it at this point, and that doesn't take away the very profound needs if Santa Ana has -- 228 portables is a lot, and yet, you know, other schools have been waiting patiently as well.

So I think it's a no-win situation for us. We
move forward, but I'd certainly like to see a policy that splits the difference and has an incentive going forward.

CHAIRPERSON ORTEGA: So we can ask staff to take -- if it's the will of the Board, we can ask staff to take a look at that for a policy to perhaps consider at a future meeting.

Okay. Any other comments on this item?

Welcome, Mr. Nazarian.

ASSEMBLYMEMBER NAZARIAN: Thank you.

CHAIRPERSON ORTEGA: Yes. It looks like we have additional public comment. Please.

MR. WATERS: Thank you. My name's Darrin Waters. I'm Deputy Superintendent of the Val Verde Unified School District which is located in Riverside County.

My district is -- every dollar that goes back to Santa Ana comes out of our ORG application. So it is the 19,900 students who are at 83 percent poverty in our district as well and we have a strong, strong need of a high school severely overcrowded. No parking lot because we had to put relocatables out there. We're trying to do a high school.

I think the big difference -- another -- trying to do another high school to relieve this overcrowding and that would help us with that. We have no other State participation. It's all being funded locally at this time.
I think the big distinction for me is in the regular grants we have for construction and modernization, we give up eligibility and we get the grants for that. ORG, there's no eligibility requirements. So there's no skin in the game, if you will. I think that's the difference of why you split the savings versus not splitting the savings. At least that's the way I believe that.

So anyway, Val Verde Unified, and I'll be happy to answer any questions you have as well, but my position would be to please support the staff's position and deny the appeal.

CHAIRPERSON ORTEGA: Thank you.
MR. WATERS: Thank you.
CHAIRPERSON ORTEGA: No additional comment? It doesn't seem like we have a motion at this time. Senator Liu.
SENATOR HUFF: It takes a motion -- well, it takes a motion to change the staff recommendation.
CHAIRPERSON ORTEGA: Sure. Sure.
SENATOR HUFF: We need to clarify the action first.
CHAIRPERSON ORTEGA: Okay. So if we want to have -- we don't necessarily need a motion to give direction to staff to come back with a future discussion about savings
going forward. So the only action item before us is the action on the appeal.

We have to take an action to approve the appeal; correct? We don't need to take an action if we're not approving the appeal.

MS. KAMPMEINERT: Correct. The action would stand.

CHAIRPERSON ORTEGA: So the -- so if there isn't a --

SENATOR HANCOCK: So no motion means that the staff's recommendation stands; correct?

CHAIRPERSON ORTEGA: Correct. So I'm not hearing a motion, so I think we'll move on. Thank you everyone.

The next item is an information item and I have a number of speakers who want to present on this item, I understand. We'll start with a short overview from the staff and then we'll ask the folks from Fremont School District to come up. So, Lisa.

MS. SILVERMAN: So we wanted to come back and follow up with -- the Board had asked us back in January of 2016 to provide an information item just to provide the statutory framework in how developer fees were established.

And with that, on page 177 is the introduction of that conversation.

But on 178, we wanted just to highlight very
quickly on how Level I was established and how the fee is set. So the fee is established on a per square foot basis and adjusts every two years in accordance to an inflation set that's done by the Board, and that was just done by the Board recently in January.

And Level II calculation is also enacted with the School Facility Needs Analysis in order to determine Level II, but that fee is also designed to give the district an opportunity to participate on a 50-50 basis for new construction projects.

And again a School Needs Analysis is necessary in order to perform.

With Level III, it's the highest fee trigger. With that, you still have to walk through the needs analysis as you would in Level II, and the Board would have to determine that there's no longer new construction dollars available, and that would result in the entire project being at the cost of the developer.

As far as background, the statute was enacted back in 1987 for Level I, and Level II and III were set when SB50 was enacted. And we also wanted to share with the Board that it was the temporary suspension back in 2012 with SB1016 in which there would be no action by districts that could trigger Level III.

However, that suspension was lifted in the fall of
2014 when there was a few bond bills that didn't move forward.

So we just wanted to give a program history of the statute.

There is also reference in the report on page 179. The Legislative Analyst Office provided an overview of how State funds were provided through the program since 1998.

And on that chart on page 179, it highlighted $120 billion has been invested in school facilities, and with that, a good portion of those investments has come from local school bonds. So $75.2 billion was attributed to that investment and which 35.4 billion was investment from State general obligation bonds and 9.4 billion was an investment from the developer fees.

And on page 180, we wanted just to highlight the developer fees are used for construction and reconstruction. It's not meant to contribute with ongoing facility costs like maintenance.

And so with that, we also wanted to share with the Board that once the statute's enacted -- once Level III is triggered, there is no mechanism right now currently on how you end that trigger.

So with that we wanted to share that to the Board and acknowledge the report.

CHAIRPERSON ORTEGA: Okay. Thank you, Lisa. Are
there any questions from Board members at this time or --
folks are ready to move onto public speakers? Senator?

SENATOR HANCOCK: I have a question. How did the
temporary developer fees that were enacted a number of years
ago get lifted if there's no mechanism to lift the fee? Is
that a Board action or a local action?

MS. SILVERMAN: The statute that was enacted with
SB1016 and that -- at the time, there was a few bond bills
that were being sponsored by some of the members of the
Board and so with that, they were -- didn't want to move
forward with the possibility of Level III being triggered if
the conversation was being had with support of a new bond
initiative at the time.

SENATOR HANCOCK: So they deliberately didn't put
in a trigger to end it? So that it would be impossible to
get it or it would be cumbersome? I'm sorry, Lisa. I don't
understand.

MS. SILVERMAN: Yeah. No. I understand what
you're saying.

I'm not sure on how -- what the background on that
was and how they came up with the trigger, but nor did they
think that we'd probably get to the environment where we
would trigger it. So -- yeah. That would probably have to
be something that needs to be corrected at some point in
time, but there is no current mechanism to shut it off.
SENATOR HANCOCK: But it was part of the bond that the voters voted on was to have these three levels --

MS. SILVERMAN: Correct.

SENATOR HANCOCK: -- of developer fees. Okay.

MS. SILVERMAN: Right.

CHAIRPERSON ORTEGA: Okay. Any other comments from Board members? Okay. Let's go ahead and start with Ms. Campbell? I'm not -- I know the folks from Fremont wanted to start, but I have a list of names here, but I'm not sure who is going to be the kind of lead-off speaker.

And let me just say before you get started, maybe the folks who are here representing both Fremont and Dublin, you can pick maybe two or three people to be your lead folk and then we'll give you each a few minutes to talk and then after that, we'll just ask people to identify themselves and let us know what their view is -- their position. Thank you.

MR. MORRIS: Thank you very much. My name is Jim Morris. I'm the Superintendent of the Fremont Unified School District, and it really is an honor. We came here very respectfully.

Our bottom-line message to you is we need help in Fremont. We have a very, very serious problem in our school district.

Fremont, as you may know, is a high performing
district, the heart of the Bay Area, and we're home to a growing, thriving community.

The challenge we face in Fremont is growing community, growing enrollment. We're here to ask for your help.

We have done as a community our part. We've passed local bonds, but our school enrollment is growing. When I became the Superintendent in Fremont in 2010, we had 32,000 students. Today we have 35,000 students and by 2022, we'll be over 40,000 students.

And that problem is really the result of a robust economy, a great location, and good things happening. We have the highest performing schools in the area. We do an incredible job for students.

But because there's so much new developed and housing, we cannot keep up the pace of growth in the community.

We have in our school district today over 2,000 students on a daily basis who are overloaded out of their neighborhood school and sent any place that we have space available.

We currently are out of classrooms in Fremont. We have no space left.

We had a kindergartener who enrolled earlier this week, and I had to find a classroom and open a classroom for
one student because I haven't a seat anywhere in Fremont. We have parents driving from one end of town to the other because we don't have space.

We have done our part as a community. I think the partnership that we have in the Warm Springs area -- we had three developers who came forward and said we understand your Level II fee doesn't solve the problem.

We had three developers, Toll Brothers, Lennar, and Valley Oaks Partners, who came forward and said we know we have to voluntarily pay more because we cannot solve the problem. There is no seats left.

I really honor the 50 parents, teachers, school administrators who came here today because we are asking for help because we do have problems in another part of town.

On the other end of town, we have developers KB Homes, D.R. Horton, and Brookfield, who decided to sue the district because we don't have a school to send those children to.

We have a very, very serious problem. We're asking what we believe is within your authority to allow districts like Fremont to implement a Level III developer fee.

We cannot continue to ask people voluntarily to do it. It works in some case, but not everyone is willing to give us that help.
I just ask you to think about the children of our community. Work with us. We've stretched our local bond dollars as far as we can, but we have only portable classrooms and no seats left.

CHAIRPERSON ORTEGA: Thank you.

MS. CAMPBELL: Thank you. I'm Desrie Campbell, Board Trustee, and I won't repeat everything that Dr. Morris said, but I would like to add a couple of things.

He did mention that we have portable housing. We have 28 percent of our classrooms are relocatable housing.

Our students and our board believes that our students should be in their neighborhood schools, not outside of their districts.

We mentioned that we're overloading 2,000 plus students to outside of their neighborhoods, and we believe that by implementing the Level III fees, it will give us an opportunity to be able to create more housing for our students.

We also -- I personally would like to ask that this item would come back as an action item. We have -- this is the second time this item has come to this Board and each time, it was an informational item. We believe that this should be an action item.

The Board should take action on whether or not they want to implement the Level III development fees for
those districts that are in need of it, and you could also, while doing that, create a trigger to stop it, and that this could be a stopgap for what will happen in November with the local bond.

You could help us now. If the bond passes -- the State bond passes, then that could be the trigger to remove the Level III fees, but we do need your help at this time.

Thank you very much.

CHAIRPERSON ORTEGA: Thank you.

MS. CROSBY: Good afternoon. My name is Anne Crosby. I'm a School Board Trustee in Fremont, and we want to thank you for being willing to listen to our families today.

I would like to share what it's like and what it means to be a student in Fremont.

We are projected to need eight new schools to keep up with our growth. An elementary school will cost approximately $58 million to build in Fremont and we need five and two junior highs and a high school.

We will need approximately a half billion dollars to meet our student's needs.

I would like to provide to your Board the matrix that Fremont Unified uses to keep track of where our students are attending schools so that we can fill every single seat.
Currently, a family living by Ardenwood Elementary School may drive their third grader across town every morning, past eight other elementary schools, to reach Durham Elementary where there is a seat available in third grade.

The same family may also have to transport their fifth grader to a different school where there is room for a fifth grader, while still getting their junior high student to school on time.

Every morning, we have 90 kindergartners from Niles area of Fremont traveling to the Gomes Elementary School. 90 five-year-olds pulled out of bed a half an hour earlier to get to school instead of sleeping later and walking around the corner to a neighborhood school. This is their introduction to education.

We are doing all that we can to keep clean, safe schools for our students, but we have already placed 383 portable classrooms with more coming this summer.

We are now placing portable restroom buildings because our students can't wait in line to use the restroom and get back to school in time.

Though a new State bond may pass in November, we need help now. We can't wait.

SB50 dictates that when states run out of funds for school facilities, school districts may begin charging
Level III fees. The billions of dollars in school projects far outweigh the millions of dollars the State has remaining.

For our students, please make the declaration that allows us to collect these funds to meet our students' needs. Thank you very much.

CHAIRPERSON ORTEGA: Thank you.

MS. FISCHER: Hello. My name is Liz Fischer and I'm representing a group of concerned parents and FUSD staff that have come here today and we passed a resolution. However, most of the points in the resolution, you're very well familiar with, so I'll just share a few highlights.

The California Constitution finds public education is a State responsibility in Article IX, Section 5, and the State has exhausted the available school facility funds and cannot provide a State match for almost $2 billion in projects.

The State's lack of school facility funds and failure to authorize Level III mitigation fees has cost the Fremont Unified School District $11,317,734.

Continued State inaction will increase the uncollected funds for school facilities.

The Fremont community has supported local school facilities with a parcel tax, Measure K in 2010, and a school facilities bond measure, Measure E, of $650 million
in 2014.
And continued inaction by the State Allocation Board has placed an unfair and unreasonable burden on the Fremont Unified School District and Fremont community.
So, therefore, concerned parents and teachers of Fremont hereby find and determine that we call on the State to take action to meet its constitutional responsibilities for school facilities funding to benefit our students and our community and hereby urge the State of California to immediately declare that the State School Facility Program currently bond authority is effectively exhausted for the new construction and modernization of schools, affecting the majority of California school districts, and to authorize school districts to impose Level III developer fees as mitigation for new development within the State of California, including but not limited to Fremont Unified School District. Passed today by our assembly of 29 with 29 ayes, no nos, and no abstentions.
CHAIRPERSON ORTEGA: Thank you, Ms. Fischer.
MS. FISCHER: Thank you so much.
CHAIRPERSON ORTEGA: Thank you. And I'm going to ask the rest of the folks to please identify yourself and just let us know that you're in support as well.
MS. BIRBECK: I would ask -- I'm here to represent our entire union of over 2,000 people, Vice President, so I
would ask for a minute and a half, I promise.

CHAIRPERSON ORTEGA: Very quickly. Thank you.

MS. BIRBECK: My name is Victoria Birbeck and, as
I just stated, I am here speaking on behalf of our over
2,000 educators as the Vice President of Fremont Unified
Teachers District Association.

As educators, we go into our profession to assist
in the development and caring of our students. Personally
as a math teacher, I also did a little bit for the love of
formulas, but I'll let our Assistant Director of Finance go
into that if you would like.

In representing all of my teachers, I appeal to
you to do what we need in order to care for our students.
We need your help because right now in Fremont whenever a
four-year-old enters their neighborhood school office to
register and is notified that they'll be in a lottery to be
waitlisted because of overcrowding, that's not caring.

When they're notified over the summer that they're
being sent to an elementary school they haven't heard of,
it's not caring. When a five-year-old is bused across town
past their home school and past many other schools that are
also too impacted to take him, it's not caring.

When families are kept in limbo about placement
and offered an opening at their home school whenever their
number comes up in the middle of a school year facing them
with the choice of passing it up or setting their child back emotionally and academically by switching schools midyear, it's not caring.

We need right now to notify this Board that in order to keep with the financial obligations to care for our children we need you to make it a priority.

As a teacher, all of these circumstances are heartbreaking, but I know that you can also identify that if this was your child, if this was your community, it would be equally heartbreaking.

All of our educators in Fremont are in the business of caring, but we need you to please show us that your care about our students as we do by making the choice to fully fund our school development. Thank you.

CHAIRPERSON ORTEGA: Thank you.

MS. SCHLOBOHM: I'm Antoinette Schlobohm. I am a teacher at Ardenwood and a parent of two FUSD alumni. With all due respect, we the citizens of and teachers in Fremont Unified School District request Level III mitigation fees as required by law for new developments in Fremont and all of California.

Our schools are impacted severely with 35,000 students and over 2,000 today are overloaded.

We believe that the law since 2012 requires the State Allocation Board to implement Level III funding. Our
citizens have done their fair share, passing two measures, the last in 2014.

Through nonenforcement of Level III fees, the State and State Allocation Board placed an unfair burden on FUSD and its citizens.

One of the eligibility requirements for Level III fees is at least 20 percent portable teaching stations. We're at 28 percent.

Our facilities are aging and in need of repair. They are in need of continual maintenance. Proper capital funding for facilities management ensures the fewer, unnecessary emergency repairs.

Our number of restrooms and student to restroom ratio is inadequate, and all of our 42 schools are out of compliance.

Imposing Level III fees is not only required by law, but it's a win-win-win for our students, our citizens, and the State. Proper accommodations will allow us to provide students with a safe, secure, and peaceful environment where all students can get a quality education.

Again, we'd like you to do what the law requires. Thank you.

CHAIRPERSON ORTEGA: Thank you. Again, if the rest of the folk could just say your name and --

MR. PARUNGAO: Good afternoon. My name is Raul
Parungao, the Associate Superintendent for Fremont Unified School District, and I just want to say that I'm in support.

So today I'd like to be able to paint a picture for you where the situation -- how crucial the situation is at Fremont Unified School District.

We agree that there is a formula in calculating the Level II developer fee. We believe that the current formula does not align to the reality.

And so just take a look at if we have a growth of 30 students in the students. That means that we would need one classroom to be able to house 30 students.

Well, to build one classroom, it requires $950,000 in the Bay Area. You cannot build classrooms without land, so we have to acquire land. It requires $800,000 cost of land to be able to build one classroom. Total $1.75 million dollars.

Imagine how much Level II developer fee we're going to generate with 30 students. It's about $560,000. You could tell that the amount of Level II is about less than a third of the true costs of housing 30 students.

We're very grateful about the local control funding formula for the restoration of the funding. However, you're aware that there is also a requirement for us to lower class size to 24 to 1.

In our district, to lower down the class size to
24 to 1, we needed 84 classrooms to be able to house the lowering of the class size. At $1.75 million per classroom, it is -- requires $147 million to house all those students with 84 classrooms.

Our school are growing and it's also -- that we be growing by about 3,000 students for the last seven years, and every year we're still growing by about 600 students every year. That's actually, you know, next year thereafter for the next seven.

In order to house 600 students that we grow every year, we require 30 classrooms. That means $35 million that we need every year.

This morning, I had to -- left the district before we came here and I was told that we actually have about 300 kindergarten students who are pre-enrolled that don't have room. We have 2,600 pre-enrolled students. We only have about 2,300 seats available. We don't know how to house those 300 students.

I don't know about you, but if I have to tell a five-year-old enrolling into our school and say I don't have any room for you, that keeps me awake at night.

And so I urge you to actually declare to Level III for us to be able to mitigate the problems that we have in Fremont. Thank you.

CHAIRPERSON ORTEGA: Thank you.
DR. SALWAN: Good afternoon. My name is Raj Salwan. I'm a former Fremont City Councilmember and current Chair of the Fremont Planning Commission.

Real quickly, I just want to say that Fremont has been a model community. We have designed for PDAs with a new BART station. We have done our part. We've been one of the first cities to dedicate affordable housing, our boomerang funds, and we have this need for more schools.

And the city is doing everything that they can, but we definitely need your support to get Level III fees so we can build new schools. Thank you.

CHAIRPERSON ORTEGA: Thank you.

DR. KHAN: Good afternoon. I'm Dr. Sonia Khan. I'm a Board Certified Pediatrician and with specialty in ICU, trauma, and adolescent medicine. I'm a Fellow of the American Academy of Pediatrics, California Council on School Health.

I have a letter here with the medical and mental health consequences outlined for these students because of saturation of their facilities. In the interest of time, I'll submit it in writing, if you don't want to hear it right now.

CHAIRPERSON ORTEGA: Thank you.

SENATOR WIECKOWSKI: I'm Bob Wieckowski. I'm the State Senator for the Fremont Unified School District. I
represent these children plus everybody else, and I urge the Board to take action to move Fremont into the Level III funding.

CHAIRPERSON ORTEGA: Thank you, Senator.

MR. NG: Good afternoon. My name is Hui Ng. I'm a regular Fremont person. I just want to tell you that in addition to all the classrooms, Fremont schools are struggling with inadequate sport facility, music facility, lab. The entire infrastructure of our schools are under tremendous amount of pressure.

My high school was built for 1,200 students. In about five years, it is expecting 3,000 students and those are the type of problems that our schools and the people of Fremont are struggling with.

We need Level III fees so that we can get some extra dollars from developers. We need all the help that we can get.

I feel that speaking as a regular citizen, I feel that the people of Fremont have done everything we can and we are coming here because we really, really need the help. Thank you very much.

CHAIRPERSON ORTEGA: Thank you.

MS. PATEL: Hello. My name is Ipsha Patel and I am here representing the Fremont Unified School District.

I go to Hopkins Junior High School, and I wanted
to talk about all the kids that couldn't actually get into the school. So there are many kids who have come from a few schools all around, like Chadbourne and Gomes and stuff, but some of those kids couldn't get in because there isn't enough space.

So we need to build some more schools so people could get in. Thank you.

CHAIRPERSON ORTEGA: Thank you.

MS. ROUSE: Hi. We're from Dublin and there's four of us and we will be brief.

CHAIRPERSON ORTEGA: Thank you.

MS. ROUSE: Good afternoon, Chairwoman Ortega and State Allocation Board. My name is Megan Rouse and I am Vice President of the Dublin School Board. Thank you for hearing us today.

We'd like to thank Assemblymember Susan Bonilla for her support and the time she has spent working on this critical issue with us.

ASSEMBLYMEMBER BONILLA: Thank you.

MS. ROUSE: We'd also like to thank Senator Steve Glazer and Assemblymember Catharine Baker who was here earlier and their staffs for their advocacy on our behalf.

We must be familiar faces by now to you. We are here again to advocate for Dublin students and all students and we will continue to do so until we get the relief that
we need.

Please allow me to introduce Board President Dan Cunningham.

MR. CUNNINGHAM: Thank you, Megan. I just want to make sure the body understands where Dublin is and what our circumstances are.

We're a high performing district like Fremont, the second fastest growing city in the State of California, which is bringing a lot of kids to our schools.

We've doubled in size in the last ten years and we expect to increase another 50 percent in the next five.

The fast pace of growth in Dublin has created demand for an additional 5,000 seats in our schools in the next decade in buildings we don't own and on land we don't have.

Since the last time the State allocated funds to Dublin, we have added more than 2,700 students. New homes are being bought and sold and students continue to come to our schools. Campuses continue to fill and our city council can't even use schools as a reason not to approve a housing project because of SB50.

Our community is justifiably frustrated as they see the conditions begin to change in our high functioning school district. Plain and simple, we need more classrooms.

Right now, we are not sure how we're going to be
able to afford it. We wait for tens of millions in funds
due for schools we have already built and we face a prospect
of having to build additional schools without State funds.

The issue is undermining our educational mission,
the confidence of our community, and frankly, our ability to
pass future bonds. It is doing damage that we believe is
complete unnecessary.

The situation has placed an unfair and
unreasonable burden on the Dublin school and community.

And finally -- and this is the most important
thing -- it's impacting our students. You heard it from
Fremont. The situation is becoming similar in Dublin.

It has stretched our resources of the district and
moved our focus away from educational mission to serve each
and every student every day, and it will have more
far-reaching impact going forward if we don't find a remedy
today.

This isn't hyperbole. It's the hard truth and now
Amy Miller.

MS. MILLER: Hi again. Amy Miller, Board Trustee
in Dublin Unified. The immediate action of this body is
very vital to our district and Fremont District and probably
many other districts.

We've done all of the right things, everything
that we can possibly do. We've worked to pass three local
bond measures with a fourth one on the ballot for this June of 2016, and as generous as our community has been, we know we cannot realistically maintain our facilities' growth solely on our residents' pocketbooks.

We have worked closely with our city on agreements that have allowed us to obtain land for two school sites at no cost. We have entered into mitigation agreements with developers on multiple projects.

We passed a resolution supporting the State bond measure. We have conducted an extensive facilities master planning process to accurately assess our needs, a project that involves more than 50 meetings and a thousand stakeholders.

Our needs for facilities are over a half million dollars. We've rallied more than a thousand residents to write letters to the Governor's office asking for a change in the way the school facilities are currently funded. We delivered those letters to the Governor's office today.

We have met with the CBIA and the local builders in efforts to maximize the contributions the developers make to our district.

And as you all know, we have spent the past few months advocating here in front of this Board and its legislators to come up with solutions that can bring relief to our district. We have worked with local representatives,
Senator Glazer and Assemblymember Baker, and we have met with others outside of our district seeking to build support with districts like Fremont experiencing similar issues.

We have done our part. We now need the State to do theirs and meet their constitutional responsibility to provide school facilities funding for our students and our community.

We hope that after you listen to our Superintendent, Dr. Hanke, talk about a very reasonable solution that we think we've come up with that you'll consider agendizing that for your May meeting.

And I just want to give a special thank you to Assemblywoman Susan Bonilla. She's given a lot of time and energy and thought helping us work through this issue and come up with a reasonable solution. Thank you.

DR. HANKE: Good afternoon, Madam Chairperson, members of the Board. I am Steve Hanke. I am the Superintendent in Dublin. Appreciate the opportunity to speak with you today.

We agree with the sentiment that has been expressed from Fremont and from the trustees as you just heard of that the actual elements of SB50 -- the conditions of SB50 do not meet our needs.

We have a serious problem facing our school district. Overcrowding issues, you've heard about, those
are definitely in Dublin as well. We clearly are facing an extreme hardship issue.

We face severe program alterations, significant numbers of diversions, and the potential of double sessions and other things if we cannot resolve this issue.

We have done absolutely everything that is required and everything that we can locally.

These local efforts have just not been enough. They have just not been enough.

We are proposing an alternative -- a remedy to this dilemma that we are facing. The remedy that we are proposing the Board consider is an additional Board regulation under 1859.

This alternative -- this remedy would do the following. It would define extreme financial hardship like districts in Dublin and districts like Fremont and I'm sure there are others like ours.

This proposal would also provide hardship assistance in the form of a loan from a budget line item from this year's or next year's budget, '16-'17, or from the pooled money investment fund. The repayment of that loan would come potentially from the bond measure if it is passed in November.

Now, we have taken the time, as has been mentioned, to work very closely with the Building Industry
Association, both here in Sacramento and locally, and we
certainly pledge to continue to do so.

We are especially grateful again for the efforts
from Assemblymember Bonilla. She's been very gracious. She
has been very responsive. She has been very, very helpful.
We want to thank you for that.

And we are -- also understand that she has some
comments that she would like to make relative to this item
and I want to repeat the ask on again.

We ask of the Board this afternoon is that you
agendize -- you review this potential regulation and
agendize this for the May 25th meeting and I thank you.

Ms. Bonilla.

MR. HARMON: I'm Steve Harmon with Senator Steve
Glazer's office and just here to express his support for
this proposed amendment.

CHAIRPERSON ORTEGA: Great. Thank you.

ASSEMBLYMEMBER BONILLA: Thank you so much. I
want to thank the public. I know that's a long drive. And
were you guys in that school bus parked outside? Okay.
Well, you get bonus points for having no air conditioning on
the ride up here.

But thank you so much for coming and speaking
before us. This is an issue that, as been stated, that I've
been working with folks in Dublin and Fremont on.
I just passed out a copy of some proposed regulations that have been drafted up with the help of Tom Duffy and wanted to make the formal request that we put them on the agenda for the May 25th meeting.

I believe that in the time between today and May 25th there could be some very productive conversations with the California -- CBIA building industry around -- this gives a place to work from with the builders as well.

You know, in a nutshell, I think you already heard a great summary from Superintendent Hanke on what is trying to be crafted here as a solution, basically a loan that would be repaid but would be an emergency measure to really help these districts that find themselves in the middle of a crisis.

And the details are all laid outlined for you there, and that would be my request now that I would seek Board support to actually put these proposed financial hardship regulations on the agenda for the May 25th meeting.

CHAIRPERSON ORTEGA: Okay. Thank you, Ms. Bonilla. Let's go ahead and hear from Mr. Lyon and then we'll open it for discussion.


To the issue that Assemblymember Bonilla raised and Dr. Hanke, we would encourage the Board to move this
forward at the appropriate time.

We think the idea of an interim funding proposal pending the passage of the bond in November that addresses needs of growing districts who, as Dr. Hanke said, have done everything that they've been required under law to do, to come up with their local match, the problem here -- and it's the problem that permeates the discussion not only at the interim financing issue but at the Level III issue, is that it's been ten years since we've had a State bond and it's been ten years since the State has been fully active in the partnership of financing school facilities.

And as a result, we're forced to have to deal with these kind of marginal responses when the better effort here is for all of us to get behind the bond and ensure its passage.

That said, this interim funding proposal has value. I think it's an important thing for the Board to consider. I know the proposal has been distributed. I don't know that we want to live and die by the specific language on it right now, but directing the staff at the appropriate time to go through the rule-making process so that we can all engage on an emergency basis so that we can get this up and running because there isn't that much time between now and November and there are needs that need to be addressed.
So we would encourage the Board to move forward with this.

And then finally on the Level III issue, we're very sensitive to what Fremont and Dublin have brought here today. I heard this 20 years ago and I heard it from more than just two districts in the Bay Area.

I heard it statewide from almost a thousand districts and that's why we put the program together almost 20 years ago, the shared partnership, and it's been very, very successful. $130 billion when you calculate State bonds, local bonds, and builder contributions by either fees, community facility districts, or master mitigation agreements, and housing about four and a half to five million kids is a measure of success by anybody's standards.

We want to continue that program. We have qualified at $9 billion K-community college bond for the November ballot. It is qualified for the ballot. It will be on the ballot and we believe that it will pass and we believe that once that happens, these issues on natural will go away.

If, heaven forbid, the bond doesn't pass, then the discussion around Level III and shifting financing obligations would be rip, but it is not ripe today and it's not ripe because dollars continue to exist in a new construction account and the State Board continues to
approve apportionments.

So the statutory trigger that would authorize Level III hasn't been pulled. That said, we all need to get behind the bond as the solution to the problem here.

So thank you very much. Happy to answer any questions, but thank you for the opportunity to address the Board.

CHAIRPERSON ORTEGA: Thank you, Mr. Lyon.

I do want to make one comment about the timing of the issue. Having just received it today, I'm not going to speak to the merits of the proposal.

But my understanding is that there would need -- as Mr. Hanke mentioned, need to be an appropriation, a specific item in the budget to actually provide the funding that would be necessary for a loan program, and I don't think that there would be resolution to that issue by the May SAB meeting.

So I'm not sure that from a technical perspective it makes sense to try to agendize this again for a month when the budget discussions would not be complete by then.

I'm not sure that we could do anything more besides have this same conversation in May.

So I'll start with that and I'll -- any other members of the Board want to make any comments. Senator Hancock.
SENATOR HANCOCK: Yes. I'm not sure about the timing either. Let me say, I fully appreciate the problem.

If we made a finding, however, that there are in fact no more bond monies available because the monies -- we have a list that exceeds the amount of money that we have carefully husbanded to give away in the remaining time, we could make a Level III finding and move on that way, couldn't we?

CHAIRPERSON ORTEGA: We could have that analysis -- I think we might be able to have that analysis before we would be able to have conclusion to the budget issue but the summer.

So -- I mean I'm open to what other Board members --

SENATOR HANCOCK: I mean I would be very loath to set up a loan program with no money to pay it back.

CHAIRPERSON ORTEGA: Right.

SENATOR HANCOCK: So -- and I don't know how we set up a loan program for some districts and not everybody. So it would have to be a very large loan program.

Now, if we set up a loan program with the finding that should the bond not pass, we would immediately trigger Level III, that would give a path forward for districts to pay back the loan. Otherwise, it doesn't seem like a path forward.
ASSEMBLYMEMBER BONILLA: Well, I don't think we can really have an adequate discussion on it because we haven't had it to consider.

SENATOR HANCOCK: Yeah.

ASSEMBLYMEMBER BONILLA: And we haven't had a staff analysis. I think what I'm requesting is that we actually have a staff analysis of these proposed regulations and maybe ask staff to speak to timing if you were to come back in May. I mean maybe we need to have a meeting sooner than May 25th.

Could you speak to the timing of how long these steps would take in order to actually change the regulations, if everybody decided after your analysis and they have a chance to read them that they wanted to do that.

MS. SILVERMAN: Well, regulations are submitted on a quarterly basis. So -- I mean we've actually had workload currently on the 90 workload, and so we've got those actions that we plan to move forward in May.

So we are working currently on those items and it would -- we would probably need another opportunity to continue to review it and weigh out the legal analysis. So I think there's still -- we still need a lot more time than a May deadline to get that forward.

CHAIRPERSON ORTEGA: I think -- I want to make clear what I'm raising about the budget issue and the
appropriation.

    Having a meeting earlier than May is not going to solve that problem. The issue is if the staff come back with an analysis in May, I can assume that a piece of the analysis will be there needs to be an appropriation to create a loan program.

    So we could have the conversation again in May, but we wouldn't be any further in advancing the proposal when the budget hasn't been resolved by that point. It seems to me that the creation of a loan program that would require a budget line item has to inherently be part of the budget process and the SAB regulation can't drive that. It would have to be part of budget discussions.

    So that's the issue I'm raising about having the staff provide some analysis of this draft regulation. We wouldn't be able to move it any further forward unless there was actually a budget issue.

    ASSEMBLYMEMBER BONILLA: Well, you might not be able to take action on it, but it would give the Board members the opportunity to actually review it and discover whether they thought this was even a good way forward.

    If we just wait -- are you proposing waiting into June?

    CHAIRPERSON ORTEGA: Well, I -- my preference would be to wait until we saw the budget included a line
item that would then trigger the need for this regulation.

The regulation is not necessary unless you have a budget item that creates the loan program, at which point we could -- the staff would be responding to the budget item and presenting a proposed regulation.

I don't think that it makes sense to have a regulation proposed prior to having the dollars appropriated in the budget.

ASSEMBLYMEMBER BONILLA: So do you think there will be something -- are you implying then that there will be some action in the budget?

CHAIRPERSON ORTEGA: I'm implying that there will be budget negotiations. I think it's for you and the other proponents of the proposal to pursue that through that process. It's certainly not the administration's proposal or anything I suspect we would be supportive of at this time.

ASSEMBLYMEMBER BONILLA: Well -- yeah, I assume that too, but I guess if the Board -- I mean you said it is our advocacy that would make something happen in the budget. That would be the point of discussing it in May so that we would all be in agreement, you know, or at least the majority of the Board would be in agreement to do that advocacy as a budget item.

CHAIRPERSON ORTEGA: Well, I guess I would
question whether the Board would be doing the advocacy as part of the budget process. Certainly any of the legislators can be doing that advocacy and the members of the public, but I am not suggesting that the Board would be advocating a proposal for the budget process.

ASSEMBLYMEMBER BONILLA: Well, I don't know. I think if the Board took -- had a discussion -- I just don't -- I think we need to actually have the information and have the discussion of what we're really doing is, you know, pushing this down the road.

I don't know if you want to recognize Mr. Duffy.

CHAIRPERSON ORTEGA: Mr. Duffy.

MR. DUFFY: Madam Chair, members. If I may be of help. Tom Duffy and I am assisting in this endeavor with the Dublin Unified School District.

I think the conversation that you're having is something that is valid and let me just give you a little bit of background about the thinking, Madam Chair.

You're correct, I think, that the line item is something that would be critical to this and that is something that you don't control as a body, but we have had discussions with members of the Legislature about this and we are continuing those discussions.

And so the request really is to agendize this item so that we could full-on discussion pretty much as
Ms. Bonilla has talked about, so that all of you could talk
about these issues and potentially, Senator Hancock, answer
the issue that you brought up, and --

SENATOR HANCOCK: The Level III issue that we
could do right away, couldn't we?
(Applause.)

MR. DUFFY: But on this specific request to ask
the Board to agendize this so the discussion could continue
and we could then report back to you whatever progress we
are having and I know you'll be watching that as well with
this request for the line item.

And we know that this is a significant task. We
have included in this document a proposal that we could look
also to the pooled money investment fund. The pooled money
investment fund, the AB55 loan mechanism, has been in place
for some time. It became dormant when the Department of
Finance asked all the State agencies to not approve bond
funding after we went into the collapse of 2008. And that
was in December.

That mechanism is in place. And part of the
question would be, well, where did those funds come from. I
think that's part of the discussion.

So what we want is to discuss a solution to a real
problem and that is a funding shortfall for districts that
through no fault of their own are not able to move forward
with projects or for districts that have to borrow from
future projects to be able to take care of projects today
where they were anticipating State funding because of the
limits that are imposed by law through SB50 and the other
mechanisms that are there that really constrain school
districts that are trying to deal with the growth issues
that you've been hearing today.

So the request really is a continuation of this
discussion with greater detail and then we can report back
to you any progress that we may be having on this issue of a
line item in the budget.

CHAIRPERSON ORTEGA: So -- Senator Hancock, I'm
going to get back to your question.

Assemblymember Bonilla, I want to say is it your
desire to have an action item in May that would take action
on the proposed regulations because that's where I feel that
it is premature for us to be able to act on a regulation
that would implement something that hadn't been approved in
the budget yet.

ASSEMBLYMEMBER BONILLA: I'm very happy to work
with you as long as we're able to actually have the -- I
understand your concern. I feel it's very important for us
to be responsive in May to have a discussion about an actual
solution.

If that means we take an action at a later date, I
understand that, but I don't want to just see us not address
this in May. It is time sensitive and I think we need to
have a full discussion with the full Board.

CHAIRPERSON ORTEGA: So perhaps Senator Liu and I
can work on --

SENATOR LIU: That's fine.

CHAIRPERSON ORTEGA: Go ahead.

SENATOR LIU: But it just -- it concerns me that
these two school districts are not the only ones that are
suffering from overcrowding -- or just, you know, in excess
of this whole picture here in California, and I feel
inadequate to make a decision like this unless I know what's
going on, you know, statewide.

ASSEMBLYMEMBER BONILLA: No. And this is not only
for these two. It would not only apply to them.

SENATOR LIU: Yes. I understand that. Yes. But
I do -- I feel uncomfortable about getting to a point of
approving something not going into any kind of detail. One,
where is the money coming from.

ASSEMBLYMEMBER BONILLA: Well, that would be the
point of the meeting in May. That's what I'm trying to do
is let us find out all that stuff.

SENATOR LIU: Okay. But I'm happy to work with
the Chair --

CHAIRPERSON ORTEGA: Okay.
SENATOR LIU: -- and we'll see what we could come up with.

CHAIRPERSON ORTEGA: So we can work on bringing something in May that would be -- perhaps what it would be, would be a preliminary review of what the proposal is from staff with perhaps a number of issues that would have to be addressed if such a proposal were to go forward through the budget process.

Okay. And let's then return to Senator --

ASSEMBLYMEMBER BONILLA: Or we could just pull that trigger.

SENATOR HANCOCK: I mean I think that could be part of the discussion.

SENATOR LIU: Right.

SENATOR HANCOCK: I mean it's in the law.

SENATOR LIU: Right.

SENATOR HANCOCK: We have it there. Why are we doing a roundabout discussion of trying to get a loan fund to cover every district in the State of California when there's a clear legal pathway, making a finding that would free up districts that wish to, to go ahead with Level III.

(Appause.)

SENATOR HANCOCK: I would like to see us talk about that.

CHAIRPERSON ORTEGA: Okay. So, Senator Hancock,
that's a request to have an action on the Level III developer fees.

SENATOR HANCOCK: Well, sure. Yeah.

CHAIRPERSON ORTEGA: All right. Any other comments from Board members on that item?

Okay. Is there any other public comment --

ASSEMBLYMEMBER CHAVEZ: I have a question, just a point of clarification.

CHAIRPERSON ORTEGA: Yes. Mr. Chavez.

ASSEMBLYMEMBER CHAVEZ: Maybe I misunderstood it. Prior to this discussion, we had a presentation on the fees I, II, and III, and it was my understanding when I was reading it -- first time I really paid attention to it that much, frankly.

There's a series of gates and steps before you can file for Level III. And are we in that position right now? Does this Board have the authority to go to Level III? Have we hit all those gates?

CHAIRPERSON ORTEGA: I think that's exactly what would be part of the analysis on an action item on this question.

ASSEMBLYMEMBER CHAVEZ: No, but we -- it was in a report --

MS. SILVERMAN: It's a report. It was just information -- an information item. It's an information
CHAIRPERSON ORTEGA: I think that --

ASSEMBLYMEMBER CHAVEZ: I know there's no action, but as far as the definition of going into Level III.

CHAIRPERSON ORTEGA: I think today's information item provided the statutory framework for how the decision is made of whether you could trigger the Level III fees. I don't think that it included the analysis of whether or not we've made that --

ASSEMBLYMEMBER CHAVEZ: Okay.

CHAIRPERSON ORTEGA: If we're there. That's what an action item would look like is providing the analysis of whether or not the trigger could be pulled statutorily.

Please. Go ahead.

MS. LARA: Hi, my name is Susie Lara. I'm a School Board Member for Beaumont Unified School District in Riverside County.

And as I sit here and listened about these two school districts, I'm sitting in fear of the same thing for our district, and so it is a statewide problem and it really is an issue for districts that are in a growth mode.

We just really don't know how we're going to pay for all these facilities, and we really want to be able to provide the best facilities for our students and what's best for them.
So I'm sad to hear that Fremont has students going across their community to go to school and things like that, double sessions. Those things are nightmares for families, and so I just really want you to take into consideration that we're here for families and we're here to support their families and their kids.

And our focus should always be the kids and so I just hope that some resolution can be made to this because I think that developer fees are important and I go back and forth on the Level III because I know what the impact is for developers and things like that, but the developers come in and have an impact on our communities hugely.

And so it's a tough call, but I really think that we need to do something to house our kids. It's only right for them. They deserve to have a good education and that's what we really want to do and I'm sure every school district in California wants to provide what's best for their student.

So I just want to say that I would really support seeing this -- another discussion in May, and I would really like to come back and be a part of that. Thank you.

CHAIRPERSON ORTEGA: Thank you. Any other public comment.

(Applause.)

CHAIRPERSON ORTEGA: Thank you. Thank you to
everyone who's attended day. Thank you.

Any other public comment? We do have another --
oh, Senator.

SENATOR LIU: I think it might be helpful instead
of having a formal meeting about this to kind of lay the
cards on the table in a workshop, you know, to have a more
informal and invite the public to hear what they have to say
or, you know -- just think about that; okay?

CHAIRPERSON ORTEGA: Okay. Thank you, Senator
Liu.

We do have one additional action item before we
lose members, the Consent Agenda. If we could return to the
Consent Agenda. Lisa, you want to --

MS. SILVERMAN: Yes.

CHAIRPERSON ORTEGA: -- tell us what's on there?

MS. SILVERMAN: Yes. Consent Agenda is ready for
your approval.

CHAIRPERSON ORTEGA: Okay.

ASSEMBLYMEMBER BONILLA: Move the Consent.

MR. DIAZ: Move.

CHAIRPERSON ORTEGA: Moved by Ms. Bonilla. Second
by Mr. Diaz. Any public comment on the Consent Agenda?

Seeing none, all in favor say aye.

(Ayes.)

CHAIRPERSON ORTEGA: Okay. That's approved
unanimously. And we'll let Lisa --

MS. SILVERMAN: We have just two information
items. No action required by the Board. And just to
provide the Board an update on the Executive Officer's
Statement.

We just want to remind school districts that we
have a certification round coming up. So those folks who
have an unfunded approval, they are eligible to submit that,
and that's May 11th through June 9th.

And we also wanted to provide the Board an update
that in the Consent Agenda, there was a design fund for
seismic that was provided tonight for $400,000 for Maple
School District.

And just an update on the priority in fundings
apportionments that the Board took action on in February.
That was $81 million allocated to school districts and at
this point in time, there's a deadline looming of May 24,
and we have received a fund release request for over
$70 million, so we're making some great progress there, and
there are several districts that are currently -- that we've
been in communication with to ensure that they come in
through the door with a fund release request.

And we also want to provide the Board an update on
the priority in funding apportionments for career tech
education projects. There was a deadline of April 14th and
the districts had to come in with not only the CDE approval and the DSA approval in order to access their -- the next step of accessing funds, and out of the ten, we only had one that was able to perfect. So we just want to give the Board an update.

And we'll be tracking some updates in the future as far as the deadlines for the September projects. And we also wanted to share with the Board the next meeting's May 25th.

CHAIRPERSON ORTEGA: All right. Any other comments from Board members? Any additional public comment? All right. Seeing none, we'll be adjourned. Thank you.

(Whereupon, at 5:35 p.m. the proceedings were adjourned.)
REPORTER'S CERTIFICATE

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