CALIFORNIA STATE ALLOCATION BOARD

PUBLIC MEETING

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MAY 25, 2016
TIME: 4:00 P.M.

Reported By: Mary Clark Transcribing
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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

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. We appear to have enough members here to get started, so I will call to order the May 25th meeting of the State Allocation Board. Please call the roll.

MS. JONES: Certainly. Senator Hancock.

Senator Liu.

SENATOR LIU: Here.

MS. JONES: Senator Huff.

SENATOR HUFF: Here.

MS. JONES: Assemblymember Nazarian.

Assemblymember Bonilla.

Assemblymember 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: Thank you. Let's start with
the Minutes from the April 20th meeting. Any comments from anyone on the Minutes? Okay. Is there a motion?

MR. DIAZ: So move.

CHAIRPERSON ORTEGA: Moved by Mr. Diaz.

MR. McGUIRE: Second.

CHAIRPERSON ORTEGA: Second by Mr. McGuire. All in favor of approval of the Minutes say aye.

(Ayes)

CHAIRPERSON ORTEGA: Any abstentions? I don't see any. So that passes. And we'll move to Lisa.

MS. SILVERMAN: So we just want to highlight a few items in the Executive Officer's Statement. We currently have a priority funding round that's open. It opened on May 11th and it closes June 9th.

There is currently close to $55 million in projects that are eligible to submit for the certification round, and the deadline is June 9th. So once those valid certifications come in, they'll be valid from July 1st to December 31st. So if there's cash induced into the program, those projects will be eligible for the cash.

CHAIRPERSON ORTEGA: Okay.

MS. SILVERMAN: And then we also wanted to provide the Board an update on the Seismic Mitigation Program. There is an item in the Consent Agenda that is going to receive the unfunded approval. It's for Brawley High School
for the auditorium project.

And we also wanted to share the priority funding release fund releases that the Board had apportioned back in February. Quite a bit of projects have gone out for funding. Over $71 million in fund release requests have been received out of the 81 million, and the deadline was yesterday. So I'm sure we'll have almost all of those trued up and we'll report out at the next meeting.

And we also wanted to give the Board an update about the fund releases for the Career Tech Education projects. There were a couple batches of apportionments. They had extended timelines, and there was a timeline that lapsed just recently and only one project didn't make it. So we wanted to report that to the Board.

And then we'll be monitoring the next batch of projects that have due dates of September 7th of this year and we'll provide updates as we get closer to the deadline of whether those projects receive funding.

And then the last item we wanted to share is we anticipate a meeting for June 22nd.

CHAIRPERSON ORTEGA: All right. Any questions for Lisa? Any public comment on any of those items? All right. Seeing none, we'll move onto the Consent Calendar.

MS. SILVERMAN: Consent's ready for your approval.

CHAIRPERSON ORTEGA: Okay. Any questions or
comments on the Consent? Any public comment on any of the Consent items? Okay. Seeing none, is there a motion?

MR. DIAZ: Moved.

CHAIRPERSON ORTEGA: So moved by Mr. Diaz.

ASSEMBLYMEMBER CHAVEZ: Second.

CHAIRPERSON ORTEGA: Second by Mr. Chavez. And we'll note that Assemblymember Bonilla has also joined us.

So all in favor of approval of the Consent Calendar say aye.

(Ayes)

CHAIRPERSON ORTEGA: Any abstentions/objections? I'm going to hold that open. I know we have two members not here yet and they might want to add their vote on when they join us. So we'll move to Status of Fund Releases.

MS. SILVERMAN: So on stamped 82, I know we've been sharing with the Board the activity of the fund releases related to the apportionments that went out in February.

And so we wanted to share that there's a marginal amount of money that did go out, close to $7 million. And that's it as far as reporting that activity.

As far as the financials updates on the approvals, there's ten projects being presented in the Consent Agenda that are worth close to $9 million. Some of those are facility hardship projects and seismic projects. So wanted to update -- and a few conversations for charter schools.
Wanted to update on that activity.

And there's also funds reverting back into the program as a result of conversions and closeouts and that represents $3.6 million.

And that's all we have to share.

CHAIRPERSON ORTEGA: Okay. Welcome, Senator Hancock.

All right. Any questions for Lisa? Any public comment on any of the financial information? Okay. Seeing none, we'll move to Item 6 which is an appeal. This is on Montague Elementary School.

MR. LaPASK: Brian LaPask for the Office of Public School Construction. This appeal is for the Montague Elementary School District in Siskiyou County. It's a small rural district of just 200 pupils, and this particular project is an Emergency Repair Program portable replacement project.

ERP projects that require DSA approval have 21 months from the apportionment to complete the project and submit final expenditures. The deadline for this particular project was May the 20th of this year.

The district notified us that they would not be able to meet that timeline. Due to inclement weather and a few other circumstances within the district, they were unable to meet that deadline, so they're requesting an
extension to July 19th.

We've done our research on this project and we believe that the project will be complete by July 19th. However, we're unable to administratively approve any kind of an extension for these projects. So we are seeking Board direction on their request.

CHAIRPERSON ORTEGA: Okay. Before I take any questions, I do have a speaker card from -- let's see. I don't know how to pronounce the last name, but it's Marni Posl. Please come on up. Did you have any comments? Yeah, oh, please join us here.

MS. POSL: I want to thank you all for allowing us to be here today and I am representing Montague Elementary School. I'm the new Superintendent.

We have 200 students who are high poverty students. We have over 75 percent free and reduced lunch at our school.

This project was begun far before my time, about eight years ago, and this summer I came onboard -- I'm sorry, I'm a little nervous -- came onboard and I thought everything was going as expected, but as Brian said, inclement weather, also not being able to get the portable that we needed because we needed to have a 40-pound snow load, yadda, yadda -- lots of things going on.

However, when I found out that there was a
deadline, which I was not aware of, I contacted OPSC as soon as I knew and talked to our architect who is also here and we are onboard or on the timeline to have this finished -- actually by next week, they're going to bring in the portable building.

I brought some pictures to show you that we have excavated. We've put gravel in. We have all the way to the point where there's the concrete piers for the project.

So we are utilizing those funds and it would be a financial hardship if right now you denied our request for an extension and it would really impact our children.

CHAIRPERSON ORTEGA: Great. Thank you. Any other public comment on this item? Okay. I don't think we have any objection to this item, so --

ASSEMBLYMEMBER CHAVEZ: I'd like to move to grant the district's appeal.

CHAIRPERSON ORTEGA: Great. Moved by Mr. Chavez.

SENATOR LIU: I have a question of staff.

CHAIRPERSON ORTEGA: Sure.

SENATOR LIU: Is it typical that it takes five and a half years to get approval for these kinds of projects? I mean they submitted the emergency -- in April of 2008 and the district received its apportionment in August 2014.

MS. SILVERMAN: We had to wait for budget appropriation for those funds to come in, in order to fund
those projects. So the projects are already processed. It was just we didn't have the cash from the Williams Settlement to come in, and that had to be via the Budget Act.

SENATOR LIU: Okay. All right. So there's a discussion with -- among all of us in the budget process.

MS. SILVERMAN: Right. And so we received the funds last year.

SENATOR LIU: Oh, okay. All right.

MS. SILVERMAN: Yeah. And so they were disbursed with it.

SENATOR LIU: Right. And I know the Governor has put in another amount of dollars in this year's budget for emergency repairs. Is it typical -- I mean, you know, so the money is in there, so it wouldn't take so long to approve projects.

MS. KAMPMEINERT: The funding for the project for Montague came out of the $800 million settlement as a result of a lawsuit.

SENATOR LIU: The Williams Settlement?

MS. KAMPMEINERT: The Williams' Settlement.

SENATOR LIU: Okay.

MS. KAMPMEINERT: It's my understanding that the funding this year is for something slightly different and wouldn't be related to these kinds of projects.
SENATOR LIU: Okay.

CHAIRPERSON ORTEGA: But I do think the reason why the funds were proposed in the budget were to address things in a more timely manner to be able to not wait for -- and this one seems like a special case because it was related to a settlement.

SENATOR LIU: All right. Okay. Thank you.

CHAIRPERSON ORTEGA: Okay. So we had a motion by Mr. Chavez, I think a second by Ms. Bonilla. So all in favor of approving the appeal say aye.

(Ayes)

CHAIRPERSON ORTEGA: Any objection? Okay. That passes. I'll hold that open as well in case Mr. Nazarian joins us.

MS. JONES: Okay.

CHAIRPERSON ORTEGA: So we will move onto Item 7. I do want to say before we start Item 7, I have -- we have asked that anyone who wishes to speak on the topic to fill out a speaker card. It just makes it a lot easier for us to manage the number of folks who want to speak on the item.

So we will start with the staff presentation on Item No. 7 (Developer Fees).

MS. SILVERMAN: Yeah. Direct your attention of page 151. At the April State Allocation Board meeting, the Board directed staff to develop an action item with options
to trigger Level 3 developer fees.

In April, it was an information item provided to the Board with the statutory framework on developer fees and if the school district meets requirements to charge Level 2 and if state funds for new construction are not available, then a district can start charging Level 3.

But the state funds are not available must be a determination by the State Allocation Board that it's no longer making new construction apportionments pursuant to Article 5 under School Facilities Program due to the lack of funds.

And to the background for Level 3, there was never a trigger, but it was considered back by the Board in 2001 and at that time, there were more requests for funding in new construction than there was bond authority.

But the board had established quarterly rounds to apportion funds and it was still making apportionments. And at the time, the Board had requested that the Attorney General weigh in on the matter and the Attorney General had made a determination that the Board could not trigger Level 3 as long as the Board continues to approve apportionments.

So in our staff analysis, there's two considerations. One is, is the Board approving new construction apportionments under Article 5, and the second
is, is there a lack of funds available in new construction. So we have outlined on page 152 a number of different items as far as Article 5. Article 5 really addresses new construction projects, additions in classroom space.

Article 8 specifically deals with facility hardship and Seismic Mitigation Program funds. So the Board is not approving and hasn't approved Article 5 new construction apportionments since September 2015. So several months have lapsed since that action -- additional actions have occurred.

We currently don't have any projects on the unfunded list, meaning the Board has processed applications that's currently not waiting for cash. And the Board is still apportioning funds, but those funds are being directed to facility hardship under Article 8.

And the Board actually did take action as far as a policy to elevate those health and safety projects when we had bond authority and made that policy a regulation back in April 2015.

So, yes, there's a lack of funds in new construction. There is over 17 projects that when we did accept applications did get processed to the Board, but there's still 26 projects that are on the true unfunded list worth over $181 million.
So the chart we have listed on page 153 -- excuse me. It's on page 154. It does show the history of the blue, meaning the designation of projects being moved through by the Board that are new construction, under Article 5 and the orange depicting the activity for those health and safety projects.

So you can see that there is a downturn of projects being moved through the Board and also then an increase in projects be approved by the Board for facility hardship under Article 8.

We also wanted to share with the Board that, yes, we understand there is Seismic Mitigation Program funds and there was a carve-out under Proposition 1D in which at that time the Board did designate those funds for Seismic Mitigation Program.

As of past efforts -- there have been efforts in the past to move over those funds back to new construction because there was limited activity. Since then, there obviously has been quite a bit of activity and changes in the program to make that process much easier for districts to access the program funds.

So those past efforts have not moved anywhere as far as trying to transfer those funds. So what we wanted to share is -- with the Board that it does appear that it's within its authority to determine the new construction funds
are not available and, therefore, they do have the ability to trigger Level 3.


SENATOR LIU: I want to thank the staff for their report and for our discussions in the past couple of months on this issue.

And I'd like to make a motion that this Board make a finding that, pursuant to Government Code Section 65995.7, state funds for new construction are no longer available and, two, this Board is no longer approving apportionments for new construction pursuant to Article 5, Chapter 12.5 of Part 10 of the Education Code, due to the lack of funds for this purpose thereby authorizing school districts to begin to impose Level 3 developer fees if they so choose.

And I also move that the Secretary of the Senate and the Chief Clerk of the Assembly be notified that this determination was made as of today, May 25th, 2016.

CHAIRPERSON ORTEGA: Okay. Thank you.

SENATOR LIU: That's my motion.

CHAIRPERSON ORTEGA: Okay. We have a motion and shall we open it up for discussion.

ASSEMBLYMEMBER BONILLA: I have a question.

CHAIRPERSON ORTEGA: Assemblymember Bonilla.

ASSEMBLYMEMBER BONILLA: The question I have if
the bond does pass this November, do the Level 3 fees remain
or do they automatically revert back. What would be the
process for, you know, returning back to the fact that now
there is funding?

MS. SILVERMAN: The Board has the ability to make
a determination there's no funds available. The step as far
as -- the locals have the ability to trigger Level 3. They
also have the ability to renegotiate or rescind, but that's
also done at the local level.

ASSEMBLYMEMBER BONILLA: Um-hmm.

MS. SILVERMAN: So it has no action by the Board.
They don't have to make an additional action.

ASSEMBLYMEMBER BONILLA: I guess then to refine
the question, is it possible that the bond passes and the
money is now there and it starts to flow somehow eventually
and that Level 3 would remain in effect at some -- at local
levels?

MS. BANZON: There is no automatic reversal.

Once --

CHAIRPERSON ORTEGA: Jonette, can you identify
yourself for the record.

MS. BANZON: I'm sorry. This is Jonette Banzon,
counsel to the SAB.

There is no automatic reversal of the Level 3 fees
once this is triggered.
What happens is unless the Legislature writes it into Government Code 65995.7 that it will terminate effect at a certain period, then it does not automatically.

However, if there's no such language, then it will have to remain with the district to, once they did a one year and then they need to go back for their needs analysis, then at that time, if there's a bond that passed, they won't be able to meet the elements of 65995.7.

So they cannot then -- that's when Level 3 -- they cannot charge Level 3 at that time. But there is no automatic reversal unless we have statutory authority from the Legislature.

ASSEMBLYMEMBER BONILLA: Thank you.

CHAIRPERSON ORTEGA: Okay. Senator Huff.

SENATOR HUFF: Yes. Thank you. So by this motion, we would just declare we don't have money. Let me ask this question.

So we talked about the seismic funds and we have some discretion to move them into new construction funds, but if we don't do that, they're still considered the same class of funds, are they not? Let me ask the attorney that.

MS. BANZON: The seismic funds are under Article 8, and the 65995.7 is very specific to say funds under Article 5.

So the rationale for that is Article 8 are -- like
for hardship, they're critical schools. There is an intent
to continue apportioning -- appropriating those monies.
However, for -- to trigger Level 3, we have the new
construction -- the Article 5 which is based on new
construction only.

So the reason is that -- I would say that
Article 5 for new construction is necessary -- I'm sorry.
I'm trying to think through this.

But what I'm trying to say is Article 8 is for
critical schools. So the Legislature does not intend for
the SAB to stop appropriating that. They have up to 10.5 of
funding in the bond funds for seismic -- up to 10.5 -- 10
and a half percent because of the criticality and the
necessity to get funding, and that's the rationale for this.

And that's why they've limited -- the statute is
limited to Article 5 which does not include Article 8 which
is where hardship and seismic are.

CHAIRPERSON ORTEGA: I think the other point to
clarify is that the Board does not have authority to move
the seismic funding to the new construction; correct? That
has to be done statutorily.

That issue's been proposed before, and it's been
proposed to be done statutorily. The Board does not have
discretion over that.

MS. BANZON: That is true because the bond funds
language says you have up to 10.5 of the new construction
funding going to seismic.

SENATOR HUFF: Okay. Well, I'm not -- if it's up
to 10 point whatever percent, then that could be down to
zero percent; is that correct?

MS. BANZON: That is at the discretion of the
Board, but the Board has up to 10.5 of this funding -- of
this new construction bond funds going into seismic. That's
what the Legislature authorized.

SENATOR HUFF: Okay. So if they authorize us to
put money in, then -- I'm not an attorney, but it seems like
we have authority to put it back since it was all designated
with authority from this Board.

So it seems that if we're taking action to declare
that it's not there when in fact it's possible it could be
moved back, I guess my question is are you confident that
this will stand a legal challenge?

MS. BANZON: Well, let me state what the staff has
stated, that this has been reviewed a while back and there
seems to be we could not get into an agreement as to what to
do with the seismic funds is what staff just stated earlier.

So based on that, the seismic will likely stay
where it is and will get funded to seismic applicants.

SENATOR HUFF: Indecision by this body would not
designate whether that money is available or not. It just
means this body's indecisive.

If in fact an action of ours could put it back into new funding and we don't take that, that doesn't mean it's not available. It means we're not willing to take that action. I mean that's how I see it.

CHAIRPERSON ORTEGA: Well, I think on the question of moving the seismic funds into new construction, the Board and the Legislature have determined that that is not under the discretion of the Board because -- and I say that because it's been proposed in the budget several years in a row and not approved by the Legislature, and so the funds have remained as part of the seismic pot.

So I think the question of whether the Board has discretion over the seismic funds, we have decided -- now, there has not been a court case. Neither party of interest in there has litigated that question. But the Board and the Legislature up to now have decided the Board did not have that discretion.

On the question of whether new funds are being apportioned, the analysis from the staff is that the only funds that are being apportioned are those related to Article 8.

And the question on the authority to authorize districts to increase the developer fees is on whether there are apportionments occurring under Article 5, and that's the
question before us today.

So I think there are -- I will acknowledge that there are real complexities in the structure that could result in certainly folks with interest litigating those questions, but at this point, we're working under what have been the assumptions of the Board and the Legislature until now.

Any other -- we have several speakers. So with members' continuing questions, we will move on.

Mr. Chavez.

ASSEMBLYMEMBER CHAVEZ: Just understanding the timeline. If we were to make that decision today that was presented by Senator Liu, I would imagine within the first meeting in June for the school board, they'd probably trigger this.

And then if they triggered it, I'd imagine if you are a developer looking at this and you knew a bond was coming through five months later that essentially they would probably not build. They'd say why should I do this and wait five months and see what happens with the bond. Then the bond will go through and I then could build the house at the lower rate because they wouldn't have -- according to the lawyer, they wouldn't have the situation to have Level 3.

So essentially we'd stop building across the
school district that chose to trigger this. And that would only be for the five or six months because we're going to have the election in November.

Bonds have always passed for education and so that's all we're going to do is stop building for a period of time until the bond goes.

So if the bond failed, I'd be one of the first ones to support Level 3 because I know we need it in the school districts.

But -- a number of us up here actually signed on to support the bond. I know I have because I know it's so critical for our schools. So -- but I'm not interested in people being put out of work and stopping development either.

So I'll wait to hear discussions from everybody else up here, but to me it seems shortsighted to do this. I know people want to do it, but you're not going to accomplish anything except stop building and lose jobs.

So that's kind of my -- I've been looking at this pretty heavily because I support schools heavily and I think also being in local government, having been there for two terms, and worked with developers, I know exactly what they'll do. They just won't build.

So if somebody can argue against, I'd really appreciate to hear about that. Otherwise, I think that's a
critical issue because this is not going to do a thing except lose jobs.

CHAIRPERSON ORTEGA: Thank you, Mr. Chavez. Any other members of the Board wishing to speak on this point?

Mr. Nazarian.

ASSEMBLYMEMBER NAZARIAN: I'm stuck at the same point and, if I understand you correctly then -- what's the actual percentage of districts that do qualify for the trigger will also go ahead and make that decision to go forward?

Because I don't know what that number is and I don't know who can speak to that. But I suspect it's very small.

CHAIRPERSON ORTEGA: Well, I would only say that based on the letters and the folks who've appeared before the Board to date, it is a small group of districts who are prepared to do that quickly. I think that is true.

We do not have information about where other districts might be on this question. We can certainly ask some of the folks who are going to come before us today if they have any comment on that point.

Okay. Are we ready to move to the public comments at this point? Okay. So I will just go in order of the slips as they've been filled out. So we'll start with Dan Cunningham from Dublin Unified.
And let me go ahead and call up Megan Rouse also. I'll try to call everyone two at a time so we proceed efficiently.

MR. CUNNINGHAM: Good afternoon. Thank you for having us here today, and I hope you remember us from back in January when we came and brought this issue up originally.

And I want to thank the Board for having the courage to have the conversation. This is -- you know, we were told when we first came up here you're crazy, it's never going to happen, no one will even consider it.

And it's taken a lot of guts to have this conversation and we appreciate it.

And the thing that's important -- and to Assemblymember Chavez's comment. You know, there might be some developers that stop developing, but then again there might not and -- depending on what the bottom line needs to look like.

And so I think we need to look at the important thing which our communities need this. Our schools are definitely underfunded for construction and we have students that are going to be impacted by this.

And this will help provide some balance to the funding mechanism because right now, it is overly dependent on local schools. And so this is just one step to bringing
some balance back in to funding the school construction.

Thank you.

MS. ROUSE: Hi. Thank you so much. My name is Megan Rouse and I'm Vice President of the Dublin School Board and I'm here to speak in support of Level 3 fees.

Level 3 is actually complementary to our proposed regulation as we'll talk about later, but Level 3 is about the future. It's about the houses that will be built tomorrow and the next day and the day after that and for all of the students that will be coming to us from those homes.

In the next seven years, we expect 5,000 students coming from 7,000 homes.

It costs us about 120,000 to $175,000 per student to build them a school based on our most recent school facility needs analysis.

At the moment, we collect about $17,500 per home in developer fees. We need relief.

Absent state money, we need Level 3 to begin to provide that relief. We need the Level 3 fees for our students. We need it for our community and, frankly, it's the right thing to do. Thank you.

CHAIRPERSON ORTEGA: Thank you, Ms. Rouse. All right. Amy Miller.

MS. MILLER: Hi. I'm Amy Miller, a trustee from Dublin Unified School District also.
SB50 needs reform. I think that's really one of the issues here.

This law -- this system -- it's set up as a one size fits all and, while I understand Assemblymember Chavez's point, none of us is out to get developers. That is not why we're here.

But truthfully, the developer fees are supposed to cover 50 percent of construction costs. In our school district right now, even with our new school facilities needs analysis which would bring our Level 2 fees up to 10.66, it doesn't even come close.

And without state money, we are overburdening our community. And so maybe you're right. Maybe Level 3 fees is enough to make builders stop building, but if anything, it at least gives the school district some leverage to negotiate with developers.

I mean at this point we really have none. And what's happening in Dublin is we are going out for a local bond measure and we have never had a problem passing a bond measure in our school district. We've never had a problem passing a parcel tax.

We have very severe opposition this time and one of the reasons that they are upset with the school board is they don't feel that we are collecting high enough Level 2 fees, no matter how much we explain it.
We have put out in every way you can imagine the language of SB50 to explain there's a formula that you have to follow. It's really not up to us and we actually have negotiated with developers and they have given us more, but we still have never come close to covering 50 percent of the cost of a school.

So even when the state bond measure passes -- and we all hope that it will -- this is a discussion that has to continue. Everyone needs to be at the table: the state, the developers, and the school districts.

This is about educating students and the system today does not support the school. So, please, I ask you to support Senator Liu's proposal to put Level 3 fees through.

Thank you.

CHAIRPERSON ORTEGA: Thank you, Ms. Miller. Okay. Next I'll call Ms. Westra and James Morris. Ms. Westra and Mr. Morris.

MS. WESTRA: Good afternoon. My name is Sherea Westra and I am the Teacher Association President in Fremont.

Fremont is a wonderful community. My parents grew up there. I grew up there and graduated from there and many, many people are coming to Fremont for many reasons, for 880, for 680, for BART, and for our schools.

We have 13 Gold Ribbon schools this year and we're
very, very proud of what we do there.

The members I represent have seen the impact of the housing growth in Fremont, and we have that enrollment growth that we've been talking about because of that and our facilities can't keep up.

As a classroom teacher, we see space for 800 becoming spaces now for 1,200. Portables upon portables are being put down. Play space, PE space are being taken up, and our teachers -- the impact on their learning -- or their teaching and the learning is happening.

We have teachers who do not have classrooms. Every 45 minutes, they go to a new classroom. They can't meet with students in between periods, and that's impacting what they can do for our students.

We have students being overloaded from school to school which you're in this school and when a seat opens up, you get called back and you leave that great classroom where you built your community and now you start over at your school that's right across the street from that million dollar plus home you bought.

Last fall, the members I represent passed a position statement after this -- about this and I just wanted to share it with you.

Additional new housing in Fremont is contributing to the overcrowding of Fremont Unified School District
schools. FUDTA is pleased to work with the school district on this and we are pleased to see the work being partnership with the city council, the district, and the developers of the Warm Springs development to building new schools and provide funding for the feeder junior high and high school.

FUDTA believes that the developers of other approved housing developments should work with the city council and the school district to provide neighborhood classrooms.

Any future proposed developments should do the same. Fremont is a desirable city for so many because of our schools which only adds to the overcrowding problems in FUSD.

The developers need to be ethically responsible to contributing sufficient funds to prevent an overcrowding problem that we keep seeing in Fremont.

Warm Springs which is part of our town, they did the right thing and they helped and worked with us, but we have others that are not.

We believe in collaboration between our union and our district and we need the developers to do that too and this unfortunately has not been happening.

We need five elementary schools, a high school, a junior high. We are hurting and we need your help and that's why we're here.
That hallway is lined up with a busload of Fremont people you can't see unfortunately, but they're out there. Believe me, they're there, and we're hoping today that you will support Senator Liu's motion and that you will do the right thing for the students across the state and specifically in Dublin, right across 680 from us, and in Fremont especially and we hope you'll help us out because we just need help. Thank you.

CHAIRPERSON ORTEGA: Thank you. Mr. Morris. I am going to ask for folks in the back to not clap. It's just going to slow us down a bit and we appreciate you being here, but, please, do not clap. Thank you.

ASSEMBLYMEMBER BONILLA: You can clap like this (indicating).

CHAIRPERSON ORTEGA: Yes. Yes. Silent clapping is fine.

MR. MORRIS: Thank you very much. My name is Jim Morris. I'm the Superintendent of the Fremont Unified School District and we tried to have a small number of people coming to speak to you today because we think -- and we appreciate your thoughtful deliberation and discussion of this item.

In addition to Mrs. Westra's opening comments, I just want to point out we really are a model school district. We're a school district in every way that has
done everything that this state could ask for a school
district.

We have incredible teachers. We have incredible
staff. We have the highest performing schools in the Bay
Area, kind of tied with Dublin.

But we really are in so many ways a model school
district, what you want. Our local community has passed
local bonds in order to fix and repair our schools that were
built in the '50s.

We've worked collaboratively with developers in
South Fremont and had very good success in one instance.
But we really need the help and the leverage of having
Level 3 fees. It doesn't mean we won't continue to work
with developers because we know every one of us lives in a
house that was built by a developer.

We will continue to have conversation with
developers and continue to enter into mitigation agreements.

Our local board -- it's important for you to know
before Level 3 fee is implemented at the local level, it
takes an action of the local school board. It has to be
posted. There has to be 30-day notice. There has to be a
public comment period, and it has to be an open process in
collaboration with the community.

Our board is probably the most transparent,
collaborative board of education you'll find anywhere, and
we want to continue to work with folks in our community, but
the challenge is I have today, if a first grader moves into
the City of Fremont, I don't have a seat for them anywhere.

I have 2,400 kindergarten seats for August and I
already have over 2,600 students enrolled. We have a very,
very serious problem.

Because our schools are so good and folks are
moving into the community, we respectfully ask for your help
and support. Thank you so much.

CHAIRPERSON ORTEGA: Thank you. Okay. I have Liz
Fischer and Zainab Khan, if you could come on up.

MS. FISCHER: Thank you. My name's Liz Fischer.
I'm a concerned parent from Fremont and helped to organize
some of this.

We just respectfully ask the Board to support this
motion for all the reasons already stated. We need the
leverage to be able to get together on the table with
building schools for our students.

It's been a long time and the time is now.
Developers are already coming and paying their fees as we
speak because of the pending decision here, and we hope that
you will support it so that we will have an opportunity to
get the funding that we need. Thank you.

CHAIRPERSON ORTEGA: Thank you, Ms. Fischer.

Ms. Khan.
MS. KHAN: Hi. Good afternoon. My name is Zainab Khan and I'm a senior at Irvington High School which is located in Fremont Unified School District which is a part of Alameda County.

My high school is currently home to over 2,600 students, which means that we're severely overcrowded. Our town needs at least one more high school, but my school district doesn't have the funds to build one, and that means that some of my friends, including myself -- sometimes I'm on the road for over an hour before I actually get to school.

I have to leave home at 7:00 o'clock in the morning just to get to school by 8:05 which is when our tardy bell rings, and that means that I'm sleep deprived because I'm constantly on the road driving to and from school because school is so far away from where I live, which is why -- well, my school district is a wonderful one.

And I understand that a lot of parents do want their students to go to schools like mine and I do understand that developers want to build homes there, but we don't have the funds to accommodate this many students.

Last year, our freshman class was over 800 students, which means that our school day has to break up to accommodate them.

So what I'd really ask the Board here today would
be if you guys would please just follow the law that's been written in cases like this when the Board can't pay for our school facilities and just charge developers a higher fee so that I can get the education that I deserve, that my younger brother who's going to be a junior at Irvington High School gets the education he deserves, and other students like us get the education that we deserve. Thank you.

CHAIRPERSON ORTEGA: Thank you, Ms. Khan. Next we have Dr. Yang Shoo and Susie Lara.

DR. SHOO: Good afternoon, Board members. Thank you for giving me a chance to talk with you about Level 3 fees.

My name is Yang Shoo and I'm on the Fremont Unified School District board and the clerk of the board. As the representative of the public and my community, I'm glad that I'm joined by a lot of community members led by our Vice Mayor Lily Mei and Planning Commissioner, Raj Salwan, who will respectfully speak to you later.

I will not repeat the serious that our superintendent and other speakers before me have already spoken to you. I just want to share some personal experience.

As a board member, I often visit schools. One day, I visited an elementary called Glankler and I walked
into a small room barely as big as the space around this
table, and it was shared by four school psychologists. When
I saw that, my -- tears just rolled down.

And we are in desperate need of space, not only
for students but also for the teachers and all the staff.

Since this month is the Asian heritage month, I'd
like to share with you a story. In ancient China, one day a
group of monkeys saw the reflection of the moon in the
river. They thought the moon was drowning, so they all
jumped into the river, tried to save the moon.

They tried and tried, but nobody could get the
moon out of the water.

School facility bond to me is like that moon in
the river. However, Level 3 fees is an immediate and
effective way to mitigate our problem.

So our need is clear and present and I urge you to
all support the motion made by Senator Carol Liu and support
the motion to let us impose Level 3 fees to developers.

Thank you.

CHAIRPERSON ORTEGA: Thank you. Ms. Lara.

MS. LARA: Hi. I'm Susie Lara. I'm with the
Beaumont Unified School District in County of Riverside, and
we are a district that's also growing, not as much as they
are, but we are anticipating an additional 1,500 homes by
the year 2020 or 2021.
We've had a 57 percent growth in ten years, and so we've passed a bond in our district also. We are not able to get all those funds at this time because of the bond capacity.

So we are in need of two new elementary schools very soon. We are just getting ready to start going through the process to do an elementary school. We need another one and then we only have one high school in our district, which has 2,500 students in it, and so we're going to be needing a high school.

So I know the list goes on for everybody and I understand that. So I appreciate this conversation about the Level 3 fees. I know it's a very difficult decision to make because it does have such a far-reaching impact on everybody.

It has impact on developers, has impact on families if we don't do it, and students and so I just -- I would support the Level 3 and -- because I think that our kids deserve that.

And that's what we're here for as school board members and educators. We're here to serve our students, and the best way we can do that is to speak up and let you know how important those kind of issues are to us.

CHAIRPERSON ORTEGA: Thank you, Ms. Lara. Next I have Kathy McDonald and Lily Mei.
MS. McDONALD: Hi. I'm Kathy McDonald. I'm a resident of Fremont and I'm a member of the bond oversight committee for our latest school bond.

In 2014, we passed a $650 million school bond to address our failing schools. It was fix-it bond. And I can tell you that in the last two years that I have been on this bond committee, we have had to prioritize new school construction out of that budget to accommodate the accelerated growth we really couldn't accommodate any other way.

And because we have had to accommodate these school construction projects, we are now jeopardizing the fix-it projects that we had outlined for this bond.

So really we're not only using our money that we had no other use for for this construction or getting the money from the developers, at this point we are taking money from the residents that we have taxed with the promise that we were going to fix these schools.

We need help and at this point, we have 8,000 plus units of homes already approved on our budget -- on our planning project for the next two years.

So, honestly, Mr. Chavez, if we had five months of no more approved construction and no development, I think we would really relish the break.

And I really urge you all to approve Level 3 fees
so that we have at least a change at getting at this
construction. Thank you.

CHAIRPERSON ORTEGA: Thank you, Ms. McDonald.

Ms. Mei.

MS. MEI: Good afternoon. My name is Lily Mei and
I really appreciate the opportunity to address the committee
this afternoon.

I'm a parent of a graduate of the school district.
I'm a mom of a current student and I'm a former school board
trustee and I have the honor of currently being the Vice
Mayor.

However, I wanted to clarify that I'm speaking
today representing myself.

There have been a lot of opportunities that I
think the school district has been able to work with
developers, and Warm Springs, that is an example, but having
seen the changes in the city and having been a parent of a
child who's overloaded and having to take a child who's in
kindergarten and show up for two weeks and not know where
you're going to place the child and our city's a fair size,
92 miles, and try and figure out as a parent -- working
parent with a toddler trying to figure out how am I going to
get them to and from two different locations, I really
understand the needs in terms of the fundings that are
critical for the city.
I also think that it's important because it's a three-legged approach in terms of a partnership of state fees, local, and developers.

And as you've heard already from our superintendent and from our teachers union and parents and volunteers, the community has supported the schools. They have consistently stepped up. They have supported parcel taxes and they supported a bond for $650 million.

What has happened, though, is that in some ways because we are performing so well and people are choosing to make this a home and we are trying to do the right thing as a city too to address the housing needs, we can't do that without the supporting infrastructure.

And so at this point, I would really request for your support too and to support Senator Carol Liu's proposal and as that when we ask our children to plan for the future, it really helps if you help us support that and also help them plan for theirs. Thank you for your time this afternoon.

CHAIRPERSON ORTEGA: Thank you. Okay. The next two are -- let's see. I apologize in advance if I am mispronouncing -- Hiu Ng and Raj Salwan.

MR. SALWAN: Okay. Hi. Good afternoon. My name is Raj Salwan. I'm a current chair of the Fremont Planning Commission. I'm also a former Fremont City Council member.
I'm also a product of Fremont public schools and I have three kids in our public schools now.

I'm here to urge you to support Senator Carol Liu's motion to increase Level 3 fees.

Fremont has been a model city. We have done our job. We have dedicated four TOD areas, one of which is near a new BART station.

We're building over 4,000 units just in Warm Springs alone. We are also building another 2,500 units near the downtown.

We have dedicated affordable housing boomerang funds, 20 percent. We were the first city to do that. We're continuing to invest in affordable housing in the Warm Springs district with a large amount of extremely low units coming online.

And so we only have one tool left to build our schools. The schools that we have now are the same schools that I went to 30 years ago, and I think it's time that our schools get modernized and become part of the 21st century.

We like to say that we are part of Silicon Valley, but how can we do that when our schools reflect the 1950s.

So I kindly and humbly request all of you to please consider supporting Level 3 fees.

I understand your question, Assemblymember Chavez, but hopefully we can revisit that at a future time. If we
have -- flush with cash, maybe we can relook at it at a
future date. Thank you very much and appreciate your taking
this time.

CHAIRPERSON ORTEGA: Thank you.

MR. NG: My name is Hiu Ng. I'm a regular parent
from Fremont. I'm not an elected official in any way. I do
not work with the school district.

I have a very clear and strong track record of
sometimes agreeing with the Fremont Unified School District
board of education. Other times, I actually disagree.

But on this issue of Level 3 fees, the need is so
clear that I actually have not heard from many people to
oppose. I believe the overwhelming sentiments of the
Fremont public is wanting to see a higher developer fee.

Our Level 2 developer fee at this time is only
something like $8.16, and it is not -- some other speakers
have told you, it does not even meet half of the costs to
our school district.

I want to give you a snapshot -- really fast
snapshot. There will be a Fremont school board meeting
tomorrow night. On the agenda, there will be nine portable
classrooms being added to one of our elementary schools.

On the agenda, these will be 3 portables adding to
one of our junior highs, Thornton Junior High, which already
has 20 portables.
There is a third item which is adding 6 portables to American High School, which already has 24 portables.

And the really, really heartbreaking part is I expect to be at the board meeting tomorrow and ask the school board please add ten portables at American High.

I believe in April I talk to everyone a little bit about the needs at our schools. Our schools basically falling apart. Even though we add the classrooms, all the core facilities -- music, performing arts, bathrooms, everything else is not enough. There is an urgent need.

Many the people here today not because we have something against developers or, you know, we have something that we're going to do anything unreasonable or, you know, get some money in November.

At that time, I believe -- I thoroughly believe that the school district will review and do the right thing.

But Fremont is really, really hurting. The kids are hurting. You heard from, you know, the leader of our teachers union. Teachers aren't having fun. The parents are really concerned because we see the overcrowding.

You are hearing from a student leader. Please support Senator Liu's motion.

CHAIRPERSON ORTEGA: Thank you, Mr. --

MR. NG: We are asking because we need it. Thank you very much.
CHAIRPERSON ORTEGA: Thank you. Patti Herrera.

MS. HERRERA: Good afternoon. I'm Patti Herrera. I represent Riverside County schools. We have 23 school districts in Riverside County. We educate collectively 425,000 students every day.

In Riverside County, our situation is quite -- I wouldn't call it unique, but it's definitely urgent. Our assessed valuation per pupil across our county is well below the statewide average, which tells us that in our county we don't have the financial wherewithal to address our housing needs, our growth in Riverside.

We are one of three counties that the Department of Finance has noted will grow in the coming decade and actually over the next 50 years and we're feeling that growth now.

We appreciate, Senator's Liu, your leadership in making the motion to trigger Level 3 fees.

I can't tell you, Mr. Chavez, how many of our districts in Riverside County would use that authority to assess Level 3 if you provide it to them, but I can assure you that if you don't provide them the option that they can't, and they need your assistance.

So we support the trigger of Level 3 and we hope that you will do what's right for kids. Thank you.

CHAIRPERSON ORTEGA: Thank you, Ms. Herrera. Next
I have David Walrath and Richard Lyon, and the last card I have is for Laura Preston, and then if there's anyone else -- I see we have one more coming.

MR. WALRATH: Madam Chair, members, Dave Walrath representing the Coalition for Adequate School Housing. Thank you for this opportunity.

In response to Mr. Nazarian's question, there are approximately 960 school districts in the State of California. We do not know how many have Level 2 authorization because only those with Level 2 could go to Level 3.

In Kern County, approximately 25 percent have Level 2. If you take that extension, if that is reflective of the state, then you're talking about potentially up to 240 school districts.

Whether they all would trigger or not, I do not know, but most of them when they did their needs analysis and their fee surveys, they included both Level 2 and Level 3 authorization in that survey.

Consequently, they can automatically go any subsequent Board action is they choose to, to go down to the permitting agency and say our fees are now doubled.

So a new homeowner who's building their own home just walked out of the plan department with their plans -- only building their own home will now have twice the fee.
They may not have figured that into their costs.

Because when you go to a Level 3, you cannot pick and choose who pays. It could be the person who is building three or four homes a year who has to be building those homes in order to have enough money and have enough people employed to meet his costs because they don't have enough money in the bank to carry themselves like large a corporation might be able to carry themselves if they chose not to building in a Level 3 environment.

So Coalition for Adequate School Housing last Wednesday testified before the three committees -- education committees regarding the state school bond.

Our testimony was the state school bond provides equity -- provides equity of access for the goal ensuring that every student in the state and every teacher in the state can have a quality classroom.

We will be urging you to not adopt Senator Liu's motion because it does not meet the equity test. While it does have some effects and you've heard testimony from some school districts, it does not help school districts with growth and not development, and those are sometimes districts in the Central Valley with high numbers of low income students.

It does not help modernization districts who have primarily modernization because Level 3 cannot be used for
modernization, only for new construction, only on new
development.

And when I say development, we won't get into the
economic analysis of how much of this cost would pass onto
the home buyer versus the home builder.

It does not help those districts who are small and
low wealth who need a robust financial hardship program.
The state bond would do that.

We believe the state bond will be -- it is on the
ballot. The voters will have a chance to vote on it in five
months.

We believe it is a better way of address these
equity issues.

We do not know what will happen if the motion
passes. None of us do. So the question is with the bond on
the ballot, why take a great leap into the unknown.

We ask you to vote no or not vote at all. Thank
you.

CHAIRPERSON ORTEGA: Mr. Lyon.

MR. LYON: Good morning, Madam, members. Richard
Lyon on behalf of the California Building Industry
Association.

We believe that there are viable solutions here
short of the Board taking the extreme measure of imposing
new taxes on housing.
Triggering a hundred percent financing on new home buyers as Mr. Walrath said with the bond pending in November before California voters will do very little to advance the cause of facilities and it will likely send a chilling message to the housing and the employment markets throughout the state at a time when we all understand and recognize that we have a serious housing supply and affordability crisis.

We agree with Mr. Walrath that the better solution here is to -- for the Board to educate itself, to understand what its options are, but to allow the public to voice its opinion on the program.

If the bond passes, then this question is moot. If the bond fails, then the Board should be prepared to take appropriate action immediately, but we think any action on Level 3 today would be premature.

I would like to address issues that are in the Board report that go directly to the triggering issues that the staff has talked about.

And I begin by citing you to the 2002 Attorney General opinion that you have in your packet. The issue there was not whether the amount of grant requests exceed the available funds. The issue was whether or not the Board had exhausted -- and exhausted is the word -- completely exhausted new construction dollars and is no longer
approving apportionments.

And importantly, the Attorney General's opinion is not the only legal opinion on this matter.

In 2001, the Legislative Counsel also opined. It's the opinion right here.

For the record, it is Opinion 12361, June 27 of 2001, and I'd like to read you the conclusion in this opinion and it tracks along with what the Attorney General said.

If state funds are available in the school facilities fund for apportionment to school districts and the SAB continues to approve apportionments, even though the total amount in that fund is less than the total amount of applications that could have been or could be approved for funding, then Level 3 doesn't trigger.

So it's not about the amount of demand on the system versus money in the account. It's whether the funds that are new construction funds have been exhausted.

The staff report concludes that there's a lack of funds for new construction. However, it's important to understand that the same report also acknowledges that seismic funds are new construction funds and that seismic funds remain.

So there's an internal conflict here. Both can't be right. We can't be, on one hand, out of new construction
funds and at the same time, have an account balance of funds that are acknowledged to be new construction.

The way that the Board -- I'm sorry. The way that the staff report attempts to reconcile this is to say that the Board has decided to place the monies into the Article 8 facility hardship/seismic account, and by doing that, the monies, according to this reasoning, are no longer counted as available under Article 5 for new construction purposes.

I think this. It really makes no difference what accounting measures are used here. It doesn't change the fact that the funds were approved by voters in 2006 as new construction, and until either the Legislature by a two-thirds vote or the voters themselves agree to repurpose those funds, they remain new construction funds.

To the second part, does the Board continue to approve apportionments under Article 5 and the staff report says no.

The report does acknowledge that apportionments continue to be made to seismic, but it says that those are under Article 8 and not under Article 5.

Article 5 is the organic statute that lays out new construction and the criteria for new construction, and I've got a copy of the article right here.

And in Section A, it basically says that a district has to be eligible and it submits an application.
But the important part here is in Subsection B, and it says this, and this is new construction and this is in Article 5.

The application shall include, but shall not be limited to, the school district's determination of the amount of state funding that the district is otherwise eligible for relating to -- and these are the eligible activities under Article 5 that the district is eligible for new construction -- relating to site acquisition, site development, new construction, and hardship funding pursuant to Article 8.

Article 8 is a lesser-included article within the broader Article 5. Article 5 is the new construction pot. Seismic funds are new construction. Until they have been repurposed by either the voters or the Legislature, they continue to be new construction funds.

And it makes no difference that the accounting was in Article 8 and not in Article 5 because by this code, seismic funds are a lesser-included activity under new construction. They are in fact new construction funds. They can be purposed for new construction.

The Board continues to approve apportionments of seismic funds which are identified as new construction funds.

So for those reasons, members, we believe that the two conditions, being out of new construction dollars and no
longer approving apportionments under Article 5, have not occurred and that it would be inappropriate. It would be unwise. It would be arbitrary for this Board to pull the Level 3 trigger.

I'd be happy to answer any questions.

CHAIRPERSON ORTEGA: Thank you, Mr. Lyon. Next I have Laura Preston and Donald Hofer.

MS. PRESTON: Hi. I'm Laura Preston with the Association of California School Administrators.

Mr. Lyon and I kind of winked at each other on our way because a couple of the people in the room were here back in the 1980s when we created the School Facility Program in its inception.

I had the privilege of working for Senator Leroy Greene who is author of the School Facilities Program and when we created the program, it was supposed to be a third, a third, a third builders, a third the state, a third school districts.

And at that time, we were passing bonds consistently. And also at that time, we had the ability -- and Mr. Lyon and I will probably argue back and forth, but we had the ability to go to our cities and counties and leverage additional fees. Especially at that time we were growing rapidly throughout the state.

So developers were paying more than the statutory
amount of fees in some parts of the state. I'd assure you back then and I can assure you now -- I don't know, but I could assure you back then housing did not slow down.

Housing prices don't go skyrocketing because the houses are going to sell for what they sell. It becomes a profit margin for the developers and I understand that and I know that that can be problem, but the reality is, is that our schools -- our good schools are selling points for homes.

And our schools wouldn't be needed if there weren't the homes being built to, you know, accommodate the students that are coming out of them.

So I wanted to provide that kind of backdrop because when we moved forward when SB50 was passed and we changed the whole dynamic of the developer fees, it has created problems in pockets of the state.

Now, I have talked to many of my members. Some members are willing to -- they're agreeing that they could really use the Level 3 developer fees and we have some that are like, no, even though we know we could probably use the funds, we know the developers will leave and we don't want them to leave.

So what this does is it allows for the conversation. It force -- not forces, but it brings the parties together to figure out how you're going to pay for
these schools, especially in light of the state not providing their one-third part, and they haven't for a long time, all of you know. And we need those resources for those districts that will work with their developers to make this happen. Thank you.

CHAIRPERSON ORTEGA: Thank you.

MR. HOFER: My name is Don Hofer. I'm the Chairman for the California Building Industry Association. I'm also Vice President for Shea Homes in Northern California, and I participate as Vice Chair on the Facilities Oversight and Advisory Committee for the school district in which I live.

So I have an interesting perspective with regards to a lot of this.

I'd like to first point out that as the building industry, we support schools. We believe in a lot of what the previous speaker just spoke to about the importance of schools in our communities.

However, pulling the Level 3 trigger today doesn't solve what you're hearing a cry for today. The issue is fund and as an association, the California Building Industry Association is focused on the $9 billion bond that is on the ballot for November.

And that bond is an effort that has gone on, as many of you know, for nearly four years. Had that bond
passed or been allowed to move forward when it was
originally calendared, we wouldn't be having this
collection today.

The issue is funding generally. And generally,
the issue today is whether or not if you pull the trigger
for Level 3 fees if it does anything.

I can tell you that a lot of what people have
talked about is correct, that if you pull the trigger today
for Level 3 fees, several things will play out throughout
the state.

The first is that in growth districts like Dublin
and Fremont and others, you'll see developers come out and
pay fees in advance. We're talking about a five-month
window from when the fee trigger would be pulled and the
bond would be decided.

So for the next couple of months, you'll see
developers possibly working on permits that they've pulled
in advance, have prepaid.

Once you get to maybe September or October, if
they haven't prepaid, they're going to wait. Right?
They're going to wait to pull their permits until they know
if the fees are going to be lower.

And we're not talking about small dollars here.
Okay? We're talking about fees that will double in
Dublin -- or I'm sorry -- in some parts. I think Fremont is
talking about roughly a $10 square foot difference between Level 2 and Level 3. That's considerable financial impact. So this the dynamic that private business will play out in these districts. So in reality, what happens within Dublin and Fremont and others like them is that you'll see no revenue difference. Okay?

In fact, for a short period of time, you'll see a peak because more revenue will come in for a short period of time as developers play out the need for permits short time. You'll see a trough as you get closer to the November election and then by year end, you'll see no discernible difference at all in revenue within that district.

You may see a few builders that aren't sophisticated enough or don't know about this, local homeowners, local folks who will actually go in and pay that Level 3 fee, but it won't be much.

On the other side of the equation, though, you all have heard about the housing crisis we're facing in so many jurisdictions throughout the state. You'll see generally the pipeline for new projects stop in areas where the financial liability of development is questionable. You just will. It's the way business works in this state.

When it comes to additional development or additional investment into development, if all of a sudden
on a hundred-unit project my cost just went up by 2- or $20 million depending on whatever the economics are, it could be the difference between a project moving forward or not.

And so generally, a decision today to go to Level 3 would have more negative impact than positive in that it would stop development in some parts of the state which is badly needed today to deal with the housing affordability crisis that we know exists.

So that's kind of high level. Hopefully, the knowledge that I can, you know, impart here today about the way it works within a builder like Shea is helpful.

I would urge you to wait until November election is through. And again, like Richard Lyon and others said here today, if the bond is not successful in November, then by all means, this is a valid discussion to be having and it has a lot of important today aspects and I'm happy to be here today to have the discussion.

But really at the end of the day, Level 3 won't achieve what I think people are asking for it to achieve in reality. Thank you.

CHAIRPERSON ORTEGA: Thank you. Mr. Hakim.

MR. HAKIM: Board members, my name is Sameer Hakim. I'm a trustee with the Dublin Unified School board.

One thought which has not been brought up is about
our students. We are not thinking about our students and we're talking about not leveling the Level 3 fees.

I would say as a trustee I am responsible to ensure quality education for all of our students. With the growth we face in our district, we cannot provide the quality education without building more schools.

We feel we cannot build the schools without Level 3 fees. Please note that Level 3 fees do not cover the entire cost of full construction.

As a trustee, we want to do the right decision for those kids, giving districts local control to determine triggering Level 3 fees is the right thing to do. This will bring the developers and the districts together. Provide us the leverage to think what is right for our school district.

As a trustee, I would say profit margin should not be more important than educating our kids. The impact is now, so please pass the motion said by Senator Liu. Thank you very much.

CHAIRPERSON ORTEGA: Thank you. Is there any other public comment to come before the Board? Okay. I'll open it back up to Board members. We have a motion by Senator Liu on the floor. Mr. Schweizer.

MR. SCHWEIZER: Thank you. Can I just -- want to throw a question to my colleagues here. So, you know, I think there's strong Board consensus here at the dais that
there's tremendous need for school facilities statewide.

And while this may address some of that need, how does it sort of fit into, you know, long-term, you know, addressing all of the needs, particularly given that we know that, you know, the need is shifting from -- historically, it's been new construction. It's shifting now to modernization statewide.

This doesn't really address that. We've got a bond on the November ballot. You know, how does it impact the bond. We're hearing from some folks that, you know, builders are going to stop building. It's not going to generate any money.

And then when the bond passes, there's uncertainty as to district by district how those needs analyses will be done, you know, since there's no triggering off. So how does that get addressed.

So I think -- you know, I've got a lot of questions. I'm wondering, you know, what other of my colleagues can help here.

CHAIRPERSON ORTEGA: Senator Hancock.

SENATOR HANCOCK: I don't know that I can answer all of the questions of my colleague. I can tell you that I'm going to vote for the motion today as one step forward that we can take right now, and that is that we are talking about huge needs and we're talking about many different
kinds of districts, so it's not one size fits all.

A district that looks at their own situation and conclude that no one's going to build or that it doesn't make any difference or whatever won't enact the fees. Districts that may need the fees and believe that they will still have developers building, I think would go ahead and use it.

So for me, it's allowing immediate steps taken by local people to address their local conditions. And I have to say, you know, we've heard the argument that comes down at the end seems to be developers won't do anything unless they have all the leverage and don't have to do very many fees.

I think that's why some of these people were told before they came here that we'd never vote for the fees.

You know, we have heard -- I come from local government. We heard some of those same things about inclusionary zoning and green building and many things that in fact after we enacted them, developers stepped up to the plate and did it.

And I'm also going to say that I think it's cynical for people to say developers just won't build unless they can maximize every dime of profit.

And I have found, to be very frank, that often the associations in Sacramento don't speak for everyone in their
class of people. Whether that is union leaders for union members, the medical association for doctors, developers for developer, police chiefs for police chiefs, we could go down. We all know communities are different.

And in fact, you have desirable communities and you have zoning laws. Developers are often vying to do that building and in communities like the ones we heard from today, that appears to be the case.

And if that is the case and they move forward and we pass a bond, there will probably be many districts that aren't that enviable condition, who will step up to use the money.

So I think that there's a reason we have level fees written into the law and the reason is if at some point we would need them, and according to the staff report, we're eligible for them now. We need them now, and I think we should move forward today.

ASSEMBLYMEMBER CHAVEZ: May I make a comment there.

CHAIRPERSON ORTEGA: Please.

ASSEMBLYMEMBER CHAVEZ: Thank you. Before I address all my colleagues, I first want to address all the parents.

First of all, thank you for coming here. I think it's extremely important that your voice is heard and I'm
glad we took the time by the Chairman to allow you all to speak, especially the staff members the city council members coming forward.

And for the one gentleman who made the comment, you know, I sit on a lot of education committees and when I ran for office in 2012, it was all about education. It was for the kids and students.

And that comes from nearly 40 years having been a school site parent, having been a PTA president, having been a coach at a high school, having been a school board member, having been a director of a high school, and also city council member for two terms. So I didn't just fall off the truck yesterday. I've been involved in this for some time.

And I bring that to this decision. The programs do cost in California. When you do inclusionary housing, when you do green, when you do infill, when you do affordable -- I was in a coastal community in Oceanside when we were dealing with issues of the coastal zones.

You're right. People will develop it. But the price has been -- is the cost of a house.

The largest -- when I go into Silicon Valley when I meet with the business development centers there and I talk to students at the universities, the biggest thing they hit with is affordable housing, and that is because we're not able to develop because we have all these restrictions
on heights and zones and setbacks and all of these other things that people that put programs in -- yeah, they'll develop it, but it's going to take your cost up.

My daughter sold her condo in Oceanside and bought a house on five acres of land in Virginia because of the zoning and good idea of programs. Imagine that. A two-bedroom condo in Oceanside buys you a five-bedroom house -- I mean and a five-acre in Virginia.

So there's a cost to these.

You know, if the bond measure wasn't coming forward, I'd vote for this in a heartbeat because we need it. But having been involved with developers and having been in local government and seeing this, it's going to happen exactly like that.

The plans that have already been pulled, that have paid fees, they'll go forward and then it's going to be all stopped to see what happens.

And so people in your neighborhoods are going to be out of work and you're not going to see things go forward.

House prices are going to go up because it's a supply and demand issue. So when your children graduate school, they're going to try to figure out where they're going to live. That's why the houses are so big.

So that's why I'm a big supporter of the bond
issue.

You know, the other thing I'd like to just say also because I've watched three or four city council members come forward and say, you know, they're in this and even a planning commissioner.

You know, general plan has mandatory elements and one of them is actually called the land use, and in the land use, it actually discussed education being set aside as part of the whole general plan.

You know, in our cities, we would always consider -- when I was in city council, we would always consider is this development going to come in. How's it going to impact the schools.

And cities could go ahead and put all types of fees on people to build things and we often did to take care of our schools.

So if your city council members are sitting there saying we're coming to the state, really it's a local problem. You need to look at your general plan, figure out your roads and all the other things and say do we really have smart growth going on here or is it just sprawl being run everywhere.

You know, there is -- to the issue that came here what is a systemic issue? I think the systemic issue is we got to pass this bond and we need to ask local cities and
counties to look at what they're doing and seeing how it's being impacted to do it.

If this problem solved it, I would vote for it in a heartbeat because as I outlined earlier, I've been involved in education for a number of years, but it doesn't solve it. All it's going to do is cause more problems for jobs, price of houses, and it's going to divide your community and you probably don't need to do this.

So I won't be supporting this today.

CHAIRPERSON ORTEGA: Thank you, Mr. Chavez.

Mr. Diaz.

MR. DIAZ: Thank you, Madam Chair. So from our perspective, we heard a lot about the construction industry and I just wanted to share some thoughts of what my thinking is around this item.

I see there's a lot of areas of agreement in the people that have come forward. I do see that everyone's involved in shaping what their community looks like, what developments in those areas are like, and everyone agrees that the education community schools and developers are partners in this.

There's also an agreement on passing a bond in November.

What we're talking about here and the area of disagreement is a temporary issue that relates to a
community being able to negotiate together on what that development looks like in between a possible bond and this happening during this time.

So if you look at development in certain areas, as mentioned by Assemblymember Chavez, you know, I have family in the Bay Area and I know full well the extreme situation there with regards to housing and the expense of -- you know, lack of affordability and how it's driving people away from those areas.

But it also means that there is an extreme need to look at how to build more affordable housing.

In that area, there is commonality. I think the development community is looking at ways to explore that. The Legislature is looking at ways to look at affordable housing. The Governor has a proposal and we're, of course, engaging in that.

But this entire conversation does not end here. It actually drives more people to sit down across the table from each other and be able to negotiate exactly what fees they can accomplish and to allow for temporarily, hopefully, when this bond passes.

I think it's important to approve the motion. I think it's temporary. I think that with regards to the -- you know, the sort of awareness of the construction industry -- you know, our members are also seeing that too
and our members would like to have their kids go to schools
and not have to travel an hour away to get their kids and
then have to travel another hour to get to work.

So I think for those reasons I will be supporting
this motion.


ASSEMBLYMEMBER BONILLA: Thank you very much. And
I do agree with the comments that have been made by Senator
Hancock -- hit on a lot of the notes I've written down.

And you know, what we've been trying to achieve I
think and what the original intent here was balance. And if
you look at the chart on page 158, you can see that we're
greatly out of balance.

And it's interesting that -- and the reason I'm
going to be supporting the action today is that if we don't,
we're really restraining local governance and at the same
time that we would be restraining local governance, they are
carrying the largest burden if you look at that chart.

So they have been doing more than their part
consistently, and this is all taxpayer money. These are the
taxpayers doing this for their own, you know, communities.

But the action as I see it today is an action that
allows the local governance to function where it needs to
function and that the state is removing itself with this
action out of the way of what is a very varied and, you
know, needs that aren't uniform, that are different from place to place.

So I do come from local government myself: city council, board of supervisors. I know the school board -- I wasn't on a school board, but if I was in those seats, this is the action that I would want to have taken and I think the action my constituency supports.


I too will be supporting the motion today. I agree with the comments about returning the decision to the local districts.

This is not -- we are not taking an action to impose a fee statewide. We're taking an action to allow others to consider what's appropriate for their district and that is -- for that reason, I will support the motion.

The other point I wanted to make was on some of the questions that have been made about we're accounting for the funds and the analysis that's been provided by the staff, I think there are -- reasonable people can disagree on what the statute says or what it means and there are different interpretations, and, you know, we will likely see folks raise issues on that.

However, what we have before us is an analysis that says we are not apportioning funds under Article 5.
And so again for that reason also, I will be supporting the motion.

So we have a motion by Senator Liu. I don't think we have a second yet.

SENATOR HANCOCK: Second.

CHAIRPERSON ORTEGA: Seconded by Senator Hancock.

I'll call one last time if there's any other public comment, and if not, I'll ask Ms. Jones to call the roll.

Okay. Go ahead.

MS. JONES: Senator Hancock.

SENATOR HANCOCK: Aye.

MS. JONES: Senator Liu.

SENATOR LIU: Aye.

MS. JONES: Senator Huff.

Assemblymember Nazarian.

Assemblymember Bonilla.

ASSEMBLYMEMBER BONILLA: Aye.

MS. JONES: Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: No.

MS. JONES: Nick Schweizer.

Cesar Diaz.

MR. DIAZ: Aye.

MS. JONES: Jeffrey McGuire.

MR. McGUIRE: Aye.

MS. JONES: Eraina Ortega.
CHAIRPERSON ORTEGA: Aye.

MS. JONES: Motion carries.

CHAIRPERSON ORTEGA: Motion passes.

(Applause)

CHAIRPERSON ORTEGA: Thank you everyone. Thank you again for traveling to be here today.

Before we move onto Item No. 8, I would like to ask Ms. Jones to return to the items where we had some absent members.

MS. JONES: Yes. Thank you. Senator Hancock, how do you vote on the appeal for Montague?

SENATOR HANCOCK: Aye.

MS. JONES: Thank you. And also Assemblymember Nazarian?

ASSEMBLYMEMBER NAZARIAN: Aye.

MS. JONES: Okay. Couple more. Consent Calendar.

CHAIRPERSON ORTEGA: Agenda.

MS. JONES: Yes. Thank you.

ASSEMBLYMEMBER NAZARIAN: Aye.

MS. JONES: Aye and?

SENATOR HANCOCK: Aye.

MS. JONES: Thank you very much.

CHAIRPERSON ORTEGA: Okay. And I think that --

SENATOR HANCOCK: And the Minutes too.

MS. JONES: Oh, and the Minutes. Thank you.
CHAIRPERSON ORTEGA: The Minutes were -- are approved unanimously.

MS. JONES: Yes. Okay. Thank you so much.

CHAIRPERSON ORTEGA: Okay. We will move onto Item No. 8. This is not an action item at this time, so we will hear the staff presentation and we do have some public speakers on -- yeah. Let's wait a couple of minutes. If we can have everyone who is not staying here for Item 8 to please exit expeditiously.

Okay. You can go ahead.


And today I'd like to present the staff report on a proposal that was brought forth by stakeholders and a Board member at the last meeting.

And the Board direction was for staff to take a look at it and to provide a summary and to see if there were any issues or challenges to potentially adopting this proposal.

So the proposal in its entirety is included in your item, but we have also provided a brief overview of what our understanding of the program is and we do believe that this is a new program that would provide loan funds to school districts under the hardship section of the
regulations by adding some definitions to what can be considered a hardship and outlining some points at which a school district would qualify for these hardship funds.

And it would be based on the premise that a school district could then receive a loan for either the district matching share or for the state apportionment that may not be available.

So we did take a look at that and in looking at it, we believe that there are some statutory considerations that would need to be addressed prior to the Board adopting the regulation.

And at a high level, we have outlined on -- there's a table and a chart there on page 3 of the item, stamped page 173, that has four key areas that we feel would need to be addressed through modifications of the regulations in order to move forward.

And the first that we noted is that there is a request to use funds from an undefined funding source to provide the loans. There is a reference in here to using the pooled money investment account funding or requesting the general funds or a Budget Act appropriation for the loan.

In further conversations, we have heard that the -- potentially to be based off of funding from a future bond if a bond is passed. If that's the case, the
regulations would need some additional wording changes. If that's not the intent, then there would need to be some statutory basis to provide a funding source to do this.

The second piece that would be a bit of a challenge in implementing this is the actual concept of loans with the School Facility Program.

Right now in the program, there are two areas that do allow for loans or the term lease is used in one of the areas and that's in the Charter Program and the Career Technical Education Facilities Program.

The statute does not provide any reference to the Board's ability to make loans, and actually back when the Board was hearing options for streamlining the Seismic Mitigation Program, this topic came up as a potential solution for districts that were facing challenges in getting their local match for seismic funding.

And at the time, we did consult with counsel and it was determined that because there is no specific inclusion of loans in the School Facility Program that it's not permitted without a change to statute.

It's mentioned specifically for some programs and omitted for others. So that wouldn't be addressed statutorily in order for the concept of the regulations to move forward.

And then two other things to note, that it does
change the way that state funds are provided for the school
district matching share, so there may need to be changes to
the regulations. That is not the intent to broaden the
Financial Hardship Program past the decisions that have
currently been made by the Board in regulations or limited
by statute.

So there may need to be some statutory direction
there or potentially some clarifying language in the
regulations.

And then finally, the -- and how this interacts
with our past item may need to be discussed, but facing new
time point at which Level 3 could be triggered, but since
the Board has just taken action, that may be less of an
issue for the regulations now. But had the Board not taken
action, then that would have been -- having it included
means regulations would have potentially conflicted with the
existing statute for triggering Level 3.

So at a high level, that's what we discovered on
the regulations and we'd be happy to answer more specific
questions, but it is here as an information item for the
Board's --

CHAIRPERSON ORTEGA: Okay. Thank you. Any
questions or comments before we take public comment on this
item? Okay. Let's go ahead and start with -- we have
Dr. Hanke and Sameer Hakim -- Mr. Hakim again, and I'm going
to ask the Dublin folks to be a little brief on this one since we have heard certainly about the circumstances in Dublin.

DR. HANKE: Yes, I will. Thank you very much. Madam Chair, members of the Board, I appreciate -- first of all, I appreciate the opportunity and I thank you for taking the action that you just did on the developer fees.

We are asking that this regulation which would establish a new construction loan program be kept alive as we continue to work through the issue of finding a funding source for those dollars.

We also would ask that this item be classified as an emergency so that the timing of the funding could be made available to the school district much more rapidly.

The issue that we have in Dublin beyond the issue of the overcrowding is one where cash flow determines whether or not we can actually build the schools that we need. Cash flow is critical element.

You will hear from our four trustees in just a few minutes about the conditions in Dublin, what our local efforts have been, as well as the need that we specifically have and the solution that we are proposing.

We have a wonderful school district in Dublin. We have made significant progress over the last ten years.
that time and it's been absolutely amazing. Our school
district is among the top in the Bay Area and we're very,
very proud of that.

I share that with you because the progress that we
are making and continue to make with our students each and
every day is threatened by the challenge that we have and
our ability to house our students now and in the future.

You're going to hear some very much amazing
numbers when we talk about the growth that we have had and
the growth that we will experience.

We see this as an opportunity, an opportunity for
the Board to preserve the option to move forward with this
program so that we can close that gap on the cash flow issue
and make sure that our schools are built in time to face the
wave of growth that we are experiencing.

So once again, we are requesting that you keep
this alive as an action item in the future, either at the
June 22nd meeting or at a future time when the actual
authorization is made available to you, and I thank you for
that.

CHAIRPERSON ORTEGA: Thank you.

MR. HAKIM: Sincere thank you for approving
developer fees.

I bring to attention the uniqueness of Dublin.
Dublin is amongst the top two growing cities in California.
We have doubled public student population in the past ten years and that is like 10,000 where we are and we expect to double -- add 50 percent more in the next seven years. It's a huge number to manage and for that, we need to build more schools. We basically need three more elementary schools. K through 8 is what we are planning and we are planning to build a new high school -- a new comprehensive high school.

That requires us to keep us funded. That requires a cash flow and that's what we are trying to bring forward. We have done everything at our end to add portables. We have changed boundaries and we have done program changes to manage this growth, but we cannot accommodate additional students without impacting the quality of education.

We have capped enrollment this year for our middle school and we have reached maximum, about 2,500 students, in our single high school and we expect to grow by 2,000 in the next seven years.

That will be the single largest high school and we do not want to do that.

We need your help with this cash flow issue. We definitely think it will allow us to do the necessary things now because money keeps us floating and build better things. Thank you very much for it.
CHAIRPERSON ORTEGA: Thank you. Dan Cunningham and Megan Rouse.

MR. CUNNINGHAM: Good afternoon again. I'll keep this as brief as possible. I don't want to repeat what's already been said, so I'll look at my notes to make sure I don't.

I think the point we want to make us our community's done everything right. In the last ten years, we've -- actually our community's approved two bond measures and we're getting ready to do a third, although there's a lot of opposition, which would be over a half billion dollars in debt our community's taking on.

And so we've done what we need to do and this is a cash flow problem that we need to solve.

Our problem is our community's pushing back and they are angry that the state and developers aren't holding up their end of the bargain.

You know, they see developers getting away with paying less than their fair share, and when we first started this whole process back in January, we heard there were solutions from the developers and they have not come up with a single solution for us yet.

They've told us what they can't do and what they won't do.

In the meantime, they haven't helped with bond.
They're quietly sitting on the sidelines and hope that it doesn't pass and the fees go down to Level 1.

We have developers running into our office now trying to get their fees paid today so they don't have to pay the higher fees that are going to come.

And so they aren't out to help, and they're doing -- they haven't given us any suggestions on how to support us or help us.

Words are great. We need action and this is really taking away from our core business which is educating our students, and we need to find a solution.

We think this is a solution to help the funding issue in the short term for the stuff that we've already paid for and that we've used to really take away from the buildings that exist that need repair, and we need our schools to be in repair so our students have, you know, adequate housing. Thank you.

CHAIRPERSON ORTEGA: Thank you.

MS. ROUSE: Hi. Thank you. My name's Megan Rouse, Vice President of Dublin school board.

I'm here to speak in support of our proposed regulation and making it an action item in June.

As I mentioned earlier, Level 3 -- and I'm extremely grateful for your support in Level 3. Level 3 and our proposed regulation are complementary.
Level 3 addresses the houses that they will build tomorrow and the next day and the day after that, and this proposed regulation addresses the homes that were built over the last several years, the schools that we have already built, the schools that we have already filled with children, the schools for which we have submitted for an appropriation but are still waiting for funds to be available.

And so we need that state portion that we've been waiting for since 2013 and other districts are in the same spot with having the cash flow issues and waiting for the approved projects for the students that we are already providing a world-class education to.

And so we can't go back in time. But this proposed regulation would allow us to move forward by providing the relief that we need to close that gap. Thank you very much.

CHAIRPERSON ORTEGA: Thank you, Ms. Rouse. Amy Miller and the last two are Nanette Farag and Jensen Jennings.

MS. MILLER: Hi again. Thank you for the action that you just took. I feel like we're sort of part of a historical moment today and it's much appreciated.

Like all of you, those of us from Dublin that have spoken sit at a dais also and we hear a lot of concerns and
one of the things that we really want to do is be able to
serve the people in our community.

So one of the things we really like also when
people come to our dais with concerns is sometimes when they
have really great reasonable solutions.

When we first initiated this conversation back in
January and we came to you and brought up Level 3 and were
pretty told that was surreal, you shouldn't be saying that
out loud, and it was kind of this whole conversation about,
well, then what can we do.

And at that time, we did have some input from
builders and Assemblymember Bonilla was quite helpful and we
had a lot of meetings, and we said, well, what's an
alternative. What can we do to help ourselves, and at that
time we started to write the language for this proposal.

And I know that we're not having an action item
for it tonight, but the reason that we really want to talk
about it is we want an action item in June because we
believe by June we will get somewhere with this.

Senator Glazer has been very proactive in helping
us and you're going to hear from one of his staff members,
and Assemblymember Baker is onboard with us. I know Senator
Hancock's staff has been in the office with us when we've
had these conversations. We've even talked with
Mr. Wieckowski.
We've just had a lot of conversations around this proposal and we think it's a really reasonable solution and we really want to talk about it as an action item in June.

And I just want to say that we really appreciate you taking this seriously and we appreciate what you've done today and we look forward to seeing all of you again. Thank you.

CHAIRPERSON ORTEGA: Thank you. Mr. Jennings.

MR. JENNINGS: Jenson Jennings here on behalf of Senator Steven Glazer. Thank you for this time.

We want just to be here as part -- in support of Dublin School District. Specifically, we just wanted to strongly support their request to get this on the Allocation Board's agenda for the next -- on June 22nd. So we really appreciate that. And we just wanted to support and so we're here in a cheerleader facility, if you will. So thank you so much.

CHAIRPERSON ORTEGA: Thank you, Mr. Jennings. All right. Go ahead, Mr. Lyon. I also had Nanette Farag, but I don't think she has come up, so she was representing Assemblymember Baker. Mr. Lyon.

MR. LYON: Thank you, Madam Chair. We would like to incorporate by reference what Dr. Hanke had to say.

I think the absence -- the neglect of the State of California from participating as a funding partner has
caused ruptures to this program that will probably be profound and exist for quite some time.

This is a small solution that would help growing districts. We think it's a good idea. We would encourage the Board to keep this issue alive and allow a number of us to try to work this forward. Thank you very much.

CHAIRPERSON ORTEGA: So I do just want to make a couple comments about this.

So this is not an action item and we're not proposing to kill it or keep it alive. It's not an action item because we don't have any statutory authority to adopt a regulation to implement this program, nor is there an appropriation for funds to use as the loan or the cash flow.

I think what I would commit to is at such time that that authority exists, whether that be through the budget process or some other statutory authority through just as part of a bill that is passed and signed, we would bring it back to adopt the regulation.

There would be no reason at that point to delay implementing something that had been agreed and approved in statute.

So I don't want -- whether it's on the agenda again in June -- I'm happy to have an update, but if nothing has happened in June, it wouldn't make much sense to talk about it again and have all you folks come.
The budget will not be decided by then. It may or may not be then. So again, the issue is we are not killing it or keeping it alive today. It is something we don't have statutory authority to act on. So I just wanted to make that clear. Ms. Bonilla.

ASSEMBLYMEMBER BONILLA: Yes, thank you for that. Just for clarification, so those who are working on it know how to get there because I think that's helpful, what you're really looking for based on the staff report is clarification on the intention that this would be contingent upon the bond passing because the first thing was where's the money going to come from; right?

MS. KAMPMEINERT: If that's the intent, yes, but we didn't see language there that would --

ASSEMBLYMEMBER BONILLA: Right. So that could be done in the language of the regulation because I want to clarify what needs to be refined in the regulation and what needs to be done in statute; okay?

So if that's refined in the regulation, that would be good. Then what needs to be done in statute, perhaps in a trailer bill of the budget, would be the actual loan authorization for this emergency program -- or I don't know. What -- tell me exactly what would need to be in the trailer bill.

MS. KAMPMEINERT: I'm not sure what the language
would look like, but right now there is no reference or no
authority for the Board to make loans --

    ASSEMBLYMEMBER BONILLA: Right.

    MS. KAMPMEINERT: -- except in the specific
circumstance in the Charter and CTE.

    ASSEMBLYMEMBER BONILLA: Of CTE and?

    MS. KAMPMEINERT: And the Charter School
Facilities Program.

    ASSEMBLYMEMBER BONILLA: And the Charter School
Facilities Program, so there would need to be an
authorization put into probably the trailer bill language
that would -- what would we call this? I just want to know
from like a loan for emergency hardship?

    MS. KAMPMEINERT: I think that's up to what the
intent of the statute would be. We would be happy to --

    ASSEMBLYMEMBER BONILLA: Okay.

    MS. KAMPMEINERT: -- implement whatever the
statute --

    ASSEMBLYMEMBER BONILLA: It is. Right.

    MS. KAMPMEINERT: -- needs to.

    ASSEMBLYMEMBER BONILLA: And then you made it
clear that now we're going back to just the regulation, you
know, cleaning up the language here.

    If you remove the Level 3 reference, just delete
it -- right -- out of the regulation --
MS. KAMPMEINERT: Right now the regulation language for Level 3 doesn't -- and actually there's a conflict --

ASSEMBLYMEMBER BONILLA: Right. So that would just be deleted. And then you wanted clarity on retaining -- there's not any intention to change the matching, the matching program as in -- now is that something that would have to be in statute or just a cleanup of the actual regulation language.

MS. KAMPMEINERT: The way we read the regulations right now appears to change the match requirement from districts.

So if it is the intent to change the match requirement, that would require statute. If it's not the intent, then the regulation language would need to be adjusted accordingly.

ASSEMBLYMEMBER BONILLA: Okay. So I just wanted to make sure that, you know, the work was being done in the correct areas.

So I think given the intent I've expressed and it may be different. Other people may have other intent, but the main thing that needs to go to statute then is the actual authorization to make this kind of loan.

CHAIRPERSON ORTEGA: Correct. I would add I think if that existed in statute, there would be more discretion
for the regulation to be developed in a way that implements that statute. It just can't work the other direction.

ASSEMBLYMEMBER BONILLA: Right. Yeah, the cart before the horse --

CHAIRPERSON ORTEGA: Yeah. Um-hmm. Yes.

ASSEMBLYMEMBER BONILLA: -- essentially at this point. So we need the authorization first. That's very helpful.

And I think that just for clarification because some people -- you know, you might ask why would you need to do this and it really is about the cash flow issue that this particular district and others who fit in this narrow max out of bond authority situation may find themselves in.

The bond hopefully will pass in November. We'll begin the process, but they could wait quite a long time under the normal conditions to receive some money that they actually need quite urgently.

So the real purpose of pursuing this would be give them relief from their very serious cash flow situation. Is that -- I just want to make sure that everyone on the Board kind of understands the intention here.

But I think we all understand there isn't extra money lying around and that's why it would have to be contingent upon the passage of the bond, but it would speed up the cash flow issue to this -- you know, to the districts
that would fall into the very narrowly defined emergency
criteria. Does that make sense?

SENATOR LIU: Well -- yeah, it makes sense, Susan,
but the bond on the ballot doesn't authorize -- I don't
there's any language in the bond that says anything about a
loan program, is there?

I mean are you trying to tie the loan -- I mean
the bond amount to a loan program?

ASSEMBLYMEMBER BONILLA: I think that it would be
the repayment of the loan would come from the bond. So the
state knows the bond is good money. So the loan -- they
know they're not really going to ever be out.

If the bond passes, the state's going to get the
money back. It just lets the district have the cash sooner
and the state knows the bond is good to pay the state back.

SENATOR LIU: Is that authorized by the bond, the
way the bond is written or am I --

ASSEMBLYMEMBER BONILLA: Well, I don't --

CHAIRPERSON ORTEGA: Ms. Miller, I'm going to let
you come up. I do want to state something quickly.

ASSEMBLYMEMBER BONILLA: Yes.

CHAIRPERSON ORTEGA: We've been told we need to
get out of the room by 6:00 o'clock. So we're going to need
to wrap this conversation up as quickly as possible. Maybe
we'll make them come and actually kick us out. We'll see.
But I do want to say one other thing. Some of these questions seem to be questions that could be answered by Leg. Counsel or other counsel in the context of --

ASSEMBLYMEMBER BONILLA: Of getting the authorization?

CHAIRPERSON ORTEGA: -- reaching a conclusion and whatever vehicle that could happen. So I don't know that we have to solve that problem here.

SENATOR LIU: Okay. No. All right. I was just --

ASSEMBLYMEMBER BONILLA: Right. Yeah. That's a good question, though.

CHAIRPERSON ORTEGA: Yes. Very good question --

ASSEMBLYMEMBER BONILLA: It's a very good question.

CHAIRPERSON ORTEGA: -- that maybe we can resolve.

Mr. Schweizer.

MR. SCHWEIZER: Yeah. I think also just -- so the administration I thought had a very similar proposal in the May revision, so it might be worth taking a look at that. I know there's a problem with them using Prop. 98 for it, but it might be worth taking a look at their language as a starting point of recrafting that to whatever your intent is.

ASSEMBLYMEMBER BONILLA: Well, I'm encouraging
Senator Glazer to do that, yes.

CHAIRPERSON ORTEGA: Ms. Miller.

MS. MILLER: Yeah. And just the only point I want to make is that it's not really a loan from the bond funds because we are already on the list to receive money if the state bond measure passes. That's already owned to us.

So it would almost just be like an advance. It's like we're receiving the money that's already owed to us. So then once the bond apportionments start happening, we just wouldn't get it.

It would only -- basically it's us getting it early and I think what shifted in this conversation, originally our proposal was for the State Allocation Board to take out a loan from wherever, the money pooled investment fund, whatever you might be able to find the money and loan it to the districts that have been harmed by this facility funding program.

But I can hear the shift is happening now that it would be contingent on the bond passing, which is fine because really what that means is nobody's out of money. Really what will happen is we will just get an advance of the money we're already owed and that's how we set the criteria.

It's districts that already are on the list to be funded or already on the list waiting for a funding.
CHAIRPERSON ORTEGA: Yes. And I think the key issue is that the SAB cannot cause money to go out to districts that has not been appropriated for that purpose.

MS. MILLER: Right.

CHAIRPERSON ORTEGA: So we're back to the key question which is the legal authority --

ASSEMBLYMEMBER BONILLA: Statutory --

CHAIRPERSON ORTEGA: -- to appropriate the funds.

ASSEMBLYMEMBER BONILLA: -- authorization.

CHAIRPERSON ORTEGA: So we will certainly revisit the regulation at such time that that authority's been given.

So anything else on Item 8? Any other public comment on Item 8?

Okay. I don't see any. Lisa, anything concluding?

MS. SILVERMAN: No.

CHAIRPERSON ORTEGA: Okay. Anything else from any other --

ASSEMBLYMEMBER BONILLA: Well, just for clarification. Then we will wait and see if the Legislature takes action on the statutory issue and then bring the issue back --

CHAIRPERSON ORTEGA: Yes.

ASSEMBLYMEMBER BONILLA: -- to the session at that
CHAIRPERSON ORTEGA: I think what the Vice Chair and I can do is, you know, before the meeting agenda is noticed, see if there's any indication that we would be able to take action at the June meeting, and if not, it may be appropriate that it would be at the next meeting.

So we will work on the agenda setting for that?

SENATOR HANCOCK: Can I just ask a quick question as well? So although I think conventional wisdom says the bond is going to pass, if it does not, we would assume -- it says in the proposal that the developer fees from Level 3 fees would make up the money.

So we would then assume that either the Level 3 fees which can be double the maximum Level 2 fees, if I'm correct, would make up the difference or that the district itself would have to come up with it out of its general fund or out of --

CHAIRPERSON ORTEGA: You mean if the loan were -- occurred and then --

SENATOR HANCOCK: If the loan were to occur --

CHAIRPERSON ORTEGA: Yes. So I think that would be something that would need to be addressed --

SENATOR HANCOCK: So that would --

CHAIRPERSON ORTEGA: -- in the statute.

ASSEMBLYMEMBER BONILLA: But I think the timing,
you could just not do it until after the November election, so you would know.

SENATOR HANCOCK: Oh. So then how could -- how would it stand --

ASSEMBLYMEMBER BONILLA: Well, because otherwise it's still going to take months and months for the bonds to be sold and the bonds to go out and it could be another year.

SENATOR HANCOCK: Right. Okay. Thank you. Just trying to get the timeline straight in my mind. Thank you very much.

CHAIRPERSON ORTEGA: Thank you. Any other public comment to come before the Board? Seeing none, we will be adjourned. Thank you, everyone.

(Whereupon, at 6:00 p.m. the proceedings were adjourned.)
REPORTER'S CERTIFICATE

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