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CALIFORNIA STATE ALLOCATION BOARD

PUBLIC MEETING

STATE CAPITOL  
ROOM 437  
SACRAMENTO, CALIFORNIA 95814

DATE: MONDAY, JUNE 5, 2017

TIME: 4:08 P.M.

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APPEARANCES:

MEMBERS OF THE BOARD PRESENT:

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

DANIEL KIM, Daniel Kim, Director, Department of General Services

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

JUAN MIRELES, Director, School Facilities and Transportation Services Division, California Department of Education, designated representative for Tom Torlakson, Superintendent of Public Instruction

SENATOR BENJAMIN ALLEN

SENATOR JANET NGUYEN

SENATOR RICHARD PAN

ASSEMBLYMEMBER ADRIN NAZARIAN

ASSEMBLYMEMBER ROCKY CHAVEZ

ASSEMBLYMEMBER PATRICK O'DONNELL

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

P R O C E E D I N G S

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CHAIRPERSON ORTEGA: Good afternoon, everyone.

4

I'd like to call the June 5th meeting of the State

5

Allocation Board to order. Please call the roll.

6

MR. GUARDADO: Certainly. Senator Allen.

7

Senator Nguyen.

8

SENATOR NGUYEN: Here.

9

MS. BANZON:

10

MR. GUARDADO: Senator Pan.

11

SENATOR PAN: Here.

12

MR. GUARDADO: Assemblymember Nazarian.

13

Assemblymember Chavez.

14

ASSEMBLYMEMBER CHAVEZ: Here.

15

MR. GUARDADO: Assemblymember O'Donnell.

16

ASSEMBLYMEMBER O'DONNELL: Here.

17

MR. GUARDADO: Juan Mireles.

18

MR. MIRELES: Here.

19

MR. GUARDADO: Cesar Diaz.

20

MR. DIAZ: Here.

21

MR. GUARDADO: Daniel Kim.

22

MR. KIM: Here.

23

MR. GUARDADO: And Eraina Ortega.

24

CHAIRPERSON ORTEGA: Here.

25

MR. GUARDADO: We have a quorum.

1           CHAIRPERSON ORTEGA: Thank you. Our first item of  
2 business will be the **Minutes** from the April 24th meeting.  
3 Any comments/edits to the Minutes?

4           ASSEMBLYMEMBER CHAVEZ: Move approval of the  
5 Minutes.

6           MR. DIAZ: Second.

7           CHAIRPERSON ORTEGA: Okay. Moved and seconded.  
8 All in favor of approval of the Minutes, please say aye.

9           (Ayes)

10          CHAIRPERSON ORTEGA: Passes unanimously. Lisa.

11          MS. SILVERMAN: So the **Executive Officer's**  
12 **Statement**, there's a few items we want to share today.

13                 There is a current priority funding round that  
14 just opened on May 10th and that wraps up on Thursday,  
15 June 8th. So any project that received an unfunded  
16 approval, even as part of the Consent Agenda today, will be  
17 eligible to submit certification for the fall bond sale.

18                 And again, there's specific requirements as far as  
19 the type of documentation they have to submit for that fund  
20 release, but then that's in the future.

21                 We also have a charter round that actually closes  
22 today at 5:00 o'clock, and so we'll have some updates for  
23 the Board in the next coming weeks about how many applicants  
24 that we did receive.

25                 We also want to give the Board an update. We just

1 apportioned projects on April 24th and the timelines for  
2 those projects to come in July 24th. And we were  
3 encouraging districts to submit their certification for the  
4 fund release early because we might have some issues of  
5 closing out of the fund accounts with the controller's  
6 office. So we want to remind folks that the fund release  
7 documents should be submitted as early as possible.

8 We also had three projects as part of the Consent  
9 Agenda. One is an appeal and two items on the Consent  
10 Agenda for the Seismic Mitigation Program. And that's over  
11 \$12 million.

12 And we also have some instructional videos for the  
13 Seismic Mitigation Program and how to walk through the  
14 process not only for our office but the Division of State  
15 Architect and quick easy tips on how to submit cost  
16 estimates and funding applications. So those should be up  
17 on our website sometime mid-June.

18 And with that, we also wanted to announce the next  
19 meeting's in a few weeks, June 28th.

20 CHAIRPERSON ORTEGA: Okay. Thank you. Any  
21 questions? Any public comment on this? Welcome, Senator  
22 Allen.

23 So if there isn't any objection, I'm going to  
24 suggest we move right to the items under Tab 7 so that we  
25 can take up those action items prior to taking up of the

1 Consent Calendar because they could potentially have some  
2 effect on items in the Consent Calendar.

3 ASSEMBLYMEMBER O'DONNELL: Could you speak a  
4 little louder.

5 CHAIRPERSON ORTEGA: Yes. Sorry. So we'll take  
6 up the items under Tab 7 and the **grant agreement** and the  
7 **processing of the acknowledged list** as it is known. So  
8 we'll move to Item 7. Lisa.

9 MS. SILVERMAN: Yes. So we wanted to get your  
10 attention on page 79 and Tab 7. We wanted to share with the  
11 Board -- I know we had a meeting last month and we provided  
12 the Board a template of the grant agreement and we also had  
13 recommendations at our prior meeting that the grant  
14 agreement template would be applying to all projects  
15 including projects on the true unfunded list and every  
16 project on the acknowledged list.

17 But we actually had, you know, a very broad  
18 discussion last month and we did hear some very important  
19 points, not only from the stakeholders but also by Board  
20 members. So with that, we did work together with the  
21 stakeholders, received some comments, so we actually had a  
22 subsequent meeting on May 8th as a result of those comments.

23 And so we did receive written communication from  
24 the stakeholders. That public meeting that was held on  
25 May 8th, we had about 25 to 30 participants. We had about

1 175 people view the webcast as well.

2           We also wanted to share and highlight with the  
3 Board, we made some significant changes as a result of the  
4 communication not only received from the stakeholders but  
5 from the various interested parties and the community.

6           So with that, we are presenting as part of the  
7 item is Attachment 1 which is the grant agreement template  
8 that actually has some revisions and modifications. So  
9 you'll see that items on pages listed that have strikeouts  
10 and amendments to that.

11           Also on Attachment 2 is the cleaned-up version of  
12 the new template. So the significant things we wanted to  
13 share with the Board is the amendments we made.

14           So on page 80, I'd like to draw your attention  
15 to -- our proposal has been modified and so as part of  
16 having the grant agreement in place and the timing of the  
17 agreement, it was something that was very much taken into  
18 consideration.

19           We initially proposed that a grant agreement be  
20 executed prior to receiving the unfunded approval. We have  
21 since modified that and so the grant agreement -- we're  
22 recommending that be modified in accordance to one of the  
23 stakeholder's comments that it be applied or in effect  
24 before the funds are released. So that's a significant  
25 modification we made.

1           And we also are recommending that the projects on  
2 the true unfunded list, the projects that were processed  
3 prior to the Board change of regulations, over \$368 million  
4 in projects, those projects will be excluded from the grant  
5 agreement. So that's a significant change from what we had  
6 initially from last month.

7           But those projects -- the grant agreement would  
8 also apply to the projects on the acknowledged list and  
9 those are the projects that haven't been processed by the  
10 Board, and again the Board changed regulations and didn't  
11 want to take action on proceedings. So the grant agreement  
12 would apply to them. So the grant agreement would apply to  
13 them.

14           It would also apply to projects that are being  
15 processed currently. So those projects that relate to the  
16 old bond program, meaning Seismic Mitigation Program,  
17 Facility Hardship Program, the grant agreements would be  
18 applying to those projects. So it's a limited universe of  
19 projects, close to \$70 million, that the grant agreement  
20 would apply to as well.

21           So with that, I know there is a few concerns  
22 related to technology. Those items have not changed, but  
23 can I draw your attention on page 81. There is a short  
24 summary of the changes that we did modify. As I mentioned  
25 before, the timing of the grant agreement, we actually did



1 eliminate and streamline -- we did receive some comments  
2 about having duplicate information, letters -- approval  
3 letters from the Division of State Architect, approval  
4 letters from the Department of Education, various approval  
5 levels that we have in our office related to financial  
6 hardship, so we also eliminated that.

7           We streamlined the definition section as well. We  
8 also removed the hold harmless clause in addition to that.  
9 But we wanted to highlight -- I know we've been having some  
10 various conversations with stakeholders, even up to the last  
11 few minutes.

12           We definitely had some viable feedback that came  
13 in over the last few days and we definitely want to  
14 acknowledge that, you know, for the record, we will be  
15 recommending some changes to that -- the grant agreement  
16 template.

17           So even -- we'll read that into the record as far  
18 as what amendments we want to have hold.

19           So with that, staff wanted to reiterate the  
20 importance of having a grant agreement, to have fair  
21 guidelines for the School Facilities Program, to ensure  
22 transparency and greater accountability. This will --  
23 school districts, not only large but also the small  
24 districts that are not frequent players in the program and  
25 this is to ensure that they are successful and having good

1 outcomes of the program, but they also clearly understand  
2 the rules of what's eligible to be expended and what items  
3 are not eligible to be expended and it's by program.

4           So every program has a different design as far as  
5 eligible expenditures and noneligible expenditures. So we  
6 have to have both lists as a complement of that.

7           We also wanted to share as part of the companion  
8 item is not applying the grant agreement to the true  
9 unfunded list. We're asking the Board to actually approve  
10 Attachment 5, which is all the projects that have been  
11 processed by the Board -- by staff previously and carry  
12 those items to the unfunded list, lack of AB-55 loans which  
13 is meaning those projects will be -- have bond authority  
14 awarded to them and will be waiting for a fall bond sale.

15           What we wanted to highlight on page 83 on the item  
16 is there are some projects on that true unfunded list that  
17 actually have expired state agency approvals. There are  
18 nine of them specifically. We understand. We've been  
19 communicating with those districts that they actually are  
20 working with the various agencies at Division of State  
21 Architect and Department of Education to have some letters  
22 and approvals reinstated.

23           So we'll be tracking that and giving the Board  
24 some update. Again, we want to reiterate to the Board that  
25 even though we're -- the recommendations to take action on

1 those projects, that they're -- they don't have the ability  
2 to access the cash until they correct that. So we provide  
3 an update to the Board.

4           There's also several projects that will require a  
5 financial hardship re-review and we will be communicating  
6 with those districts to have those financial updates as  
7 well.

8           So we wanted to highlight on page 84, as far as  
9 what we recommend is we definitely recommend a grant  
10 agreement template and conforming regulations and we also  
11 recommend that the exclusion of \$370 million for the  
12 unfunded -- true unfunded projects be excluded from the  
13 grant agreement. But we also wanted to acknowledge with the  
14 template itself, as part of Attachment 2, that there be  
15 inclusion of language.

16           I know on page 215 of the grant agreement template  
17 and 219, 238 and 253, during our discussions we had some  
18 very explicit -- it was great feedback that we heard about  
19 freezers and refrigerators and stoves. In those  
20 circumstances, I know we have language in there currently  
21 that says only if used for food service to all students.

22           We definitely think that language needs to be  
23 struck out and definitely keep freezer, refrigerators, and  
24 stoves in the agreement itself, not excluding those items.  
25 And the purpose is because --for various reasons.

1 Refrigerators could be used for nursing -- the nurse's  
2 office obviously could have, you know, medications that need  
3 to be housed for students and also freezers could be used  
4 for, you know, various things for science classes and, you  
5 know, obviously chemicals may be properly stored in those,  
6 so obviously the need to have that there as well.

7           We also wanted to -- so we would definitely modify  
8 that language, and as far as exercise equipment, there was a  
9 good comment that we heard today. We would also recommend  
10 changing the language also on that stamped page related to  
11 if only available for use by all students.

12           So it was a great comment. Thank you, Senator,  
13 for sharing that today. So in that regards, we would be  
14 making those amendments and we're also recommending as  
15 well -- I know we've heard numerous comments related to the  
16 template itself, the grant agreement. We've had comments  
17 from stakeholders that for an item that's not currently on  
18 the list, since we do provide active feedback to our grantee  
19 as far as, if it's not on the list and this is a service we  
20 provide anyway, we would definitely provide written  
21 clarification and that written clarification can also be  
22 part of the template as well.

23           So we would acknowledge a change in the language  
24 on page 207 and 259 to include language that would  
25 specifically reference that if the district receives written

1 communication from the Office of Public School Construction  
2 for items not included on the list and -- list of  
3 eligible/ineligibles, that the local auditors will be  
4 seeking that written response as a guideline and tool for  
5 allowable expenditures.

6           So again, we'll definitely modify that as well. I  
7 mean that was definitely a concern that we've heard from the  
8 stakeholder community that they have a reference point in  
9 the grant agreement template just in case we have written  
10 communication that doesn't meet the list eligibility.

11           So with that, we're recommending the Board adopt  
12 the grant agreement and the regulations and conforming  
13 added.

14           CHAIRPERSON ORTEGA: Okay. We have several  
15 speakers who have signed up to speak. I think, though,  
16 before I call the first speaker up, I'll open it up to the  
17 members of the Board if anybody wants to make any comments  
18 or has any specific questions.

19           ASSEMBLYMEMBER O'DONNELL: Yes, I do.

20           CHAIRPERSON ORTEGA: Sure.

21           ASSEMBLYMEMBER O'DONNELL: With regard to  
22 ineligible versus eligible list, it looks like what you're  
23 saying is we should continue down the eligible path.

24           MS. SILVERMAN: Yes.

25           ASSEMBLYMEMBER O'DONNELL: The eligible

1 expenditure -- well, I have, you know, just a macro level  
2 problem with -- but with regard to the specific proposal  
3 before us today, what you're saying is that the grant  
4 agreement would have language that speaks to a letter so  
5 the -- would give auditors direction because we're going to  
6 get caught in auditor land real quick --

7 MS. SILVERMAN: Yes.

8 ASSEMBLYMEMBER O'DONNELL: -- unless we have  
9 something real specific in the grant agreement itself.  
10 That's my understanding from FICMAT. Could you maybe  
11 educate the group here on that.

12 MS. SILVERMAN: That's what we're recommending  
13 making a modification to the grant agreement to acknowledge  
14 that if the staff does provide letters in reference to a  
15 specific eligibility item and we provide them specific  
16 guidelines that those items would be allowable, then this is  
17 the edit that we are willing to make today in the grant  
18 agreement.

19 ASSEMBLYMEMBER O'DONNELL: Okay.

20 CHAIRPERSON ORTEGA: So can I also -- I think we  
21 had envisioned as I've discussed with staff how they would  
22 handle this, is to the extent that an issue comes up that  
23 also really warrants further revision of the grant agreement  
24 itself. So if someone -- if a district comes to OPSC and  
25 seeks advice on whether something is allowable, OPSC could

1 provide that information in writing. The grant template  
2 would have the guidance for the auditor to look at, whether  
3 there's any such document, but OPSC would also come back to  
4 the SAB to request a revision to the grant agreement  
5 template.

6 ASSEMBLYMEMBER O'DONNELL: Correct. Yeah.

7 CHAIRPERSON ORTEGA: So that issue would be  
8 corrected on an ongoing basis.

9 MS. SILVERMAN: Right.

10 CHAIRPERSON ORTEGA: And I think, you know, we  
11 imagine over the early months of implementation those issues  
12 are certainly going to come up.

13 ASSEMBLYMEMBER O'DONNELL: Thank you. And I have  
14 other comments, but I'll wait for the --

15 CHAIRPERSON ORTEGA: Okay. Anyone else before we  
16 move to the public comments? Okay. I'll call Mr. Don  
17 Ulrich.

18 MR. ULRICH: Well, good afternoon, Madam Chair,  
19 members of the State Allocation Board. My name is Don  
20 Ulrich. I'm from Clovis Unified Schools in the Valley, and  
21 I represent CASH, the Coalition for Adequate School Housing,  
22 as their Chair.

23 First of all, thank you for the opportunity to  
24 provide input on this important topic. You have received  
25 letters from me and today really I just want to summarize

1 what the issues are and the position that CASH has taken on  
2 these topics.

3           First of all, the lists, we recommend that the  
4 true unfunded and the acknowledged list both be approved and  
5 you direct OPSC to process the acknowledged list as quickly  
6 as possible, including directing them to hire the  
7 appropriate staff to process these applications as soon as  
8 possible.

9           All these projects were submitted in good faith in  
10 accordance with the existing program when they were  
11 submitted. That hasn't been changed, and in fact, it was  
12 approved through Prop. 51 to remain unchanged.

13           Also allow projects to retain their place in line  
14 while getting DSA or CDE reapproval. Additionally, adjust  
15 the priority funding deadlines. Extend the deadline for  
16 current projects to fund with the fall bond sale. You could  
17 accomplish this through regulation changes -- emergency  
18 regulations. Doing so will allow projects approved today to  
19 access the fall bond sale.

20           Regarding the grant agreement -- and I -- this  
21 one, you know, you've discussed briefly, but we really  
22 recommend that you allow only ineligible expenditures or,  
23 you know, to put it another way, those that you can't  
24 purchase. We just feel like this is a more clear  
25 transparent and more easily accountable -- would be easier



1 with this than what you're recommending which is listing  
2 eligible expenditures.

3           We feel this is more difficult to hold people  
4 accountable and that the prior would be the better way to do  
5 this.

6           Again, about the grant agreement, allow it to  
7 include prospective projects only. Retroactive application  
8 will create more complexity for districts, OPSC, and SAB.  
9 As you know, many school districts that had eligibility and  
10 turned in projects have done these projects with funds that  
11 were probably allocated many times for other more  
12 important -- just as important projects.

13           So if we've already done the project and a new  
14 grant agreement changes those regulations, that could be  
15 problematic, I think you'd see.

16           Also with the grant agreement, we do concur with  
17 OPSC recommendation for signing the grant agreement at the  
18 time of fund release or when you turn in your 5005. We  
19 think that's a good change to the grant agreement.

20           And finally, you know, while these are all  
21 important positions from a state level, I think even more  
22 important is that we hear the effects of moving the program  
23 forward as quickly as possible. You know, what that does  
24 for our local school districts, for the projects that  
25 teachers and kids out there need to have happen, or on the

1 other hand, what happens if we don't move the project  
2 forward and we keep taking this valuable time away from  
3 getting projects done for kids and for teachers out in our  
4 schools.

5           And I think today you'll hear testimony from  
6 districts with specific issues, specific projects that are  
7 going to benefit kids and teachers or if they're not funded  
8 are going to be a negative impact on kids and teachers and  
9 really the reason we're all here is to support our local  
10 schools and our districts and help the environment for  
11 students and teachers in the state of California.

12           So if you have any questions, I could answer those  
13 at this point.

14           CHAIRPERSON ORTEGA: I have one question. So as I  
15 understand the way the template has been drafted, there's a  
16 code section reference to every item that's listed as an  
17 eligible expense. So this is an attempt to look through all  
18 of the relevant statutes of the program and put it into one  
19 document.

20           So when you talk about the -- how signing the  
21 grant agreement for something that's already been submitted  
22 to OPSC or already is -- you've already put contracts out on  
23 a project, with the exception of technology where I will  
24 acknowledge that's a place where we made --

25           MR. ULRICH: Yeah.

1           CHAIRPERSON ORTEGA: -- a clear change, what is an  
2 item of expenditure that you think might come up in a  
3 project that you would have -- that would be in conflict  
4 with the grant agreement?

5           MR. ULRICH: Yeah. I think you framed it. If  
6 it's anything that you purchase -- it's mostly technology.  
7 There could be other things on that list that are purchased  
8 and I think for districts that have funds available that  
9 might not be such an issue, but there's many districts that  
10 in hardship cases that that's the money they have.

11           CHAIRPERSON ORTEGA: Um-hmm.

12           MR. ULRICH: You know, so if -- especially the  
13 part about, you know, the penalties and those kind of things  
14 for projects they've already done I think would be  
15 problematic. That's the main issue there.

16           CHAIRPERSON ORTEGA: Okay. Mr. Kim.

17           MR. KIM: Mr. Ulrich, I mentioned before at our  
18 last meeting, I was at the other end of the table --

19           MR. ULRICH: Um-hmm.

20           MR. KIM: -- receiving state funds when I was at  
21 the local government level, and whether it was the small  
22 counties or the large counties, we always wanted to get  
23 clarity on what was an eligible or ineligible expense.  
24 That's why I'm a little unclear why CASH wouldn't want the  
25 local school districts, many of whom have seen massive

1 turnover staff -- administrative staff who may not know all  
2 the rules of engagement, why you wouldn't want a clear list  
3 of what was eligible and ineligible especially given that,  
4 to my knowledge, with the exception of the discussion  
5 regarding technology, there's been no question about any of  
6 the ineligible expenses.

7           So if there's no question about what's on the  
8 ineligible list, why not identify that up front for  
9 everyone.

10           MR. ULRICH: Yeah. I'm here to give you, you  
11 know, CASH's position, but I can add what my -- you know, my  
12 experience has been and I think we heard it today. When you  
13 have a positive list of what's eligible, it's going to be  
14 reinterpreted many times and that's why I heard that today  
15 regarding I think it was the exercise equipment.

16           And so the position that we're taking based on  
17 experts that have been in the facility world frankly quite  
18 longer than me, you know, that their experience is a -- the  
19 way we framed it, an ineligible list is clearer and easier  
20 to hold school districts accountable for what your intention  
21 is.

22           And I think some of those people that have  
23 experience can testify today to that effect, but that's our  
24 opinion on it. That's how, you know, the practitioners that  
25 have been doing this for decades have seen this, and as a

1 Board, that's the position we're taking at this time.

2 CHAIRPERSON ORTEGA: Anything else? I think --  
3 thank you, Mr. Ulrich.

4 MR. ULRICH: You bet.

5 CHAIRPERSON ORTEGA: I'm going to call a couple  
6 names at a time so that we can move through the list of  
7 speakers expeditiously. Margaret Brown and Robert Pierce.

8 MS. BROWN: Good afternoon, Chairwoman Ortega,  
9 members of the Board, Senator Nguyen especially. I'm from  
10 Garden Grove. My name's Margaret Brown. I am the Director  
11 of Facilities for Garden Grove Unified School District. I  
12 also went to elementary, middle, and high school in Garden  
13 Grove, graduating from Bolsa Grande which is currently being  
14 modernized at this time. My mom's also a retired teacher  
15 from that district, so I have a lot of ties to that district  
16 and that community.

17 I'm here today to talk about a number of our  
18 projects that are on the list for funding. Garden Grove for  
19 the very first time passed its very first bond measure in  
20 2012 -- in 2010. Never did a bond before that. Never  
21 actually improved any of our facilities and most of them did  
22 not have air conditioning.

23 I joined the staff in 2013 and we really started  
24 going back through the plans and looking at how we could get  
25 air conditioning in our schools. We had times when it was

1 95, 103 degrees in the classroom and we're asking our  
2 students to take -- to study physics, take final exams, and  
3 it's almost impossible in there.

4           And so we were able to, under the current program,  
5 get some modernization funding, get some matching funds and  
6 move those 65 modernization projects through the process,  
7 but we also went ahead and started adding air conditioning  
8 our high schools and Bolsa's first of 24 classrooms just  
9 moved in. They have air. So if it's 94 back home today,  
10 they're in air because they go through June 20th. So we're  
11 very excited about that.

12           But we also needed to pass the second bond. We  
13 just did one in November for 311 million because we didn't  
14 anticipate adding air conditioning the first go-around. And  
15 we were very excited when the statewide voters passed  
16 Proposition 51.

17           So we thought great, we're going to get matching  
18 funds. So here we go again. We submitted 14 applications  
19 to the state for about \$12 million and all of those  
20 applications include air conditioning for our schools and 12  
21 of those applications are reimbursement.

22           We actually are in the middle of doing that work  
23 or that work is already done and we're hoping to get that  
24 money back. Unfortunately, the state hasn't sold anything  
25 from Prop. 51. I know we're looking at selling a little bit

1 and I'm really here to say I hope we sell a lot because we  
2 are on a list. What list? The acknowledged list, but that  
3 doesn't mean we're anywhere near the top. We're sort of  
4 towards the bottom, but we're hoping that if we start  
5 selling bonds and OPSC starts working our applications and  
6 doing the eligibility that eventually we'll get that funding  
7 because that \$12 million reimburses the pot that allows us  
8 to air condition the next batch of schools.

9           We're also going to apply for two more facility  
10 hardship projects, seismic mitigation. We already have two  
11 projects. We're getting ready to submit two more, and of  
12 course, I think we got to the front of list with facility  
13 hardship. So I'm not so worried about that.

14           If we sell some bonds, I hope they'll be for  
15 Garden Grove. But what I'm here to say is that I hope we'll  
16 sell more bonds and we'll move the projects forward. I'm  
17 very happy to hear about the grant agreement that you're  
18 going to make us sign at fund release.

19           With respect to eligible/ineligible item, the  
20 costs for Garden Grove -- the amount of state money we get  
21 is so small compared to the amount of the construction  
22 costs, it's barely 30 percent. So we're not going to have a  
23 problem with the eligible/ineligible, but if this was  
24 another time, I would tell you that I really would be  
25 concerned about what's on that list.

1           If it only says what's eligible and everything  
2 else is not, it can be very complicated as a -- someone  
3 who's responsible to my community and to my board about all  
4 of a sudden, it's not allowed and now it's coming out of  
5 Prop. 98, I'll be looking for a new job. And just wanted to  
6 share those thoughts.

7           CHAIRPERSON ORTEGA: Thank you, Ms. Brown. And  
8 you might be interested to know that I graduated from Garden  
9 Grove High School.

10          MS. BROWN: Oh, excellent. That has air now too.

11          MR. PIERCE: Thank you, Madam Chair, members of  
12 the Board, staff, members of the audience. My name is  
13 Robert Pierce. I'm Deputy Superintendent for Business  
14 Services at Elk Grove Unified School District. I appreciate  
15 your time today.

16           I know you've received a lot of correspondence  
17 from people just like myself, including me, so I can keep my  
18 comments fairly brief. In short, I am going to urge you and  
19 ask that you consider approving Option 2 that's before you  
20 today and that you also consider the grant agreement not  
21 being retroactive and only applicable to projects that have  
22 not either completed or started construction at this point  
23 in time.

24           I will tell you from our perspective at Elk Grove  
25 Unified we're in complete support of the notion and the



1 thought behind the grant agreement. I can tell you as a  
2 public official myself, there is no other public entity than  
3 school districts that want to comply, that want to fulfill  
4 requirements and obligations of us, and in that regard, the  
5 grant agreement does a good job.

6 We know the rules of engagement. We know how that  
7 we can be successful in the expenditure of bond funds. So  
8 we appreciate that and we think it's a really good thing,  
9 but again we don't want that to be retroactive. In other  
10 words, we have projects that we've either completed and/or  
11 under construction and I would hate to sign a very large  
12 document that I can't assure both my board and my  
13 constituents that we are fully compliant with that agreement  
14 on day one.

15 A little bit about the Elk Grove story. Many of  
16 you might already know this. We're a large district. We're  
17 fifth largest in the state. We continue to grow.  
18 fortunately for us; unfortunately, with regard to our lack  
19 of facilities. And so we are in a position right now we  
20 have two elementary schools that are under construction at  
21 the extreme polar opposite ends of our district. We're 320  
22 square miles.

23 We have a school under construction in the City of  
24 Rancho Cordova and a school under construction in the City  
25 of Elk Grove. Both of those schools are in such a high need

1 right now, absent state funding and absent certain triggers  
2 that have allowed us to generate capital dollars, our board  
3 was forced to make a very tough decision and issue  
4 \$30 million of certificates of participation leveraging our  
5 general fund.

6 All of the neighboring elementary schools in those  
7 two regions are already on a multitrack year-round calendar.  
8 If you're not aware what that is, I would be happy -- it was  
9 popular for a time. It's still popular in Elk Grove  
10 Unified, unfortunately. It's not optimal for the  
11 educational environment of our students or our staff.

12 Anyhow, neighboring schools, all multitrack,  
13 year-round. Both of these two elementary schools will also  
14 open this summer -- not this fall, but this summer because  
15 they're multitrack year-round, also on a multitrack  
16 year-round calendar.

17 So you're talking of schools opening with over 900  
18 students on day one. Again we had to issue certificates of  
19 participation just to make those schools a reality. We have  
20 nowhere else to send the students. We are up against it  
21 with our communities. So we're happy to have done that.

22 What we're fearing and where our anxiety level  
23 increases is with some of the options before you today.  
24 Just know that current law does not allow us to reapply or  
25 to apply for new construction dollars if those projects are

1 already occupied.

2 By the time this is all fixed or corrected or  
3 whichever avenue we're going to go down, if in any way,  
4 shape, or form we have to reapply as a district -- we're on  
5 the acknowledged list -- those projects would not be  
6 eligible for reimbursement from the state.

7 If we receive reimbursement, we need four  
8 elementary schools, not two. Those are dollars that are  
9 immediately going to go to needs in our district. So in  
10 short, we would urge you to consider Option 2. We think  
11 it's the most fair and equitable for school districts like  
12 ourself and we would encourage you to make the grant  
13 agreement not retroactive. And I'd be happy to answer any  
14 questions.

15 CHAIRPERSON ORTEGA: Yes, Senator.

16 SENATOR ALLEN: Just a quick question. With  
17 Option 1, it doesn't take the money away. It just -- I  
18 think for those projects that have been in the list for a  
19 long time, it just would require the projects to reestablish  
20 program eligibility.

21 MR. PIERCE: So the devil could be in the details  
22 in some of the application of that notion. My  
23 understanding, sitting before you right now and not having  
24 this implemented, is that Option 1 technically -- I believe  
25 you're correct -- is that we would have to just justify our

1 existing new construction eligibility as of this point in  
2 time.

3           That's not a problem for Elk Grove Unified  
4 frankly. It may be a problem for other districts who had  
5 eligibility at the time of their application and built those  
6 projects and now won't be able to receive new construction.

7           So selfishly for me, that's not an issue. I think  
8 it would be issues for other districts.

9           SENATOR ALLEN: I guess I'm -- how would it be an  
10 issue for another district if it was always an eligible  
11 project?

12           MR. PIERCE: So they theoretically could have  
13 either started construction on a project and/or completed  
14 construction on a project and they're just awaiting funding  
15 and there could be some results of the great recession. As  
16 we know, a lot of tentative maps have expired and other  
17 things have happened where they may not be eligible for new  
18 construction dollars, and then they would lose funding on  
19 those projects or not receive funding I should say.

20           Just a technicality, but a significant one.

21           MR. MIRELES: And if I could just add to that.  
22 There could be a situation where districts when they apply  
23 for funding, their enrollment trends were going up and they  
24 had eligibility to justify the project, but from that year,  
25 they have experienced a declining enrollment. So if they

1 have a downward trend now, they may no longer have the  
2 eligibility to support the project that they did when they  
3 applied, especially if there's three, four years since the  
4 time of submittal versus time of review.

5 SENATOR PAN: But just to clarify, Option 1 is for  
6 new construction, right?

7 MS. KAMPMEINERT: Yes.

8 SENATOR PAN: So it's not -- I think one of the  
9 challenges is that we've had applications that go back.  
10 Now, I could see that school districts have already put in  
11 money. They've built, but I also -- because if enrollment  
12 trend changed since 2010 and that -- so the application  
13 is -- you know, but they haven't actually built the school.  
14 Now they're building a school in a place that enrollment  
15 trends don't support it.

16 MS. KAMPMEINERT: Um-hmm. Right.

17 MR. PIERCE: Yeah. And I don't want to speak for  
18 staff, but I think the way it's worded currently, even if  
19 you have built a school, then you don't have eligibility  
20 today, you would not be eligible for funding.

21 CHAIRPERSON ORTEGA: I think the -- what's assumed  
22 in the options is that -- I don't think there's any -- I  
23 don't think we've really entertained Option 3 of sending the  
24 applications back. So I don't think the issue of reapplying  
25 is going to really --

1 MS. SILVERMAN: No. This was Option 1.

2 CHAIRPERSON ORTEGA: Yes. I understand. So just  
3 looking at the difference between Option 1 and 2, Option 1  
4 would require the reeligibility -- the recertification of  
5 eligibility regardless of whether it was new construction or  
6 not before -- you would have to recertify eligibility.

7 MS. KAMPMEINERT: Under Option1, it was with  
8 regard to new construction regardless of whether you've  
9 already built the project --

10 CHAIRPERSON ORTEGA: Right.

11 MS. KAMPMEINERT: -- or if you have plans that you  
12 are waiting to build the project. For modernization  
13 eligibility, it's not -- it doesn't fluctuate as much  
14 because once the building has -- typically we don't process  
15 modernization eligibility down. So it doesn't matter as  
16 much. So we're not recommending in Option 1 that  
17 modernization eligibility needs to be rejustified.

18 But for new construction, the concern is exactly  
19 as you stated. If the project was thought of in 2012 or '13  
20 and the district has not built the project or even if they  
21 did build the project, we could potentially be spending new  
22 bond dollars on facilities that are not needed.

23 SENATOR ALLEN: So when you say new construction  
24 that's already been built, I can see people getting confused  
25 about your definition of the word new.

1 MS. KAMPMEINERT: So we haven't been processing  
2 applications for funding since 2012. So on our second  
3 action item on the applications received beyond bond  
4 authority, the Board in 2012 decided to keep a list of  
5 projects that we would acknowledge but not process.

6 So districts have been submitting funding  
7 applications under our two main programs, which are the  
8 Modernization Program and the New Construction Program. So  
9 the applications were submitted as if the old program -- the  
10 School Facility Program was in place as though the rules  
11 would not change.

12 Districts had to certify that there was no  
13 guarantee of funding and no commitment, that they may not be  
14 eligible, that rules might change. So there were some  
15 certifications that went along with it. But when the  
16 application was submitted, the district was saying I am  
17 intending to add capacity to my district by either the  
18 addition of classrooms onto an existing school site or by an  
19 entirely brand new school.

20 So those are the applications that we have in  
21 house that have not been processed. So that application  
22 package is still requesting funding out of the New  
23 Construction Program --

24 SENATOR ALLEN: Um-hmm.

25 MS. KAMPMEINERT: -- because it's adding capacity

1 that we didn't know of prior to that 2012 time frame.

2           SENATOR ALLEN: I guess my question for you is  
3 there a way to rejigger Option 1 to make it truly new  
4 construction. I understand the point you're trying to make  
5 which is that you don't want people moving forward --  
6 jumping -- you don't want people being ahead of other folks  
7 in line if that project would not be eligible anymore.

8           At the same time, we don't want to leave districts  
9 in the lurch, you know, who are doing construction under  
10 the -- you know, with full faith that they were complying  
11 with the program and eligibility as it was.

12           So is there a way to redo Option 1 to allow for  
13 that, to correct for that -- those different scenarios?

14           MS. KAMPMEINERT: So the options that we've put  
15 forth are all for Board consideration. So it would really  
16 be the Board's call as far as what you want to do from a  
17 policy perspective.

18           The reason that OPSC has this before the Board is  
19 because we don't believe we have the administrative  
20 authority to process these in any way and that the Board has  
21 the flexibility to move forward and require updating  
22 eligibility.

23           Within Option 1, the balance there is just that it  
24 is a unique opportunity for the Board to really make sure  
25 that the bond dollars are going towards projects that are



1 necessary.

2 SENATOR ALLEN: Right.

3 MS. KAMPMEINERT: How we arrive at that is --  
4 could be a Board option.

5 SENATOR ALLEN: Does the logic of question  
6 sound -- as long as I'm not --

7 ASSEMBLYMEMBER O'DONNELL: You know, Madam Chair,  
8 I think his logic's very sound. I have a suggestion. I  
9 think what you do is you have it apply to projects, you  
10 know, under contract after today so that those projects  
11 going backwards would --

12 CHAIRPERSON ORTEGA: Just the recertification?

13 ASSEMBLYMEMBER O'DONNELL: You could modify --

14 CHAIRPERSON ORTEGA: Are you talking on just the  
15 recertification of --

16 ASSEMBLYMEMBER O'DONNELL: I'm sorry?

17 CHAIRPERSON ORTEGA: Just the recertification of  
18 eligibility?

19 ASSEMBLYMEMBER O'DONNELL: I think that's what I'm  
20 thinking here.

21 MR. MIRELES: I think that's a way that it could  
22 be structured to meet your comments, Senator Allen, is that  
23 there could be consideration for projects that have already  
24 been built, say through the contract date. Projects that  
25 have entered into contract after a certain point in time,

1 whether it's today or another day, that they could use the  
2 enrollment projections at the time of submittal versus the  
3 ones that have not entered into contracts or have not been  
4 built, they would use enrollment projections at the time of  
5 review.

6 That could be a way that it could be structured.

7 SENATOR NGUYEN: But this list has not been  
8 processed, so how could you verify that? You can't do that  
9 because it has not been processed. Because this is  
10 acknowledgement list. It's not the --

11 MS. KAMPMEINERT: We would need to process first.

12 SENATOR NGUYEN: You would need to process it  
13 first and we can't do that without processing it because  
14 they're not eligible.

15 ASSEMBLYMEMBER NAZARIAN: Option 1 processes it.  
16 Option 1 assumes the processing.

17 MR. MIRELES: Yeah. So you would basically  
18 process the applications and the applications are required  
19 to submit enrollment information at the time of submittal.  
20 So if the district -- so OPSC would have the enrollment  
21 projections at the time of submittal to determine whether  
22 they qualify based on that information.

23 They would probably need to get updated enrollment  
24 information at the time of review to determine whether they  
25 have eligibility at that time. And keep in mind that it

1 could be four or five years between the time of submittal  
2 versus the time of review.

3 But even to be on this acknowledged list,  
4 districts were required to submit the enrollment projections  
5 at the time of submittal.

6 CHAIRPERSON ORTEGA: I'll let Mr. Kim jump in.

7 MR. KIM: I'm just trying to think of -- under  
8 Option 1, what type of school district would be harmed? It  
9 would seem that the only type of school district that would  
10 be harmed under Option 1 is the school district that kind of  
11 bet on the come, recognized that its enrollment was growing,  
12 said I'm going to build anyway, I'm going to be on the  
13 acknowledged list despite the fact that I am not guaranteed  
14 any funding for this and then somehow the enrollment dipped  
15 below projections.

16 Now, if I were the chief business officer of a  
17 school, I would know that that applied to me. So have we  
18 heard from any schools that say they're going to be harmed  
19 by Option 1?

20 MS. KAMPMEINERT: No, we have not heard from any  
21 school district --

22 MR. KIM: So that's what concerns me. I wonder  
23 are we trying to fix a problem that doesn't exist. Because  
24 if I'm a CBO, I'm going to know that. And if I'm not -- if  
25 I don't know that, then we got bigger problems in that

1 school district.

2 MS. BROWN: Well, I do have an answer for you on  
3 that because you could be in a district say like Garden  
4 Grove that had some small growth and needed to build an  
5 addition at Grove High School that has something like 33  
6 portables on it and we need to build a two-story classroom  
7 addition.

8 Now, we have not moved forward on that project  
9 because that was not a priority in our district. But we  
10 could have. We could have done the plans, had the  
11 eligibility in 2012 and 2013 and submitted that project.  
12 Maybe not have built it because we're pretty conservative in  
13 Garden Grove. We may not have built it, but we might have  
14 submitted it and done all -- spent all the money to -- have  
15 some cost to build that project and now with our declining  
16 enrollment, we wouldn't be eligible, but we would have the  
17 need.

18 And so I think we need to think about it like that  
19 because you can have need in different parts of your  
20 community and where you're declining. So we may be growing  
21 in certain parts and declining in others and we are. We are  
22 because we cover Santa Ana. We cover Fountain Valley and so  
23 that could happen.

24 I don't have that specific issue because we were  
25 just doing straight up modernization, but it can happen to

1 school districts and you might actually hear from somebody  
2 if we ever get down from here.

3 MR. KIM: And I could appreciate that situation.  
4 I guess my question would be then is it fair to allow that  
5 school district to build something when if they updated  
6 information, they wouldn't be eligible. Meanwhile there's  
7 other school districts that are now eligible, that are of  
8 higher need, that aren't going to get that.

9 And the other question was, well, you were  
10 conservative because you wanted to be fiscally prudent. I  
11 think that most CBOs are the same way. So if someone is not  
12 like that, why should we give them the benefit of that --  
13 you know, I made the wrong forecast and I'm not even in a  
14 situation where I could tell the Legislature or SAB that,  
15 hey, I would be harmed. Because I would expect a letter  
16 from that school district saying you're really going to harm  
17 me and we haven't seen one today.

18 CHAIRPERSON ORTEGA: Could I suggest -- staff help  
19 me out here. If we moved forward on Item 1 to process the  
20 applications but require recertification as sort of an --  
21 not as a final decision on those applications, but to get us  
22 some more information about whether there is anyone harmed,  
23 are there any projects that are going to essentially jump  
24 ahead of a project that has more critical eligibility  
25 because that would be the concern that I would have if we

1 approved Item 2 is we may be letting projects move forward  
2 that clearly should not be ahead of someone else and in a  
3 limited bond sale, you know, scenario, that doesn't seem to  
4 make sense.

5 But I feel like we're making -- we're either  
6 chasing a problem that doesn't exist or we're trying to  
7 solve when we don't have enough information. Senator Pan.

8 SENATOR PAN: Well, actually, I mean if we did  
9 Option 1 and you actually -- once you process it, you would  
10 actually have a list of how many schools are not eligible  
11 and they would then be able to say, well, we still want to  
12 move forward and so we would then be dealing with, well, how  
13 many cases are we talking about. And then --

14 ASSEMBLYMEMBER NAZARIAN: Right. But that brings  
15 it back to us as a case-by-case --

16 SENATOR PAN: Right. And then we can look at  
17 those and say which ones seem to make -- still make sense,  
18 right? So then we would have a definition of how big the  
19 problem is.

20 CHAIRPERSON ORTEGA: Lisa.

21 MS. SILVERMAN: There's currently 280 projects on  
22 the acknowledged list --

23 CHAIRPERSON ORTEGA: Yeah.

24 MS. SILVERMAN: -- that are applying for new  
25 construction and so that's over \$1.5 billion in requests.

1 And so just to clarify what the magnitude of the issue,  
2 so --

3 CHAIRPERSON ORTEGA: Could we ask the districts to  
4 recertify without the staff having to go through an  
5 application by application process, so essentially ask them  
6 to evaluate their enrollment and see if anyone, you know,  
7 sort of self-certifies that they're -- I mean at least as a  
8 first cut to figure out the magnitude of the problem.

9 Because I get what you're saying. You don't have  
10 the staff to in any quick way process all those applications  
11 and determine how we would move forward. That's -- with  
12 that many applications, that's the problem. But -- yes.

13 SENATOR NGUYEN: But my question to that would be  
14 is how long would that process take for the school district  
15 to process that. I mean because now we're adding another  
16 layer. And so that would be my question is, you know,  
17 we're -- I think everybody here seems like we want to move  
18 forward as fast as we can because it's been almost a decade  
19 and so now how do we --

20 CHAIRPERSON ORTEGA: But it wouldn't be for  
21 naught, right? They would have to do the recertification if  
22 they were moving forward at some point. So we would just be  
23 asking them to do that now and make that -- submit that as  
24 part of their application.

25 SENATOR ALLEN: And we want to move forward -- we

1 want to move forward on worthwhile projects and we want to  
2 make sure there's enough money for those projects that  
3 really need the --

4 ASSEMBLYMEMBER O'DONNELL: Yeah, but her question  
5 has been answered in a timeline associated with that.

6 SENATOR ALLEN: For recertification within the  
7 district?

8 MS. BROWN: For us to do it? 60 days. Of course  
9 it's summer; we're really busy. Yeah, 60 days.

10 MR. KIM: I'm sorry. Isn't it largely a matter of  
11 the projection for enrollment that's going to drive this?

12 MR. PIERCE: So the 5001 form which is the form  
13 that OPSC uses to establish your enrollment projection, it  
14 is just a form, but there's a tremendous amount of backup to  
15 that form in order to justify future enrollment through  
16 tentative tract maps, final maps. There's a lot of work to  
17 do with your local planning jurisdictions and others in  
18 order to complete that. So there is some time associated  
19 with it and you're certifying, so it's got to be accurate.

20 CHAIRPERSON ORTEGA: Senator Nguyen.

21 SENATOR NGUYEN: Madam Chair, can we ask the  
22 representative from CASH up here because CASH -- you know,  
23 you represent a variety of school districts throughout the  
24 state, right? I mean I -- for the record, I'm also -- I  
25 graduated from Garden Grove High as well.



1           I just want to make sure that, you know, if you  
2 can -- you've heard the discussion up here. I mean what are  
3 the -- what are you hearing across the state?

4           MR. ULRICH: I think from the CASH board of  
5 directors and the people we're talking to about this issue,  
6 it's about those districts that in good faith had  
7 eligibility and they went forward for a new construction  
8 project and now so much time later, things might have  
9 changed.

10           If the program would have been intact, that change  
11 still would have happened and you build schools and you  
12 start to decline, but you still have built the school. In  
13 other words, you're still looking back and that's what's  
14 problematic for these school districts.

15           I think the other point I would make is that when  
16 you are a larger school district, even a medium-size school  
17 district that might have two or three high schools, you  
18 don't just grow evenly all over the school district, right?

19           Now you can re-boundary your districts at certain  
20 times to use every room possible, but that's challenging for  
21 the community. You know, especially if you get into five or  
22 six high school districts, it's very challenging to do that  
23 and sometimes not even feasible because of the  
24 transportation costs.

25           So there's lots of nuances to going back five

1 years and making you recertify for those projects that you  
2 might have already built.

3 I think the discussion has been great that looking  
4 at -- finding out where the problems are, you know, how many  
5 districts are in this situation, but I would bet -- and I  
6 think maybe some of my colleague that speak later -- I'm  
7 think of Mr. Reising from Long Beach -- might have the  
8 experience to give you some specific examples of a situation  
9 they're in or some other district is in.

10 My district, Clovis Unified, has been a growing  
11 school district for the last 25 years. So we're not going  
12 to face this situation. We're continuing to grow. Any new  
13 construction we've done -- and we have two on the  
14 acknowledged list, but we still have eligibility because  
15 we're continuing to grow.

16 CHAIRPERSON ORTEGA: Senator Allen --

17 MR. ULRICH: So it's a really nuanced situation.

18 SENATOR ALLEN: Yeah. And I don't think there's  
19 any -- I mean at least from my perspective -- the school was  
20 actually constructed, you know, with good faith, compliance  
21 with the rules as they were. I don't think any of us are --  
22 at least I'm not advocating for that not to be covered at  
23 all.

24 I think the question's for those that have not  
25 been constructed that would no long be eligible. We just

1 want to make sure that we're spending our money wisely  
2 moving forward. That's my -- that's the distinction I'm  
3 drawing.

4 ASSEMBLYMEMBER O'DONNELL: Well, then wouldn't  
5 that mean that today -- going forward after today. The  
6 recertification -- why would you recertify something that's  
7 already been built?

8 SENATOR ALLEN: If some -- if it hasn't been  
9 built --

10 ASSEMBLYMEMBER O'DONNELL: Right? So it hasn't  
11 been built, then really -- after today, they would have to  
12 come in and recertify, I assume, correct?

13 SENATOR ALLEN: Well, if we do Option 2, then they  
14 would --

15 ASSEMBLYMEMBER O'DONNELL: I'm sorry?

16 SENATOR ALLEN: If we do Option 2 as written, then  
17 they would not have to recertify.

18 ASSEMBLYMEMBER O'DONNELL: Right. So I mean  
19 Option 2 to me seems to be practical.

20 CHAIRPERSON ORTEGA: But then a district that  
21 hasn't built would be eligible to stay in the program.

22 SENATOR ALLEN: Even if the --

23 ASSEMBLYMEMBER O'DONNELL: So why don't we modify  
24 Option 1 or 2 -- I guess Option 1 excluding constructed  
25 projects and projects under contract by June 5th, 2017.

1 CHAIRPERSON ORTEGA: Senator Pan.

2 ASSEMBLYMEMBER O'DONNELL: If I may, I think  
3 that's what Mr. Mireles was -- I'm assuming after --  
4 Option 2 -- modify Option 2 to mean after today or some date  
5 in the future.

6 CHAIRPERSON ORTEGA: Senator Pan.

7 SENATOR PAN: So what I'm hearing is that -- first  
8 of all, the question's been raised how much of a problem  
9 this really is. Right. And so we've heard about the  
10 business manager being -- in my mind -- first of all, I  
11 think he has an oversight responsibility to be sure that  
12 projects that fund actually meet the standards.

13 So there is forms to establishing program  
14 eligibility. Now, if they've already constructed it, then  
15 it's going back in time to say at the time you submitted --  
16 all right -- because we can't just blank check and say fine,  
17 you know, we're not even going to look at it, right?

18 So we just spent the money -- we don't want to  
19 create a situation where people spend money without at least  
20 at the time they started construction or appropriate time  
21 submitted that somebody's at least reviewed -- taken a look  
22 at the numbers and said that's appropriate.

23 So I think, you know, one level is that -- is to  
24 either -- you know, either you're going back and looking at  
25 submission time or if they haven't built it, you're looking

1 at now and then the question is to what degree, you know,  
2 are we trying to imagine a problem that may or may not exist  
3 as was pointed out. So we also want to make it as  
4 streamlined as possible so that we can move these projects'  
5 fundings as quickly as possible while still assuring that  
6 people meet eligibility at whatever appropriate time they  
7 should be meeting it for construction.

8           Because again, I think it goes back to we don't  
9 want people -- I think in general the schools probably don't  
10 want to put their share up for projects that aren't going to  
11 work, but I do think we have a responsibility for our staff  
12 to be sure that people do meet program eligibility.

13           Now -- so is there a staffing problem at SAB about  
14 doing that or no?

15           MS. KAMPMEINERT: To check each of the projects  
16 right now? Well, if we were to process --

17           SENATOR PAN: Well, to -- yeah, to reestablish  
18 program eligibility, Option 1.

19           MS. KAMPMEINERT: So under Option 1, as we process  
20 the application, that would just be one of the steps that we  
21 do. So instead of using the '13-'14 enrollment information,  
22 we would ask the district to provide us the information for  
23 '17-'18.

24           ASSEMBLYMEMBER O'DONNELL: And those are projects  
25 going forward not back.

1 MS. KAMPMEINERT: Under Option 1, it would be for  
2 all projects.

3 MS. SILVERMAN: Anything you have --

4 ASSEMBLYMEMBER O'DONNELL: But then you've --  
5 again we run into the conundrum where we have projects that  
6 were built based on earlier numbers or projections.

7 SENATOR PAN: Well, they do need to be sure that  
8 they meet the eligibility at the time they start submission,  
9 right? I mean --

10 MS. KAMPMEINERT: Which would be Option 2.

11 SENATOR PAN: No. It would be Option 1, right? I  
12 mean the question is which numbers you use. They've already  
13 built it. You'd do it not in '17-'18. You'd do it for the  
14 time they --

15 MS. KAMPMEINERT: If there was a hybrid of  
16 Option 1 -- another version of Option 1.

17 SENATOR PAN: Right. Right.

18 ASSEMBLYMEMBER O'DONNELL: Can I ask -- so when  
19 they certify, is it the district -- they self-certify to you  
20 when they submit -- they originally submitted, was there any  
21 type of formal certification?

22 MS. KAMPMEINERT: We haven't done the review on  
23 the applications, but they are signing forms indicating that  
24 the information is correct. But typically, when we process  
25 the information, I would say a fair number of times we find

1 some data issue that does need to be addressed and -- so  
2 they're certifying, but it may be -- they may need to adjust  
3 it a little --

4 ASSEMBLYMEMBER O'DONNELL: So how big of a  
5 workload is this for you? Because we want to get these  
6 projects up and running and I know everybody in this room  
7 does, but I just wondered -- you know, there's all these  
8 hurdles I see that we're creating today, from my  
9 perspective. You know, even the grant agreement we're on.  
10 Now we're doing all this other stuff and the grant  
11 agreement's getting longer now.

12 So how are you going to get all this done inside  
13 your office? What kind of workload --

14 MS. KAMPMEINERT: Well, the year of the  
15 eligibility, for us, that doesn't change the workload moving  
16 forward. That just tells us which document to look at. So  
17 that won't have an impact on it.

18 So once the Board decides how we move forward,  
19 then we'll have direction on which information we're  
20 requesting from the school districts and we'll process in  
21 the order that the Board determines.

22 ASSEMBLYMEMBER O'DONNELL: So under Option 1 --  
23 right. So Option 1 -- but Option 1 doesn't exclude at this  
24 point -- unless amended, it doesn't exclude constructed  
25 projects.

1 MS. KAMPMEINERT: That is correct.

2 ASSEMBLYMEMBER O'DONNELL: Or projects under  
3 contract.

4 MS. KAMPMEINERT: That is correct.

5 CHAIRPERSON ORTEGA: Okay. I have Mr. Diaz,  
6 Mr. Nazarian, Ms. Nguyen, and we'll start there.

7 MR. DIAZ: Thank you, Madam Chair. So I want  
8 basically staff to comment on a lot of the resources that  
9 would be spent on -- in time on combining the two options,  
10 right? I think that's sort of a concern for me as well.

11 And I also just wanted to clarify something. For  
12 school districts that were able to have the financial  
13 resources to move forward with construction based on the  
14 acknowledged -- right -- they didn't have a promise. They  
15 weren't processed. They were just acknowledged.

16 There are other school districts that perhaps did  
17 not have the financial resources to move forward, right,  
18 because they didn't have the wherewithal, they didn't have  
19 the facility staff and the positions. I feel that some of  
20 those school districts might be harmed by that action of  
21 doing a combination.

22 Can you clarify that for me -- explain that --

23 MS. KAMPMEINERT: So if we -- so we do have  
24 limited bond authority under the program. So, yes, there  
25 are districts that may have opted not to participate and



1 submit an application during the time when we were not  
2 processing.

3           So those projects right now are behind the  
4 \$2.4 billion list. So if there is funding that goes to  
5 projects that are not necessary, then that's funding that's  
6 going to reach those districts that might be designing their  
7 projects now for submittal now that we do have bond  
8 authority available.

9           MS. SILVERMAN: And may I clarify too. So the  
10 action the Board takes as part of the 368 million, there's  
11 also a portion of that that represents new construction, you  
12 know, upward of over 100 plus million dollars.

13           Then also if the Board concedes on the  
14 acknowledged list, there's over \$1.5 billion. So again  
15 that's close to \$2 billion without having a -- you know,  
16 eligibility rechecked on the 1.5 billion plus any future  
17 allocation.

18           So if the -- Prop. 51 passed with the \$3 billion  
19 in new construction, then over \$2 billion has already been  
20 committed just strictly for the bond fund. So it's just a  
21 warning that you will only have \$1 billion available for any  
22 new projects going forward.

23           CHAIRPERSON ORTEGA: All right. Mr. Nazarian, I  
24 think you're next.

25           ASSEMBLYMEMBER NAZARIAN: Thank you. Couple of

1 quick questions, just so that I can clarify something.

2           Of the 280 some projects, do you have a ballpark  
3 figure how many could run into issues or challenges --  
4 ballpark?

5           MS. KAMPMEINERT: We don't know because we don't  
6 have the current eligibility information because it wasn't  
7 required to be submitted. So until we get that information,  
8 we can't guess because, as was stated by the districts,  
9 there are things that we can't just look up the enrollment  
10 that we need to know about the tract maps.

11           So unfortunately, at this point, it is a true  
12 unknown for us whether or not we're going to have an issue  
13 once we were to look at the current enrollment year.

14           ASSEMBLYMEMBER NAZARIAN: And anecdotally, you  
15 haven't been reached out to by any school district to know  
16 even on an anecdotal basis how many issues you would have.

17           MS. KAMPMEINERT: Right. We have not heard from  
18 anybody that has said that rejustifying new construction  
19 eligibility is going to cause them a problem.

20           ASSEMBLYMEMBER NAZARIAN: Okay. So the next  
21 question is, is there -- and I should have known this, but  
22 for the public record purposes, it's good -- hopefully, it's  
23 beneficial to us as well.

24           Are there legal issues that could be stemming from  
25 using the new bond dollars for criteria from the previous

1 bond requirements?

2 CHAIRPERSON ORTEGA: You mean eligibility -- the  
3 eligibility from --

4 ASSEMBLYMEMBER NAZARIAN: Yeah. Well, I think --  
5 are there no changes in the bond requirements? Was there no  
6 changes in -- is everything teed up so that there's no issue  
7 whatsoever? Can it be challenged?

8 MS. SILVERMAN: There are no grandfathering  
9 provisions as far as projects on the acknowledged list.  
10 So -- you know, also when an application -- the Board made a  
11 conscious decision back in 2012 to change the regulations.  
12 It didn't say keep processing. It said stop processing.  
13 And it also made very clear about the Board -- you know,  
14 acknowledgement from their local board that this no  
15 guarantee of standing in line. It's going to guarantee a  
16 future funding application.

17 So it was very clear about that language. So  
18 again, there was no guarantee about what new construction  
19 eligibility you should be using at the time you submit an  
20 application.

21 CHAIRPERSON ORTEGA: And, Mr. Nazarian, more  
22 directly, I think the bond does not say anything about the  
23 applications we have in house.

24 ASSEMBLYMEMBER NAZARIAN: Right. Right.

25 CHAIRPERSON ORTEGA: That's why we're --

1 ASSEMBLYMEMBER NAZARIAN: Right.

2 CHAIRPERSON ORTEGA: Yeah. So I think you could  
3 ask the question so you can't process under -- I mean I  
4 think our view is you could send them all back. That's why  
5 Option 3 is on the --

6 MR. KIM: Can I ask a related question?

7 CHAIRPERSON ORTEGA: Yes.

8 MR. KIM: Related to this, so I think conversely  
9 if we go ahead with Option 2 and proceed to fund a school  
10 district that really technically is ineligible, are we  
11 potentially at risk of litigation from a school district  
12 that would have been eligible but doesn't get funded?

13 CHAIRPERSON ORTEGA: I think that's a reasonable  
14 risk.

15 ASSEMBLYMEMBER O'DONNELL: Do you mean eligible  
16 today or was eligible --

17 MR. KIM: Eligible today. If we award based on  
18 eligibility that we thought was eligible but it's not  
19 technically eligible today, aren't we at risk of litigation?

20 MR. MIRELES: One thing that I would note is that  
21 if the Board were to adopt Option 2, it's consistent with  
22 the way the program has worked in the past. Basically, all  
23 the applications at the time of submittal are required to  
24 update eligibility, basically enrollment information upon  
25 submittal.

1           That's been the application process since 1998.

2           CHAIRPERSON ORTEGA: I think, though, that there  
3 was never such a long gap in bond measures. That's the  
4 conundrum we find ourselves in here is that the program  
5 itself has not changed. There just has been a lot of time  
6 that passed between funds being available. So that --  
7 Senator Nguyen.

8           SENATOR NGUYEN: May I make a suggestion, combine  
9 the 1 and 2 and help me -- I'm going to try this. So what  
10 we would do is that those applications that were submitted  
11 and construction is already underway or done will be  
12 grandfathered in.

13           Those who have submitted but have not started  
14 construction or have not completed construction would then  
15 have to do a streamline process of self-certification of  
16 their eligibility. That way you kind of separate the two  
17 projects. One is -- if you're under construction, we're not  
18 going to penalize you but move forward, let's get your --  
19 grandfather you in.

20           The other one would be is if you have submitted --  
21 because we haven't processed it and it's about five years,  
22 you need to do a self-certification of your eligibility  
23 today and if you are eligible today, then we move forward  
24 with you, and if you're not, then we're sorry. We go to the  
25 next new application.

1 I think that kind of gives you a sweet spot of  
2 both.

3 CHAIRPERSON ORTEGA: I have Mr. Nazarian and then  
4 Senator Pan.

5 ASSEMBLYMEMBER NAZARIAN: So before your question  
6 is answered, I was actually going to ask this. I don't know  
7 if it helps your question or not, but just so we're clear  
8 about what we're talking -- the groups we're talking about.  
9 The first group, that was from June to November of 2012 that  
10 the vetting has completely been done?

11 SENATOR NGUYEN: That's the trust unfunded --

12 ASSEMBLYMEMBER NAZARIAN: And is ready to go --

13 CHAIRPERSON ORTEGA: We're not talking --

14 SENATOR NGUYEN: We're not talking about --

15 ASSEMBLYMEMBER NAZARIAN: We're not talking about  
16 that, right?

17 SENATOR NGUYEN: Talking about the acknowledged  
18 list.

19 ASSEMBLYMEMBER NAZARIAN: So the acknowledged list  
20 from 2012 until whenever it was that we've been gathering  
21 the list, so last year, how much time did we spend on each  
22 of these applications?

23 SENATOR NGUYEN: None.

24 ASSEMBLYMEMBER NAZARIAN: Okay.

25 MS. KAMPMEINERT: Just a quick -- that was less

1 than five minutes. The components, yeah, we have not  
2 reviewed at all. So self-certification, we would not --  
3 essentially we would not be reviewing the eligibility at  
4 all.

5 ASSEMBLYMEMBER NAZARIAN: So I don't really see  
6 how Option 1 isn't really the only option for us left to  
7 move forward, but just my opinion.

8 CHAIRPERSON ORTEGA: Senator Pan.

9 SENATOR NGUYEN: Well, I think the challenge for  
10 that -- I'm sorry -- is that because the time lapse has been  
11 so long and it's uncommon for us that a lot of these  
12 projects have moved forward. I shouldn't say a lot. I  
13 don't even know. Okay. And it's 298 projects. I don't  
14 know which one is or not.

15 And so some of them have used their local bond and  
16 hoping that maybe when the state bond gets -- you know, we  
17 have a state bond, then they would be eligible. So some of  
18 them have already been under construction.

19 So it's really unfortunate that we do now penalize  
20 them for trying to be efficient because I mean at the end of  
21 the day, here's a challenge I have, having two young  
22 children, one that's actually in kindergarten is that by the  
23 time we finish construction of say anything in my area, my  
24 kids are out -- they're in high school by then and they're  
25 gone and graduated.

1           And that's kind of what we should be doing is that  
2 good for these school districts who have tried to move  
3 forward even though state is unsure. But they've moved  
4 forward some of these projects, and I mean, you know,  
5 they've been sitting on five plus years now and, you know,  
6 if they waited and they needed the school capacity, we would  
7 be yelling at them for not building.

8           And so I don't think that we should penalize those  
9 who already went under construction. I think that we should  
10 go forward. You know, those who were -- you know, who  
11 submitted, went under construction, let's move forward,  
12 grandfather them in. Those who submitted, have not started  
13 construction, they need to be recertified, but they need to  
14 do self-certification basically or find a streamlined  
15 process that doesn't put too much pressure on our own staff  
16 because there's a lot of applications -- or on theirs and  
17 that causes -- you know, go too expensive for the local  
18 folks as well.

19           So I think if you do it that way, you don't  
20 penalize those who really tried five years ago to get their  
21 capacity and not have these portable potties and these, you  
22 know, unmet places for these children. Don't penalize them  
23 for no reason.

24           I think if you merge both of those in I think you  
25 get a sweet spot of both and again, we don't even know what



1 those projects -- it could be 80 percent of them. It could  
2 be two. We don't know because we've stopped processing  
3 them.

4 CHAIRPERSON ORTEGA: Senator Pan.

5 SENATOR PAN: So first of all, we didn't process  
6 them because there was no bond funding and we explicitly  
7 stated very clearly that given the fact there's no bond  
8 funding, there's no assurance -- you know, if you decide to  
9 do this, you decide to do it on your own. Okay. So that's  
10 number one. That was very clearly stated.

11 Number two, this is taxpayer money. I mean it's a  
12 bond, but it's the general fund that's paying off the bond,  
13 right?

14 And so there has to be some at least minimal level  
15 of oversight, right? So to that degree, I'm not sure we can  
16 just go and simply say, well, you know what, you started  
17 construction on your own, which we clearly said that we're  
18 not just going to automatically had you the money. I mean  
19 there's got to be at least some minimal review of the data  
20 to say that you met criteria that we have -- standardized  
21 criteria we have even if it's at the time of submission --  
22 right -- that we decided that you meet the eligibility.

23 Because I think we are putting ourselves at risk  
24 if it turns out someone wasn't actually eligible -- and  
25 there's going to be -- I hate to say it, but bond is not so

1 large to meet all of the schools' construction needs. And  
2 I'm not saying you all have to agree with me there.

3           So there's going to be school districts that at  
4 some point this money's going to run out and they're going  
5 to say, well, wait a minute, there's some school districts  
6 that didn't meet eligibility and they got funded and then  
7 yet I was going to be next and I didn't because the money  
8 ran out.

9           And they would have a point to that. So I do  
10 think that there's got to be something. We can't just  
11 simply say we just grandfather you in and we just  
12 automatically hand over the check. I think there's got to  
13 be some minimal -- at least some review to say that you do  
14 meet eligibility. I mean that's -- otherwise we might as  
15 well not have eligibility criteria. Just go ahead and let  
16 people ask -- you know, put in a request for money, fill out  
17 a form, and we just hand it over.

18           Because -- I mean you pointed out. When you  
19 actually reviewed the documents, even though they're -- and  
20 I think everyone's trying to deal in good faith. They're  
21 not -- I don't think anyone's trying to cheat the state or  
22 anything, but then you find discrepancies, issues, and so  
23 forth and while some people may call that bureaucracy,  
24 believe me, I'm a physician. I had to deal with MediCal and  
25 fill out lots of forms and I'd like to see fewer of them.

1           There's got to be at least some standard to say  
2 that this means you meet eligibility or you don't because  
3 that's fairness not just for that person, it's everybody who  
4 wants to apply for this pool of money because,  
5 unfortunately, it's not large enough to cover everything.

6           So I do think there's got to be at least some --  
7 you know, I'd like to see what -- we've tried to streamline  
8 it, make it simpler, minimize, et cetera, and staying with  
9 people going forward, but I'm not sure I can just say -- I  
10 can be comfortable with simply, oh, we'll just -- if you  
11 decide to spend your own money, we're just going to write a  
12 check for a certain portion of it without doing any kind of  
13 review to be sure you meet eligibility, some criteria --  
14 program criteria.

15           CHAIRPERSON ORTEGA: Thank you. Mr. Diaz and then  
16 Mr. Mireles.

17           MR. DIAZ: Thank you, Madam Chair. I agree with  
18 Dr. Pan -- Senator Pan, his comments. You know, it kind of  
19 reminds me of the conversations that this body had -- and  
20 I'm talking about the Legislature -- when they were trying  
21 to put another bond on the ballot and when we as State  
22 Allocation Board were having a conversation on the unfunded  
23 list and receiving applications -- or the acknowledged list,  
24 to try to figure out what to do next.

25           And I do recall the flurry of activity of

1 applications of coming in from school districts because the  
2 Legislature was looking to put another bond on the ballot  
3 and having very deep conversations with the Governor's  
4 office and between both houses.

5           What that created also was this sort of perception  
6 that the more applications that came in to the State  
7 Allocation Board created a perception of a greater need that  
8 was out there, and I think that -- because if you remember,  
9 you have to be very careful not to reestablish the  
10 eligibility because a lot of it was based on the  
11 opportunities basically of having the program stay very  
12 similar if not identical and then have those applications  
13 then basically be processed and -- basically to review the  
14 eligibility as they move forward.

15           I think that if you don't use Option 1, you're  
16 going to see a lot of those possibly get approved when the  
17 eligibility wasn't accurate.

18           I also think that there's going to be basically a  
19 minimal amount. Some will actually see their grant amounts  
20 go -- little bit fluctuate, maybe take a small hit here or  
21 there, but I think it's the best option for staff,  
22 resources, and time to be able to review them based on the  
23 criteria that they have in front of them.

24           I think it's the most beneficial one because it  
25 avoids all the unnecessary -- basically the scenarios. I

1 think Senator Nguyen is right. There might be some, there  
2 might be a lot, there might be none, right? But given the  
3 criteria that a lot of it was just basically, you know, for  
4 a lot of show -- to show that there was a need, I think we  
5 should demonstrate that they actually are accountable for  
6 their eligibility as they put forward.

7 CHAIRPERSON ORTEGA: Mr. Mireles.

8 MR. MIRELES: And just to clarify -- and this is  
9 really a processing -- regardless if it's Option 1 or 2, the  
10 projects will have to be reviewed, and enrollment  
11 projections will be reviewed.

12 The question is whether it's at the time -- the  
13 enrollment projection's at the time of submittal or at the  
14 time of review and if they come up with something in  
15 between, but they will have to be reviewed. They will have  
16 to have eligibility to be able to get funded.

17 So it's not a question of not processing -- and  
18 staff, please correct me if I'm wrong. Option 1 and  
19 Option 2 will be processed. It's just a matter of which  
20 enrollment numbers to use.

21 MS. KAMPMEINERT: -- the differences between  
22 Option 1 and Option 2. In Option 1 and Option 2, we  
23 anticipated fully processing the applications depending on  
24 which year for the enrollment.

25 ASSEMBLYMEMBER O'DONNELL: Can I ask a question?

1 I'm confused here. So if it's at the time of submittal and  
2 of course the time -- we could answer that today, though.  
3 We don't need to have you go through and review all these  
4 projects, right?

5 MS. KAMPMEINERT: That's correct.

6 MS. SILVERMAN: That's Option 2.

7 ASSEMBLYMEMBER O'DONNELL: Okay.

8 MS. SILVERMAN: Option 1 would be recheck  
9 eligibility.

10 ASSEMBLYMEMBER O'DONNELL: And base it on today's  
11 numbers.

12 MS. SILVERMAN: Today's numbers, that's correct.

13 ASSEMBLYMEMBER O'DONNELL: So again you're --

14 MS. SILVERMAN: That's the difference --

15 ASSEMBLYMEMBER O'DONNELL: We're just telling all  
16 these districts that submitted with their projections that  
17 you're out of luck. You might have built something. You  
18 played by the rules even. Your numbers were consistent with  
19 reality then -- and you're not going to get the funds back.

20 MS. SILVERMAN: I don't know if we know that yet.  
21 I mean we can ask districts to reestablish their  
22 eligibility.

23 ASSEMBLYMEMBER O'DONNELL: So if we do know, what  
24 does it change?

25 CHAIRPERSON ORTEGA: Is it at all helpful to

1 say -- the baseline of the conversation here is do we want  
2 to know eligibility based on current enrollment projections  
3 or enrollment projections at the time the application was  
4 submitted which could have been 2010. That's the  
5 fundamental question between Option 1 and 2.

6 ASSEMBLYMEMBER O'DONNELL: That's the --

7 CHAIRPERSON ORTEGA: The processing --

8 ASSEMBLYMEMBER O'DONNELL: -- the Board has to  
9 make.

10 CHAIRPERSON ORTEGA: Yes. The processing --

11 ASSEMBLYMEMBER O'DONNELL: So the question really  
12 is are we going to leave districts out in the wind and not  
13 fund their projects they've built in the past or are we  
14 going to revise it and say today going forward we're going  
15 to use new numbers.

16 SENATOR NGUYEN: And that's my recommendation --

17 ASSEMBLYMEMBER O'DONNELL: Right.

18 SENATOR NGUYEN: So those who submitted and  
19 constructed --

20 ASSEMBLYMEMBER O'DONNELL: Yes.

21 SENATOR NGUYEN: -- should be grandfathered in.

22 ASSEMBLYMEMBER O'DONNELL: Not a guarantee --

23 SENATOR NGUYEN: Not a guarantee. Obviously, they  
24 have to go through the process. Those who have submitted  
25 but haven't constructed, they have to immediately do their

1 certification or re-eligibility for today's projections  
2 because they're going to build with the money to go forward,  
3 but using, of course, a streamlined process such as  
4 self-eligibility and so, you know, the process will be  
5 shorter and faster among themselves and that they don't --

6 ASSEMBLYMEMBER O'DONNELL: Well, even shorter and  
7 faster, I don't know that that changes anything because it's  
8 just really -- we're just picking the date, at what point  
9 we're --

10 SENATOR NGUYEN: But the gentleman from his school  
11 district stated that, although it's a one page application,  
12 but you have all the documentation to justify it or to show  
13 evidence of the increase in enrollment is quite extensive.

14 So it's not just the application that we have.  
15 It's the backup documents that is pretty extensive for the  
16 school district.

17 SENATOR ALLEN: Right. So if you've gone through  
18 it before, you submitted eligibility --

19 ASSEMBLYMEMBER O'DONNELL: Right.

20 SENATOR ALLEN: -- information before, we're just  
21 going to make the self-certification easy, you know,  
22 assuming that you meet eligibility.

23 ASSEMBLYMEMBER O'DONNELL: But why?

24 SENATOR ALLEN: Because you've already -- for  
25 precisely the reasons you were describing before. These are



1 folks who applied in good faith, wanted -- you know, they  
2 were eligible for the projects before. The money wasn't  
3 available.

4 ASSEMBLYMEMBER O'DONNELL: Right. So they built  
5 the project.

6 SENATOR ALLEN: I'm sorry?

7 ASSEMBLYMEMBER O'DONNELL: They built their  
8 project.

9 SENATOR ALLEN: Well, if they already built their  
10 project, under her proposal, those folks are going to be  
11 grandfathered in and they're going to be covered.

12 ASSEMBLYMEMBER O'DONNELL: Right.

13 SENATOR ALLEN: For those that haven't built their  
14 project, who haven't started construction, she's going to  
15 want to allow for a streamlined self-certification to show  
16 that you're continuing to be eligible.

17 ASSEMBLYMEMBER O'DONNELL: Yes.

18 CHAIRPERSON ORTEGA: Can I say I cannot support an  
19 acknowledgment here that we're proposing to fund schools  
20 where there is no eligibility currently. So that is -- I  
21 mean we would be acknowledging that we're processing an  
22 application for apportionment at a later date for a school  
23 that -- I don't -- it doesn't even matter if it's built or  
24 not built -- that there is no eligibility for.

25 I don't know how we justify that when we're

1 talking about projects that would be lower on the list with  
2 a clear eligibility for the need right now. So I don't know  
3 if there -- you know, they could reapply next year if their  
4 eligibility -- I'm not familiar with how quickly that  
5 eligibility is updated, but --

6 ASSEMBLYMEMBER O'DONNELL: Help me understand what  
7 you're saying, though.

8 CHAIRPERSON ORTEGA: -- they would always be able  
9 to come back if there were bond funds available, but --

10 ASSEMBLYMEMBER O'DONNELL: Help me understand,  
11 though. So you're saying that a project -- but based on --  
12 they were eligible four years ago.

13 CHAIRPERSON ORTEGA: Yes. But there was no money.

14 ASSEMBLYMEMBER O'DONNELL: But you're saying --  
15 right, but there was no money. What you're saying is  
16 they're out.

17 CHAIRPERSON ORTEGA: They are -- yes. They have  
18 no eligibility. They have no program eligibility.

19 ASSEMBLYMEMBER O'DONNELL: Even though at the time  
20 they built their project, they were eligible.

21 CHAIRPERSON ORTEGA: And let's remember that their  
22 board submitted an application with a document that said I  
23 understand as a board that I am submitting an application  
24 with no guarantee of funding approval, no guarantee of what  
25 kind of program might exist in the future.

1           It's not as if we have those applications in house  
2 with everyone having a guarantee of funding. We have those  
3 applications in house simply because the Board said people  
4 could keep sending them, even though there was no money  
5 available.

6           So program eligibility for me as one vote is kind  
7 of a threshold matter. I don't see how we can legitimately  
8 approve a process where we are approving projects where  
9 there is no eligibility.

10           Now, the trick here is we don't know if they -- we  
11 don't know to the extent this is even a problem. We're  
12 still back at that issue, that we don't really know.

13           We could certainly move forward with Option 1 and  
14 any school that was determined ineligible, I would assume  
15 they would appeal that decision by staff to the Board. The  
16 first time that it happened, the Board could consider the  
17 consequences of that, whether there are extenuating  
18 circumstances. You know, we may be deciding these issues on  
19 a case-by-case basis, but I don't know how we have a blanket  
20 policy that says --

21           ASSEMBLYMEMBER NAZARIAN: So how about if we were  
22 to make a motion that we move forward with let's say  
23 Option 1, but if there are impacted schools, they receive  
24 first hearing or first priority so that they're not losing  
25 any opportunity.

1 ASSEMBLYMEMBER O'DONNELL: That's Option 2, isn't  
2 it?

3 ASSEMBLYMEMBER NAZARIAN: Yeah, because --

4 SENATOR NGUYEN: So basically --

5 ASSEMBLYMEMBER O'DONNELL: It comes back to us  
6 anyway.

7 SENATOR NGUYEN: -- an appeal process, right? If  
8 you do Option 1, what is the Assemblyman is saying to have  
9 an appeal process where they can then come forward to us if  
10 they're not eligible, if they already went under  
11 construction.

12 ASSEMBLYMEMBER NAZARIAN: I think that's what it  
13 already does anyway. That's why I thought Option 1 is the  
14 best way to go -- is that it allows us to case by case  
15 determine, but if we want to be more specific and say that  
16 also, we can do that as well. Am I getting the wrong  
17 information?

18 CHAIRPERSON ORTEGA: Yeah. And the motion could  
19 be specific that we will see -- any application that would  
20 be kicked out because an eligibility issue, that we would  
21 see that, you know, at the next available Board meeting to  
22 have that consideration.

23 SENATOR ALLEN: Yeah. That's fair --

24 ASSEMBLYMEMBER NAZARIAN: So if we're ready, I'm  
25 happy to just state the motion and say --

1 MR. DUFFY: Madam Chair, may I --

2 CHAIRPERSON ORTEGA: Hold on one second. We do  
3 have many speakers on this issue and on the grant agreement  
4 issue. So I do want to try to close out the conversation on  
5 the processing of the acknowledged list. So let's try to do  
6 that and see if there's anybody -- most of the speakers are  
7 on the grant agreement. Mr. Duffy.

8 MR. DUFFY: Well, Madam Chair, Tom Duffy for the  
9 Coalition for Adequate School Housing and thank you very  
10 much. I'll fill out one of your forms.

11 You know, listening to your discussion, what I  
12 think I'm compelled to tell you is the regulation that you  
13 adopted in 2012 did not change the law and, of course, you  
14 can't change the law.

15 What you did -- and we argued against the Board  
16 doing it at the time -- was to try to differentiate between  
17 projects that you -- your prior reg that said you have met  
18 all of our requirements and we process you, now we want to  
19 tell you we're not going to process you, but you could not  
20 deny districts from applying according to the statute.

21 And so OPSC had to receive them and recognize that  
22 they met all the qualifications of the law.

23 In meeting all the qualifications of the law at  
24 that time, you, in our view, must accept that information.  
25 The fact that you couldn't fund them wasn't the district's

1 fault.

2           The district spent money, according to the  
3 program, to get to that place in line. They had to spend a  
4 good deal of money to get to that place in line, to be  
5 reviewed under that threshold of meeting the requirements of  
6 the law.

7           So it is difficult for us to even look at  
8 something beyond Option 2, but it appeared to me that you  
9 are trying to do something that was maybe reasonable by  
10 saying who went beyond and spent their money getting to this  
11 eligibility for the program and going beyond and even  
12 building.

13           So what you're basically saying -- and forgive me  
14 for this -- but --

15           CHAIRPERSON ORTEGA: Mr. Duffy, can I interrupt  
16 for one second?

17           MR. DUFFY: Yes.

18           CHAIRPERSON ORTEGA: Do you agree that the board  
19 that submitted an application -- that spent money to submit  
20 an application sent also an acknowledgement that there was  
21 no guarantee that they would get a project funded.

22           MR. DUFFY: But that acknowledgement, it didn't  
23 contravene their ability to be in the program --

24           CHAIRPERSON ORTEGA: Sure.

25           MR. DUFFY: -- and stay in the program.

1           CHAIRPERSON ORTEGA: Sure. But you're making an  
2 argument that they spent money to get on a waiting list, but  
3 they knew that there wasn't any money and that they had no  
4 guarantee that a bond would pass in the future and no  
5 guarantee of what the program would be in the future.

6           MR. DUFFY: And that --

7           CHAIRPERSON ORTEGA: So that -- it gets to be on a  
8 list.

9           MR. DUFFY: And we've been in that same  
10 circumstance many times before.

11          CHAIRPERSON ORTEGA: Right. Right.

12          MR. DUFFY: But we didn't know in 2012 that we  
13 wouldn't have a bond until 2016. We didn't know in 2006 we  
14 wouldn't have one.

15                 So the program that has worked and worked very  
16 well since 1998 has seen the ebb and flow of state dollars  
17 and district dollars and to identify that a school district  
18 builds a school based on the rules, based on the law, and  
19 maybe there's some declining enrollment because of what  
20 happened in California, that doesn't mean that that school  
21 isn't needed and that the school district made an error and  
22 that their CBO made an error in going forward with it.

23          CHAIRPERSON ORTEGA: And I think that's exactly  
24 what we would entertain in an appeal, those kinds of --

25          MR. DUFFY: But what you're doing then is you're

1 further complicating a program that I thought the  
2 administration wanted to simplify. If you --

3 CHAIRPERSON ORTEGA: We see appeals every month.  
4 So I don't think of the appeal process as --

5 MR. DUFFY: We know that and we try to arrange so  
6 that those things don't happen, but what I would suggest to  
7 you that if you go with Option 2, you are going to do I  
8 think what has been suggested on both sides to try to make  
9 sure that we move forward with this program. And if  
10 districts have some issue, your talented staff is going  
11 winnow through these and we know how thorough they are.

12 Those that will not qualify will get weeded out,  
13 but if projects have been built and they say, well, gee,  
14 we're looking at 2017 as opposed to 2013, you -- I don't  
15 believe you can do that under the law. They met their  
16 qualifications at that time. Your regulation did not deny  
17 any of that. You simply tried to divert and, Mr. Diaz, your  
18 comment about, well, districts that didn't apply because  
19 they -- you know, we should give them some kind of  
20 consideration, the Board at that time was trying to dissuade  
21 districts from applying and that's why that was done.

22 That was specifically told to me. We want to  
23 dissuade districts.

24 So what I would ask you to do is really consider  
25 the fact that districts have spent money that's hard to get



1 at the local level, GO bond money, developer fee money,  
2 whatever it is and allow those projects to be filtered out  
3 through whatever this system is, but go with Option 2  
4 because I think you are not following the provisions of the  
5 law if you say we're going to deny.

6 CHAIRPERSON ORTEGA: Okay. Thank you. I'm going  
7 to call the -- try to close out this conversation --

8 ASSEMBLYMEMBER NAZARIAN: I'm sorry. Madam  
9 Chair --

10 CHAIRPERSON ORTEGA: Yes.

11 ASSEMBLYMEMBER NAZARIAN: -- I'm sorry. I just  
12 asked this anecdotally if we've even received any complaints  
13 from any district and we haven't heard anything. So how can  
14 you be making that accusation?

15 MR. DUFFY: Well, I don't know if it's an  
16 accusation. Maybe it's simply stating I think the truth.  
17 But there's a thousand school districts in California. We  
18 try to communicate with them all the time.

19 ASSEMBLYMEMBER NAZARIAN: Anecdotally, we have not  
20 received any complaints --

21 ASSEMBLYMEMBER O'DONNELL: -- because you're not  
22 receiving complaint, doesn't mean it's --

23 ASSEMBLYMEMBER NAZARIAN: Oh, we haven't heard  
24 anything that suggests -- that's why I'm trying to figure  
25 out -- why not just go through this process and see --

1           MR. DUFFY: -- there isn't an issue if you went  
2 with Option 2, Assemblyman, because -- maybe there is not  
3 issue, but it's very difficult, if you're running a school  
4 district -- I ran a school district for 12 years.

5           It's -- you have trouble going beyond just taking  
6 care of the needs and the teachers in your community. So  
7 reaching into this program takes extraordinary effort and it  
8 may be that districts just aren't aware of all the things  
9 that are going on.

10           So again -- and I apologize if I sounded like I  
11 was being accusatory. What I was trying to do is say what I  
12 think is the reality and the law.

13           MR. DIAZ: Madam Chair -- and I think there as a  
14 motion on the table. I'd like to second that motion by  
15 Assemblymember Nazarian, if he would like to repeat the  
16 motion to follow Option with the process, if you'd like to  
17 explain, on appeal.

18           ASSEMBLYMEMBER NAZARIAN: I think you got it  
19 right.

20           CHAIRPERSON ORTEGA: -- explicit directions that  
21 would make sure that those projects that might be ineligible  
22 because the eligibility requirements would come to us on  
23 appeal at the next available meeting.

24           ASSEMBLYMEMBER NAZARIAN: Yes.

25           CHAIRPERSON ORTEGA: So we'll take comment from

1 the Board members and then what I want to do is ask if there  
2 is any public comment on this acknowledged list processing  
3 question -- we'll save the grant agreement public comment  
4 next -- come on up.

5 Senator Nguyen, did you have a comment?

6 SENATOR NGUYEN: I was actually ready to support  
7 Option 2. I would like to do a blend as mentioned. I  
8 just -- you know, I mean they're still going to have to go  
9 through the process, but I just don't want us -- and we  
10 don't know what that number is and you're talking -- I mean  
11 I have no problem with having these groups come up and, you  
12 know, and have to appeal to us, but I will tell you, I mean  
13 I've been to this Board meeting once last year and, you  
14 know, when you're talking about appealing to this Board,  
15 you're now bringing the school district, the teachers, the  
16 students, I mean it's a full process for these school  
17 districts and not something that they take lightly.

18 And as you know, appeal to any government agency  
19 is not something that is easy either. So I'm not sure if we  
20 go with just purely Option 1 and allow everybody to appeal  
21 is the right -- if you're going to do that, then you're  
22 going to have to be more specific to staff to allow them  
23 to -- you know, what is appeal -- what they appeal and  
24 what's not because I think you're asking for something  
25 larger than what we are anticipating or wanting.

1           And then I respect Madam Chair's view of not  
2 wanting to support it sounds like Option 2, but, you know,  
3 staff -- I'm going to assume that staff didn't put Option 2  
4 in there knowing that it's not legally allowed.

5           So think that, you know, the option staff has  
6 given has mostly likely been vetted and what we can and  
7 cannot do, so I'm going to err on the side of that staff has  
8 already went through that process and just try and get  
9 direction from us. So I wouldn't to say that Option 2 -- or  
10 grandfathering folks in is somehow not legally sound.

11           CHAIRPERSON ORTEGA: Any other Board comments?

12           MR. KIM: I'm sorry. I just have one comment.  
13 Again, I'm trying to think from the perspective of the  
14 school district.

15           If I'm on the acknowledged list knowing that I  
16 have no guarantee of funding, I'm not going to go forward  
17 with a project that's going to be in the tens of millions of  
18 dollars without knowing that I have some fund source. So  
19 I'm going to have a local bond issue. All right. I'm not  
20 going to start construction without that.

21           So I think there's the larger policy issue of do  
22 we -- for the limited funds that we have available for a  
23 bond, do we want to see those monies go to a project that  
24 isn't eligible under the current rules, but that's already  
25 been constructed, possibly for a school district that

1 already has local bond funds to pay for those things, or do  
2 we want to see those monies go to a school district that  
3 maybe never had the opportunity to apply because they didn't  
4 have the resources and knew they couldn't issue a local bond  
5 and now are eligible because of increasing enrollment.

6 So that's a policy question and I would propose  
7 that we would want to fund the school districts that are  
8 largely socioeconomically disadvantaged, that don't have the  
9 opportunity to issue local bonds, and have those schools get  
10 the funds. Thank you.

11 ASSEMBLYMEMBER O'DONNELL: I just have to add to  
12 that. Conversely, why wouldn't we have such a program  
13 wherein they could apply. I think there was some  
14 expectation that the program would continue, so it's time to  
15 continue the program and we're going to say, well, actually,  
16 you applied. We had a program where you could apply. There  
17 was infrastructure where you could apply associated with  
18 this Board and today we're going to say, well, we're just  
19 going to start over today.

20 That's really what we're saying from my  
21 perspective.

22 MR. KIM: I'm sorry. Maybe I was misinterpreted.  
23 I think the larger issue for me is that if these school  
24 districts that went -- were on the acknowledged list. They  
25 bet on the come. They didn't get the funds. They probably

1 have local funds to pay for these schools -- the  
2 construction which frees up additional funds for school  
3 districts that may not have had the ability to do local  
4 bonds, still do not have the ability to do local bonds, and  
5 they can build more schools.

6 ASSEMBLYMEMBER O'DONNELL: I don't know that they  
7 bet as much as they banked on a program that exists at the  
8 state level, but that's --

9 CHAIRPERSON ORTEGA: It's only the eligibility  
10 that we're talking about here. We're not saying that we're  
11 rejecting the application -- the entire list of  
12 applications. We're just talking about requiring an update  
13 of the eligibility.

14 So I think we are very much honoring the spirit of  
15 the past Board action that allowed the applications to come  
16 through. Otherwise, we would be looking at Option 3.

17 So I'm going to go to our public comment. If you  
18 could be brief because we have talked about this for a long  
19 time and only focus on the motion at hand. You can come  
20 back up to talk about the grant agreement, so we'll start  
21 here.

22 MS. CUNNINGHAM: Thank you. Madam Chair, my  
23 name's Alana Cunningham and I'm from Jack Schroeder's  
24 office. We're a school facility consulting firm and we work  
25 with a number of small school districts -- other districts

1 throughout the state.

2           And when you asked the question how reestablishing  
3 new construction will affect districts, I think the answer  
4 is for a small district, it's uncertain because small school  
5 districts that are locked under 2,500 students are locked  
6 for three years.

7           So the issue of how that lock will work for small  
8 districts who submitted say funding applications in '14-'15  
9 and eligibility in '14-'15, you know, how their eligibility  
10 will be processed for those districts because they're locked  
11 for three years from the SAB approval date. The SAB has not  
12 been approving eligibility. So the question is when does  
13 that lock happen for these districts.

14           So the answer for the small districts is that  
15 clarification hasn't been provided, so we're uncertain at  
16 this time how it will impact small districts.

17           CHAIRPERSON ORTEGA: Okay. Thank you.

18           MS. ARTHUR: Good afternoon, Madam Chair Ortega.  
19 My name is Julie Arthur. I'm with Palm Springs Unified  
20 School District and I'm the Executive Director of Facilities  
21 there, of design and planning, and I did want to speak on  
22 the acknowledged list.

23           I have about nine projects on the acknowledged  
24 list and I just wanted to actually speak to -- we're talking  
25 about eligibility.

1           So eligibility really is a snapshot in time for  
2 any project. So if ten years ago, there was bond funding, I  
3 may have had eligibility for a new school with 2,500  
4 students. I may not have that today. I built that school.  
5 That school's changed.

6           My district size is 500 square miles. So I have  
7 possibly need for a school in Desert Hot Springs where I  
8 don't have it in Palm Springs now.

9           So I don't think what we're looking at with the  
10 growth issue here is about a project that should it be built  
11 or not built or funded. What we're looking at as difference  
12 of eligibility is numbers of students.

13           So if I submitted a project in 2012, I may have  
14 had eligibility for an elementary school or 900 students.  
15 Most districts down in Southern California have gone down.  
16 My eligibility may only be 700 now if I had to resubmit  
17 today.

18           Well, what does that 200 students mean to me. It  
19 still means I need a school, but for every classroom I don't  
20 get of those 25 students per classroom costs me \$300,000 in  
21 grant funds.

22           So I think that's really what we're talking about  
23 here is why it's important to keep the eligibility at the  
24 time of submittal. That was the need. That was the design  
25 that I built on. That was the project that went through DSA



1 and received approval. That was the project that went  
2 through CDE and received approval. That's the project that  
3 I submitted when I submitted my 5001, my 5002, my 5003, and  
4 submitted my 5004 at that time.

5           So even though it is -- I went through and did  
6 that, what's happened with those on the acknowledged list if  
7 they haven't had the plan review team actually work on those  
8 now. So my submittal on time of those projects was the  
9 snapshot I had which may cost me millions going down.

10           I still need the school, but I lose funds on what  
11 I built. And it doesn't mean that I don't need a classroom.  
12 It means I may have three less students in each grade level.  
13 So that's the balance of how things move out where you're  
14 losing funds on it. I think that's what's important on the  
15 acknowledged list.

16           CHAIRPERSON ORTEGA: I think that is helpful. I  
17 think that is helpful. I think the issue, though, is should  
18 that \$300,000 per classroom go to another project where the  
19 eligibility is more pressing. I mean for me that's the  
20 trade-off we're making. So I think that is actually very  
21 helpful. Appreciate the comments.

22           MS. ARTHUR: So and again, I was going to ask -- I  
23 really wanted to put out that again the date order is  
24 equitable. It's something that we've -- school district  
25 personnel has worked with for 10, 12, 15 years and realize

1 that most school districts have seen Measure 51 language for  
2 18 months.

3 We saw what went on the ballot when we went out  
4 and got signatures back in the summer of 2015. We saw the  
5 ballot language. When it passed in November '16, we saw the  
6 ballot language. We knew what the program was.

7 So in responding to the kind of betting on the  
8 program, I think we all saw what the program would be for  
9 the last 18 months and I think that's why it's important to  
10 keep the date order in place --

11 CHAIRPERSON ORTEGA: Option 1 does that --

12 MS. ARTHUR: On the acknowledged list?

13 CHAIRPERSON ORTEGA: Yes. Yes.

14 MS. ARTHUR: But also at the same time, it keeps  
15 you in order on it, but you may be losing money if you take  
16 the new eligibility on the growth Project.

17 CHAIRPERSON ORTEGA: Sure. Thank you. Okay.

18 MS. ESPINOZA: Madam Chair, members, Nancy Chaires  
19 Espinoza on behalf of the California School Boards  
20 Association. I'd like to just shed some light on a couple  
21 of the questions that keep coming back in the Board's  
22 discussion.

23 So the first is why hasn't staff heard from  
24 districts saying specifically that they will be caught in  
25 the situation where they will be affected detrimentally if

1 they have to use today's eligibility numbers, and the reason  
2 for that actually goes back to something that Mr. Pierce on  
3 behalf of Elk Grove Unified said.

4           Calculating eligibility is not something that most  
5 districts can do unless they have to do. So it's  
6 technically complex. It's time intensive and labor  
7 intensive and requires some cost. So it's not something  
8 that districts really -- most districts in the state would  
9 be able to do just satisfy your curiosity or to participate  
10 in this process.

11           So that's why instead of being deluged with phone  
12 calls the Board is hearing from California School Boards  
13 Association and CASH and statewide representatives like  
14 that. So just wanted to shed some light on that.

15           Second question that keeps coming back to the  
16 Board is why would a local school board bet on a  
17 reimbursement. Why would you expect that money to come and  
18 of course, you're right. We signed those disclosures in  
19 order to get in line.

20           But I also want to encourage you in the direction  
21 in which you're going where you're stepping back and trying  
22 to think about the overall message that you might be sending  
23 because part of that is as a local governing board member --  
24 and full disclosure, I represent Elk Grove Unified School  
25 District which Mr. Pierce spoke on behalf of. Today I'm

1 wearing my CSBA hat.

2           We are hearing loud and clear what the  
3 administration, what the Board wants to see, and what prior  
4 Boards have said. For example, in 2014, there was an  
5 attempt to revamp this program and the proposal that we  
6 understood was supported by the administration would have  
7 ranked school districts in order of their bonded  
8 indebtedness.

9           So the message to us consistently has been be  
10 flexible, be creative. If you can raise revenue locally, go  
11 ahead and do that. So we have done that.

12           So I do find that it is -- it frankly would  
13 penalize us now to do Option 1 or to require new eligibility  
14 as opposed to the eligibility at the time of submittal  
15 because these districts have gone ahead and used all the  
16 flexibility at their disposal to meet local need.

17           So is it fair, is it worthwhile? Absolutely.  
18 Because these governing boards moved forward in good faith  
19 and they were expecting this program to be consistent with  
20 past practice. So if generally speaking for grant programs  
21 and construction in particular it's viewed as a good thing  
22 to fund projects that are, quote, shovel ready, I don't see  
23 why this program would need to be an exception, particularly  
24 when we can achieve that while maintaining accountability  
25 and transparency.

1           So I would encourage you to support Option 2.

2           CHAIRPERSON ORTEGA: Thank you. May I have two  
3 more here.

4           MR. REISING: Good afternoon, Madam Chairman,  
5 Board members. My name is Alan Reising. I am the Executive  
6 Director of Facilities for Long Beach Unified School  
7 District. Thank you for the opportunity to come up and  
8 speak with you today and address some very important topics  
9 that we're presenting today.

10           Long Beach Unified is a large urban school  
11 district in Southern California. We currently serve about  
12 75,000 students at 85 different school sites in the  
13 communities Long Beach, Lakewood, Signal Hill, and Catalina  
14 Island.

15           In 2016 -- just trying to address the concept of  
16 need. 2016, we updated our facilities master plan which  
17 showed a funding shortfall in excess of one and a half  
18 billion dollars for our schools. Those are projects --  
19 those are needs at every school site that go unmet on a  
20 daily basis.

21           So we currently -- in Long Beach, we have ten  
22 applications on the acknowledged list that total in excess  
23 of \$71 million. Eight of those projects have already been  
24 completed and are occupied. There are two more that will be  
25 done by the time in early 2018. They're currently under

1 construction.

2           Each of these projects represent high priority,  
3 critical needs that our school district had at the time. We  
4 elected to move forward with these projects because these  
5 were critical needs to the students of our district. We  
6 actually elected to move monies from other available sources  
7 that we had in order to meet those needs of our students and  
8 our staff of our school district.

9           I speak a little bit to Mr. Kim's concept about  
10 the foolishness of actually doing a project without knowing  
11 that we had money. It's important to remember that these  
12 projects have been critically needed for many, many years.  
13 School districts have been continuously underfunded for  
14 their facilities and the needs needed to be met.

15           We had students that were unhoused. We had  
16 portables that were rampant around our district. So I  
17 believe our board and our school district made wise  
18 decisions to use the available flexibility and the available  
19 money they had to move forward with the understanding, the  
20 expectations that at a future date when bond proceeds became  
21 available that we had a partnership with this body that you  
22 would provide the support at the state level to help us with  
23 meeting those needs.

24           That \$71 million will go a long ways to meeting  
25 the critical needs of students in other areas of our school

1 district.

2           As far as districts that may potentially be harmed  
3 with new construction, several of those projects on the list  
4 are for new construction. We have been going through an era  
5 of declining enrollment, although I have not -- because of  
6 the complexity of the effort, I have not updated my  
7 eligibility, so I couldn't tell you factually. It would not  
8 surprise me if one or more of those projects, in fact, had  
9 some challenges with eligibility.

10           But I do beg you to consider the decisions that my  
11 board or my district was under at the time that we made a  
12 decision to move forward, these are very, very, real needs  
13 for students that we had to meet at that time. And we very  
14 much expected that we would have a partnership with this  
15 committee or this Board moving forward to be able to provide  
16 the funding for that. So this is a critical need for our  
17 district.

18           I'll limit some of the comments, but just to say  
19 as far as the acknowledged list, we do appreciate the ideas  
20 that have been discussed here. We beg the Board to support  
21 the amended Option 2 where projects that have been in  
22 construction or have been completed will be moved forward,  
23 grandfathering in using the enrollment data that was being  
24 used at that time.

25           Projects that have not been constructed, we could

1 see that there would be definitely a need to relook at your  
2 enrollment data to see if it's still a wise decision to move  
3 forward, but don't penalize school districts for using all  
4 available tools and all available resources at their  
5 disposal to meet kids' needs.

6 I think Senator Nguyen had mentioned that her  
7 students are suffering through some of these needs now and  
8 districts recognize that. We recognize that we have real  
9 students in real classrooms today that we need to meet and  
10 we every day struggle with identifying critical needs and  
11 finding ways to meet those on a daily basis.

12 So we are recommending that you adopt an amended  
13 Option 2 moving forward. Thank you.

14 MR. KIM: Mr. Reising, I just wanted to clarify  
15 one thing. I in no way meant to suggest that I thought that  
16 schools were being imprudent by going ahead with the school  
17 construction. In fact, it was just the reverse.

18 My point was that I thought school officials were  
19 prudent enough to know that they have a local fund source to  
20 cover those construction costs in the absence of state  
21 funding. So I just wanted to clarify that.

22 MR. REISING: Thank you. Thank you for that. But  
23 again, the point being is that those needs existed clearly  
24 at that time and so five, six years later, some seven years  
25 later to say that there has been a change in those data



1 points and that now we would not be eligible to receive that  
2 money.

3           The other point I wanted to make is that these are  
4 real tangible, long-term investments in our infrastructure.  
5 So although today we may argue that I might be three  
6 students down in a particular classroom, those students will  
7 come back.

8           We have shown time and time again in our  
9 demographics that these schools are investments in the  
10 future of our students and the children of the state. So  
11 it's not money ill spent.

12           CHAIRPERSON ORTEGA: Senator Pan.

13           SENATOR PAN: Just a quick question. So in the  
14 time which we had no bond, the school district went ahead,  
15 got a local bond, built the construction and I don't want to  
16 imply in any way that we don't want the state to be a  
17 partner, but you did decide to fully fund it on your local  
18 bond or whatever arrangement you made.

19           So now that you're coming back to the state and  
20 saying -- because I assume that you fully funded it with  
21 whatever financial arrangement you made and I mean at that  
22 point there was no Prop. 51, no expectation.

23           So now the state's coming in and paying a certain  
24 portion of that, what happens to those funds that you've  
25 raised with that bond locally? Do you just give that back

1 to the voters? Do you build another construction? What  
2 happens?

3 MR. REISING: No. Those -- as I had stated  
4 earlier, we have clearly identified one and a half billion  
5 dollars in unmet need in our district. So those monies  
6 where we actually, quote, borrowed from another project --  
7 so we have projects that now are not moving forward because  
8 of the --

9 SENATOR PAN: So that would be reinvested in  
10 other --

11 MR. REISING: It would be reinvested in other high  
12 priority, critical needs for our school district.

13 SENATOR PAN: Okay. Which, of course, you'd then  
14 want to be in line to get more money from us, correct? It  
15 would be appropriate, right?

16 MR. REISING: Depending on the eligibility, yes.

17 SENATOR PAN: Okay. Thank you.

18 ASSEMBLYMEMBER O'DONNELL: Can I ask a question?

19 CHAIRPERSON ORTEGA: Yeah, go ahead.

20 ASSEMBLYMEMBER O'DONNELL: So when you -- 2012,  
21 whenever these projects were built, you went ahead and took  
22 funds from one place and then put them into the project and  
23 then you, at the same time or somewhat before, you applied  
24 to the state, right?

25 MR. REISING: Yeah. Concurrently.

1 ASSEMBLYMEMBER O'DONNELL: To this body because  
2 there was an expectation that we were going to participate  
3 in that venture.

4 MR. REISING: Yes.

5 ASSEMBLYMEMBER O'DONNELL: And in fact, a formal  
6 process had been set up so that you could eventually  
7 participate with the state; is that correct?

8 MR. REISING: Yes. Absolutely.

9 ASSEMBLYMEMBER O'DONNELL: Thank you.

10 CHAIRPERSON ORTEGA: Okay. Yes, Senator Allen.

11 SENATOR ALLEN: But when you began construction,  
12 those projects were eligible at the time.

13 MR. REISING: Yes, they were.

14 SENATOR ALLEN: Okay. And you had to certify that  
15 when you applied?

16 MR. REISING: We submitted all those documents to  
17 the Office of Public School Construction at that time.

18 CHAIRPERSON ORTEGA: Yeah.

19 ASSEMBLYMEMBER CHAVEZ: I haven't made a comment  
20 all night. But if we go with what's being on the floor  
21 right now, Option 1, if you were at risk, you can still  
22 appeal to this Board to get your money. Is that my  
23 understanding?

24 CHAIRPERSON ORTEGA: Correct.

25 SENATOR NGUYEN: With the amendment, though.

1 ASSEMBLYMEMBER CHAVEZ: Right. With the  
2 amendment --

3 CHAIRPERSON ORTEGA: Yes. That's Mr. Nazarian's  
4 motion.

5 ASSEMBLYMEMBER CHAVEZ: Right. Do we have a  
6 problem with what --

7 MR. REISING: Well, I just think in speaking to  
8 the concept complexity, it does leave a level of uncertainty  
9 at the districts' level and it adds an extra level of  
10 complexity. So now we're coming back to this body to adopt  
11 exceptions to the rule as we're moving forward.

12 We think that there's a simpler and more elegant  
13 solution of picking a date and maybe that's today's date,  
14 maybe it's July 1st, on when projects have been in  
15 construction or have been awarded -- or have been completed  
16 that those projects would be grandfathered in. Projects  
17 beyond that date, they could -- we could go back and we  
18 could recertify that eligibility.

19 CHAIRPERSON ORTEGA: Okay. Next speaker, please.

20 MR. WATTERS: Good afternoon. Darrin Watters. I'm  
21 the Deputy Superintendent for Val Verde Unified School  
22 District in Riverside County. Thank you for your time  
23 today. Appreciate it.

24 A real example for us, 83 percent free and reduced  
25 lunch, high poverty area. We have a lot of assessed

1 valuation challenges as you can imagine from that type of  
2 poverty.

3 Our community stepped up and approved a bond, a GO  
4 bond, which I can't get to the money now because the AV is  
5 so low. We had a need. We certified our eligibility at the  
6 time. We needed a new high school. Have to house the kids,  
7 much like my colleagues.

8 So we've gone forward. We're building a high  
9 school in phases. I've finished phase one. I've got ninth  
10 and tenth graders in there. Phase two is just about done.  
11 Phase three, I've got to have done by August because I've  
12 got to have the kids come in, the junior class.

13 The senior class comes in, I don't have any place  
14 to go for this. This was part of the discussions we had.  
15 We followed along with the program. We did what we were  
16 supposed to do. We submitted our eligibility.

17 I honestly do not know today what my eligibility  
18 is. I could be fine on this. I don't know.

19 But as Alan pointed out, there's a cost associated  
20 with that and I wasn't going to update my eligibility  
21 because I didn't need another school right now. If we  
22 needed another school, we'd certainly be pursuing that.

23 I really encourage you -- I'm not sure there's a  
24 difference between the option compromise presented by  
25 Senator Nguyen and Option 1 with the appeal, with the

1 exception of certainty. Why would we build -- why would we  
2 want to have another step in there of an appeal process --  
3 and I would never want to say -- I don't know how you would  
4 deal with those at that time. Would it be a -- I don't like  
5 the term rubber stamp, but like an audit, have to be  
6 approved? Is there -- that you can provide to the locals  
7 that need to get these funds so that we can build our next  
8 projects and finish the ones we're in currently. So I  
9 really --

10 CHAIRPERSON ORTEGA: I know -- I would prefer the  
11 appeal route because we don't really know what's before us,  
12 but the unknown of how many are going to fall into this  
13 category, what's the circumstances of why they built at the  
14 time, how much their eligibility has declined, these sorts  
15 of things, that's the reason why the appeal process makes  
16 more sense to me.

17 I respect and acknowledge the uncertainty  
18 question. You know, Prop. 51 did not grandfather in all the  
19 applications. That would have been the way to get  
20 certainty, if the initiative had said all the lists are  
21 approved as they were submitted.

22 That isn't there and so not knowing what we'd be  
23 agreeing to respectfully with Senator Nguyen's proposed  
24 amendment, with not knowing what that really means is why  
25 we'd be uncomfortable supporting that route.

1           Senator Allen, did you have --

2           SENATOR ALLEN: What do you mean not knowing --

3           CHAIRPERSON ORTEGA: Not knowing how many projects  
4 may not have eligibility that have already newly constructed  
5 that would then be allowed to move forward.

6           SENATOR ALLEN: Should we get some --

7           CHAIRPERSON ORTEGA: The problem is we can't get  
8 the information until the applications are processed and so  
9 that's why the -- letting them start the processing of the  
10 applications and then when the first one -- when it occurs  
11 bringing that forward and maybe then -- and maybe after it  
12 happens, we get a sense of the complexities, why they  
13 built -- is it a compelling case.

14           I mean maybe at that point we have some sense of  
15 having a broader policy, but I feel like at this point we  
16 just don't know what that might be.

17           Are there any public -- any more public comments  
18 on this question? Okay. Shall we move back to the grant  
19 agreement and the rest of our public comment on that  
20 question.

21           ASSEMBLYMEMBER CHAVEZ: Will we vote on this,  
22 though, right now? I'm going to have to get going.

23           CHAIRPERSON ORTEGA: Okay. Well, we are going  
24 to -- we're going to need to have two votes. We have this  
25 issue and we have the grant agreement. So should we quickly

1 move through the public comment --

2 SENATOR ALLEN: The grant agreement is the Alameda  
3 thing?

4 CHAIRPERSON ORTEGA: No. The grant agreement --

5 ASSEMBLYMEMBER O'DONNELL: No. The entire thing's  
6 Item 7, correct?

7 CHAIRPERSON ORTEGA: Yes. Yes. So we had a  
8 motion, but your motion was only to the issue of the  
9 eligibility. So moving back to the approval of the grant  
10 agreement and the requirements that Lisa laid out. Remind  
11 us what page they are on.

12 MS. SILVERMAN: They're on page 84.

13 CHAIRPERSON ORTEGA: Page 84.

14 MS. SILVERMAN: Is the grant agreement --

15 CHAIRPERSON ORTEGA: So we had a presentation on  
16 that, but we had just opened the public comment, so --

17 MS. SILVERMAN: Right. And we acknowledged that  
18 we wanted to modify the grant agreement to incorporate  
19 several --

20 CHAIRPERSON ORTEGA: Right. We had the technical  
21 changes on the freezer and the refrigerator. We had the  
22 revised staff recommendation to exclude the 370 million in  
23 true unfunded projects on the list. It would apply to the  
24 balance of the acknowledged list.

25 MS. SILVERMAN: And also acknowledge that we would



1 modify the grant agreement to acknowledge the advisory  
2 letters that are --

3 CHAIRPERSON ORTEGA: Yes. The grant agreement  
4 would make clear that if you got advice from OPSC on an item  
5 on appeal --

6 MS. SILVERMAN: That we would provide that --

7 CHAIRPERSON ORTEGA: -- we would provide that to  
8 the auditor.

9 MS. SILVERMAN: -- reflect that on the various  
10 pages, yes, and adopt the regulation.

11 CHAIRPERSON ORTEGA: It's all on page 84 --  
12 recommendations are all listed on page 84, correct, Lisa?  
13 Is that right?

14 MS. SILVERMAN: Yes.

15 CHAIRPERSON ORTEGA: So should we quickly move  
16 through the public comment on -- is that fine with everyone  
17 or did anyone have any comments. Okay. So --

18 ASSEMBLYMEMBER O'DONNELL: I'm confused. Is the  
19 motion -- move Item 7 or --

20 MS. SILVERMAN: That's actually not in Tab 7. One  
21 of them is the grant agreement is where we started off  
22 initially and then we folded in the acknowledged list.

23 CHAIRPERSON ORTEGA: So I'll call a couple of  
24 speakers up. Kirk Nicholas and Julie Arthur. This again  
25 would be comments related to the grant agreement as we've

1 already heard the comments on the processing of the  
2 acknowledged list and again I'll ask you to be brief. Do we  
3 have Julie Arthur? Oh, you can come back up. And Eric  
4 Bakke would be next.

5 MR. NICHOLAS: So, Madam Chair, Board members,  
6 thank you for letting me speak this early evening.

7 I'm here -- I'm the Superintendent of Lammersville  
8 Unified. It's not as big as Long Beach and some of the  
9 other districts. We reside between Livermore and Tracy.  
10 We're the highest performing school district in San Joaquin  
11 County and in a master plan community.

12 I'm here with a very simple plea which is that  
13 we're asking that the State Allocation Board approve the  
14 release of funds or to bring the funds in on the unfunded  
15 list.

16 In a master plan community, you have to build a  
17 school every three years. We've done everything humanly  
18 possible to keep building up with the size of the growth.  
19 We'll be breaking ground on a school this month and we're  
20 already planning for the next school beyond that and we  
21 currently have an unfunded list K-8 school that has not been  
22 funded for years. The release of those funds would bring  
23 that money into our district.

24 Concurrently, we're also building a state of the  
25 art high school, about \$135 million project. We built in

1 phases similar to what the gentleman before me spoke.

2           So for us, the bottom line is that having funds  
3 out there that Prop. 51 can cover, to have this Board  
4 approve it, have that money come in would allow us to  
5 fulfill our promise through the resolution list on the bond  
6 and not put so much pressure on our general obligation bond,  
7 but also continue the process of a rapidly growing  
8 community, building schools every three years.

9           CHAIRPERSON ORTEGA: Thank you. Julie.

10           MS. ARTHUR: Good evening again. Julie Arthur,  
11 Palm Springs Unified School District.

12           First of all, I'd like to thank staff today for  
13 proposing to remove the words only if used to provide food  
14 service to student population on that. Refrigeration and  
15 freezers are big in the desert.

16           We have a lot of special ed programs where we have  
17 to have refrigeration for medication. We actually have to  
18 have refrigeration in our staff lounge as well. Insulin,  
19 all kinds of different medications that we need. So I  
20 really appreciate you taking that out. It was a big concern  
21 to us on that.

22           And I would like to again bring up the point about  
23 technology. It really is the computers. I know we look at  
24 the frame of a computer. We're saying it's only three  
25 years, but in reality, we use our computers much more than

1 three years.

2           They go from -- everywhere from our career tech  
3 programs and from sound boards to all kinds of different  
4 things, to our energy management for our school sites and  
5 making sure that's how we control our temperatures there and  
6 we're not really able to use many of the items that are  
7 eligible like projectors without these computers.

8           So it's very similar if -- and again, because  
9 we're a little warm. It was 109 yesterday. So we put air  
10 conditioning in and we put all the ductwork in, right? And  
11 we put all these in and we put these air conditioning units.

12           And if we did all this stuff and you didn't let me  
13 put the compressor in, the air conditioner wouldn't work.  
14 That's kind of how technology -- computers are to us. We  
15 put all the infrastructure into the buildings. We put the  
16 wiring in. We bring that in. We put a projector or a smart  
17 board up, but without that computer, I can't turn on the air  
18 to those technology.

19           So that's why it's something I think -- that's so  
20 important to be part of it. And it's amazing the changing  
21 of our technology, and I would hate to lock us in to keeping  
22 computer in the ineligible. So I ask if you would please  
23 reconsider that again and maybe work with it a little bit.

24           I don't think many schools are abusing it. I hope  
25 not. We just finished our audit process of over

1 \$230 million for a project and I'm getting a check back for  
2 150,000, so -- which will go in there.

3           So I feel that many districts -- if there's a  
4 problem, I think it's out of ignorance, not out of hopefully  
5 an attempt to do something. So I hope you would look at  
6 that again and maybe keep something of the way of how the  
7 computer or something with that in the grant agreement.

8           CHAIRPERSON ORTEGA: Thank you.

9           MS. ARTHUR: Thanks.

10          CHAIRPERSON ORTEGA: Mr. Bakke.

11          MR. BAKKE: Eric Bakke, Los Angeles Unified School  
12 District. Thank you for being here. I just want to open up  
13 just with a quick thank you to OPSC staff. We've provided I  
14 would like to say countless recommendations, technical,  
15 policy considerations, many of which were adopted in this  
16 latest revise.

17                We still have some concerns. We expressed some of  
18 those with OPSC staff. Actually happy to hear -- I was  
19 going to raise a few of them today. I was happy to hear  
20 some of the comments already made, so that's extremely  
21 helpful.

22                I just want to point out, though, that -- and I  
23 think it was brought up, when we look at the eligibility  
24 list, what projects are deemed eligible, I think even today  
25 we just learned that there's new items being added to that

1 list today that were added at the last SAB meeting, and I  
2 expect there will be more items added to this list, which is  
3 what prompted my original statement about not having defined  
4 lists.

5           Having a statement of definition of what  
6 constitutes eligibility list and I think that provides  
7 greater flexibility.

8           I will back pedal a little bit and say that  
9 there's some new added language in this that provides a  
10 little bit of flexibility, but I still think we have to  
11 recognize that this grant agreement is a binding agreement  
12 between OPSC and with the State Allocation Board and the  
13 school district, but it's going to be the guiding principle  
14 for any auditor that's going to use to determine whether or  
15 not projects are eligible or not -- or expenditures I should  
16 say.

17           And so we want to make sure that there is  
18 flexibility for growth of that list and that OPSC has the  
19 flexibility at their administrative level to make those  
20 realtime decisions.

21           What I'm concerned about is that being so specific  
22 in a grant agreement, it's in essence a regulation, and so  
23 it begs the question if there's the authority to allow for  
24 that kind of unilateral decision.

25           So if we can add language to this that provides

1 direction to the auditor, a little bit more specificity that  
2 they can communicate or have conversation with OPSC to  
3 determine eligible expenditures I think would go a long way  
4 to help OPSC staff to make determinations. Otherwise, I  
5 think where we'll be is where Mr. O'Donnell referenced audit  
6 hell with the process, and I don't think anyone wants to be  
7 there. That's one of our biggest concerns is that we'll  
8 always be there trying to define what is eligible.

9 I think someone said it's best that it's -- it's  
10 easier to identify what's ineligible than what is eligible.  
11 So just consideration as we go on.

12 The other thing is that this a new process and I  
13 think we're going to continue to learn as this gets rolled  
14 out. So to suggest that this language should be final, I  
15 would argue if there's room for this discussion that we  
16 revisit the language.

17 I think there's still a lot of areas that need to  
18 be improved upon. It's certainly clarity. For example,  
19 there's a reference to savings can only be used for matching  
20 share. That was new language that was added in from the  
21 last SAB meeting.

22 Now, I understand the intent was to speak to  
23 providing direction to the auditor about how savings shall  
24 be viewed and looked at, but the way it's drafted in its  
25 very simple form, an auditor who doesn't know this program

1 will interpret that the savings can only be used as matching  
2 share and not as other high priority capital outlay  
3 projects. That's a big problem.

4           So it's things like that -- and we provided some  
5 of those -- that I think we need to look at as we go on and  
6 I would hope and encourage this body to probably bring this  
7 item back after we've rolled it out a little bit to see  
8 where we can make clarifications, where we need to.

9           I'm not necessarily suggesting significant policy  
10 shifts, but just clarifications where it's appropriate. So  
11 thank you very much.

12           CHAIRPERSON ORTEGA: Okay. Thank you. The next  
13 three, Jenny Hannah, Darrin Watters, and Lettie Boggs.  
14 About four more after this. Again I'm going to remind  
15 everyone to please keep it very brief. We're going to lose  
16 members and lose the ability to keep our quorum and have  
17 votes, so keep it brief and try not to repeat anything  
18 that's been said. Thank you. Ms. Hannah.

19           MS. HANNAH: Good evening. I'm Jenny Hannah. I  
20 with the Kern High School District in Bakersfield,  
21 California, and I won't repeat what I've heard from others,  
22 but what I would say first to this Board is you have an  
23 obligation first to do no harm to these districts and with  
24 that, I mean you need to prospective, not retroactive in  
25 applying this program.



1           Even if there's one district that could be harmed  
2 by this, this could be significant to especially small  
3 school districts who large capital projects are, you know, a  
4 big hit to their budget.

5           And so with regard to those -- the previous  
6 conversation and the current conversation about grant  
7 agreement, I think that's really important to consider. We  
8 don't any of us have a crystal ball and we do the best that  
9 we can with what we have.

10           Also just a point -- and I encourage you to act on  
11 this to get going with getting money out on the street.  
12 Every day that we hate causes us to lose more ability to get  
13 classrooms built at today's dollars.

14           We're seeing escalation now. The longer we wait,  
15 the more it's going to cost us to build these schools. So I  
16 would encourage you to consider that. Proposition 51 passed  
17 over eight months ago and we're still talking about how to  
18 get this money out on the street. So thank you very much.

19           CHAIRPERSON ORTEGA: Thank you. Mr. Watters.

20           MR. WATTERS: Darrin Watters, Val Verde Unified.  
21 On the grant agreement itself, eligible and ineligible  
22 lists, I would implore the Board to remove the eligible  
23 list. The ineligible list makes perfect sense. I have no  
24 issue with a list of things we can't buy. I think that  
25 gives us the parameters. That tells us what we need to know

1 about the program.

2           The eligible list -- the bureaucratic process to  
3 get something added to that I am concerned about. What is  
4 that going to take to get something added to that and what's  
5 that process look like. So that would be a big concern of  
6 mine and it still becomes a moving target. We're not  
7 getting the certainty we need at the district level.

8           And I'd also implore that we edit the ineligible  
9 list to reflect the existing program as applicable from  
10 Prop. 51 and before which ties -- which said the old rules.  
11 I mean and it's back to what Mrs. Arthur said and that  
12 was -- it's an integral part and I understand the bond  
13 component of that, but I don't see why we can't issue  
14 short-term notes.

15           Why do the bonds have to be 30 years. Why can't  
16 we issue shorter term notes and a small tranche to cover  
17 that technology and therefore we need that capitalization  
18 target piece.

19           CHAIRPERSON ORTEGA: Okay. Thank you. Ms. Boggs.

20           MS. BOGGS: Yes. I'm Lettie Boggs with Colbi  
21 Technologies and we have over a hundred school district  
22 clients. We help them with their budget and the qualifying  
23 expenditures against those program budgets.

24           So we work a lot with our clients on answering  
25 calls of what's eligible and not eligible and one of the

1 things that is a challenge is -- and to back up, I'm old  
2 enough that I remember the program before this program when  
3 we had lists. So I kind of am having echos of oh, my  
4 goodness, we're going back to lists where we had to maintain  
5 them.

6           One of the primary challenges we had with the  
7 lists was consistent application across so that everybody  
8 would know. So I really applaud and I thank you for  
9 listening on the refrigerators and those kinds of things.  
10 It's going to be real important that we figure out a  
11 mechanism to consistently apply across all of the advice so  
12 that districts are treated uniformly in this.

13           One of the things that I would suggest is that we  
14 work with some guiding criteria or policy statements and by  
15 way of example, one of the things I tell clients when they  
16 call and they say is this a supply or is this not a supply.  
17 That's probably the most confusing area.

18           If you routinely buy it out of your supply budget  
19 every year, it is not eligible ever, and we've been telling  
20 people that for 20 years. However, there are many things  
21 that get coded 4310 which is the supply budget that in the  
22 case of a new school are essential equipping of that school  
23 as a going concern.

24           And that's where the difficulty occurs. For, for  
25 instance, if I have a contract and I have window blinds in

1 my construction contract, the kind I specified are no longer  
2 available. It's the end of the contract. You don't want to  
3 hold that contract open while you go through and order  
4 blinds.

5           You change order it out. You go ahead and close  
6 the contract. The district will then purchase those blinds.  
7 They're not inventoried. So they don't rise to 44 or 6400,  
8 but they certainly are a part of the school building and  
9 they are an equipment item.

10           Another different kind of item but very similar  
11 would be science equipment. When you equip a brand new  
12 classroom with every beaker, every microscope, all of the  
13 lenses, all of the pipettes, it is in excess of \$20,000 per  
14 classroom.

15           While individually they are supply items, but if  
16 you're building four science labs, you're talking \$80,000 at  
17 a minimum added to the general fund budget the year you open  
18 the school or you can't really hold class. All of those  
19 items are used at some point during every year.

20           CHAIRPERSON ORTEGA: Okay. Ms. Boggs, I'm going  
21 to ask you to wrap up --

22           MS. BOGGS: The routine budget is for breakage,  
23 replacement, those -- not for the full equipping of that  
24 lab. So context matters with respect to whether it's a  
25 supply item or not and I would urge you to allow the users,

1 the constituents to give some input into what things are  
2 considered allowable in that essential equipping of the  
3 school.

4 CHAIRPERSON ORTEGA: Thank you. Okay. I'm going  
5 to call the last speakers. Andrea Ball, Alan Reising -- I'm  
6 not sure, Alan, if you needed to come back up. Nancy  
7 Espinoza, again I'm not sure if you need to come back up,  
8 and Lori Ruis.

9 And again I'm going to ask you to be very brief.  
10 We're going to lose members and have no votes.

11 MS. BALL: Thank you, Madam Chair, members.  
12 Andrea with the Ball/Frost Group. I'm here on behalf of two  
13 of our clients -- two diverse clients, the Association of  
14 Suburban School Districts and the Central Valley Education  
15 Coalition.

16 Central Valley Education Coalition represents  
17 districts in the Central Valley. Small, rural, suburban  
18 districts are all over the state. Just to say -- to echo  
19 the recommendations you've heard from others, so I will be  
20 brief on the grant agreement to make it prospective, to make  
21 it clear and simple so that small districts have the  
22 capacity to complete it successfully.

23 We do want to thank OPSC and the staff for the  
24 changes they've announced today. We still think that having  
25 an eligible list is not the way to go. To have an

1 ineligible list that's clear but to have guidance on what is  
2 eligible. And I think I'll keep it there and thank you very  
3 much.

4 CHAIRPERSON ORTEGA: Thank you. Next speaker.

5 MS. ESPINOZA: Thank you. Again, Madam Chair,  
6 members, Nancy Chaires Espinoza on behalf of the California  
7 School Boards Association.

8 I too want to echo the previous speakers' comments  
9 and for the sake of time, I won't go through all of the  
10 changes I'm grateful for, but I want to express my thanks to  
11 staff for hearing the input from stakeholders and for the  
12 numerous technical and other changes that they've made to  
13 the grant agreement so far. It is very much appreciated.

14 CSBA very much supports the grant agreement in  
15 concept. We have from the very beginning and we want to be  
16 partners with you in making sure that the system that gets  
17 created is successful. So all of our comments stem from  
18 that.

19 We are concerned about the incorporation of a very  
20 large eligible list and a relatively smaller ineligible  
21 list. Obviously, the latter should be there for the sake of  
22 all of our clarity.

23 Our concern with the large detailed eligible list  
24 is that it simply doesn't mesh with the way auditors do  
25 their work and we fear that it will create a very

1 complicated system with a greater incidence of things that  
2 appear to be negative findings that will either -- either  
3 may be resolved or will have to be appealed to the Board,  
4 but that should have rightfully been allowed in the first  
5 place.

6           So that's our concern and so we would advise that  
7 there be a short advisory list of eligible expenditures with  
8 a finite list of ineligible expenditures.

9           And I just briefly have to speak the issue of  
10 educational technology. Our understanding of the grant  
11 agreement was that it would be a compendium of existing  
12 program rules, but this clearly is a pretty significant  
13 policy change. And our concern with respect to educational  
14 technology is that Proposition 39 actually requires local  
15 governing boards to review their educational technology  
16 needs in developing their project list.

17           So not only is it allowed, it is required of us.  
18 So to have -- well, I won't say at the administrative level  
19 because I understand we're going through emergency  
20 regulations, but to use a document such as the grant  
21 agreement to conflict with that -- to put us in a situation  
22 where these things conflict is problematic. So we would  
23 respectfully request that the educational technology issue  
24 get the benefit of the full discussion of the Board so that  
25 we can flush out that issue for you a little bit better.

1           CHAIRPERSON ORTEGA:   Okay.   Thank you.

2   Mr. Reising.

3           MR. REISING:   So thank you.   Again Alan Reising,  
4   Executive Director of Facilities for Long Beach Unified.

5           I'd like to again echo my thanks for staff for  
6   addressing a lot of the concerns that have been brought  
7   forward related to the grant agreement, but there are a  
8   couple of particularly troubling items that I just wanted to  
9   make sure I've voiced some concerns about.

10           Specifically is the retroactivity concern.  
11   Projects that have already been completed, already been in  
12   construction or are currently in construction and applying  
13   what essentially amounts to a change of the rules to those  
14   projects.

15           It does create somewhat of an imbalance.   It  
16   does -- for school districts that in good faith moved  
17   forward with the understanding of the rules and the  
18   allowable expenditures at that time and I've been coming  
19   back and actually applying a different level of eligible and  
20   ineligible projects.

21           We suggest on the other hand to actually setting a  
22   date similar to the date that we talked about for the  
23   acknowledged list where projects that were awarded before  
24   essentially July 1st or another date would not be subject to  
25   the grant agreement, much as we did the true unfunded list.



1           Secondly, to quickly talk about this -- and you've  
2 heard from several other speakers here, the concept of the  
3 eligible and ineligible expenditures. We very much think  
4 it's much easier and simpler to simply design and produce a  
5 list of ineligible expenditures. Very clear for districts  
6 moving forward to know what you cannot spend your money on.

7           Projects are continuously changing and systems are  
8 ever evolving as we move forward to becoming more complex as  
9 we move forward and having a finite defined list of eligible  
10 expenditures seems counterintuitive.

11           We'd rather suggest that we define a list of  
12 ineligible expenditures that the Board could then address  
13 those on a routine basis to see if they need to be adjusted  
14 or amended in some way, but it really lets us know what  
15 we're actually moving forward with and it also lets my  
16 auditors know exactly what they're looking for for items  
17 that would not be eligible to be spent.

18           So relying on appeals to staff members at OPSC  
19 just doesn't seem to be a realistic solution. It doesn't  
20 seem to be something that can be applied evenly and  
21 equitably across the length of the program. Staff members  
22 come and go. I know I struggle with that myself. And  
23 having a fair and equitable application of exception rules  
24 seems to be troubling and be hard to maintain going forward.  
25 So thank you very much and I appreciate your time.

1           CHAIRPERSON ORTEGA: Thank you. Mr. Diaz and then  
2 Mr. Allen.

3           MR. DIAZ: Thank you, Madam Chair. I'd like to  
4 thank staff. I think they've done a lot of great work on  
5 this issue. I just want to make sure -- now and again, that  
6 they've conceded on several pieces identified by  
7 stakeholders in the areas of concern.

8           First of all, the timing of when the agreement  
9 must be signed and now it's at fund release. The entire  
10 unfunded list must be exempt from grant agreement, and  
11 three, on the trailer bills, funds used for repayment can  
12 come from sources other than the district's general fund and  
13 will return the bond accounts.

14           Staff has also stated publically today and written  
15 into this item that they will provide written clarification  
16 of any items that are not reflected on the list of eligible  
17 and ineligible expenditures. This should satisfy any  
18 concerns that districts may have that something was left off  
19 and the auditors won't know how to address it.

20           I think I'm ready to move forward on this item.  
21 We've kind of beat this item to death especially since the  
22 last meeting that we've had and we did identify major areas  
23 of concern and we can also -- I would remind the Board, we  
24 can also make several changes in the future to these grant  
25 agreements.

1           So I move to approve the staff's grant agreements  
2 pursuant to page 84 along with Ms. Silverman's  
3 recommendations announced today during her presentation.

4           CHAIRPERSON ORTEGA: Mr. Allen.

5           SENATOR ALLEN: Okay. But could I just ask if  
6 Mr. Diaz would be willing to take a friendly amendment to  
7 respond to some of the concerns we've raised which would say  
8 that the Board -- that we would only apply -- we'd apply the  
9 grant agreement to the acknowledged list only for those  
10 projects that have not already been completed or are not  
11 currently under contract so that we don't move the goal  
12 posts on districts.

13           I would absolutely agree with your motion with  
14 that one caveat.

15           MR. DIAZ: I would say, Senator, that this program  
16 hasn't changed and I think that the grant agreement is just  
17 a confirmation that districts are complying with the  
18 existing program. So there's no changing of the goal posts  
19 or any of those issues with regards to those items.

20           I think what we're talking about is adherence to  
21 a program that we all wanted to be successful and want to  
22 see carried forward, but I would cede to the Chair on the  
23 other recommendations.

24           CHAIRPERSON ORTEGA: Just on the moving the goal  
25 posts issue, I think that is why after the April meeting we

1 went back and looked at the issue of the process  
2 applications and why -- you know, at least I was supportive  
3 and asked staff to bring forward the recommendation that we  
4 exempt the processed applications, so the \$370 million worth  
5 of projects from the grant agreement.

6           The difference of course with the acknowledged  
7 list is that they are -- those applications have not been  
8 processed. If there was an expenditure that was in the  
9 grant agreement as it's before you today, that the district  
10 included in their project -- in their application that's on  
11 the acknowledged list, there would be time for that district  
12 to move that item around, to shift that to a local  
13 expenditure and put something else in the state expenditure.

14           So there is no reason why a district needs to feel  
15 like this is a gotcha', that we're going to have some  
16 ability to go in and grab something that they put in their  
17 application and audit them later. They have that  
18 information now and if the grant agreement is approved, they  
19 will have the opportunity to look at it and determine  
20 whether there are any problems with their existing  
21 application.

22           There would be no penalty. They would simply make  
23 an amendment to the application that OPSC has before it's  
24 processed. So that's -- for us, that's where the dividing  
25 line was between grandfathering in, if you will, or moving

1 the goal posts was if it's been processed, fine, we're going  
2 to let it go. But if it hasn't been processed yet, there's  
3 still plenty of opportunity to work with OPSC.

4 SENATOR ALLEN: Well, when you say processed, I  
5 mean what about the districts that are deep in to having  
6 already entered into contracts?

7 CHAIRPERSON ORTEGA: That occurs in both lists,  
8 the acknowledged list and the true unfunded list. That's  
9 the nature of the program that we get applications for  
10 projects that are underway that -- the grants that come  
11 before you are for reimbursements for projects that have  
12 already occurred. That's the way the program has always  
13 operated.

14 So that's why we feel like we will give the -- the  
15 districts will have a window to make those modifications.  
16 Again, if they find something on the template that they did  
17 not previously understand was ineligible, I want again  
18 reiterate the point, at least, you know, speaking for the  
19 administration, the list of items on the template are all  
20 with a code section reference to current law with the  
21 exception of the technology.

22 There is nothing in the template that creates a  
23 new standard for the use of the funds, again with the  
24 exception of the technology. Everything is already required  
25 to not required in the program.

1           Now, could there have been misunderstandings about  
2 how --

3           SENATOR ALLEN: Technology is significant.

4           CHAIRPERSON ORTEGA: Absolutely. Technology I'm  
5 acknowledging is significant and it's a change, but, you  
6 know, it's a change that we feel very strongly is necessary  
7 for an accountability program on a bond of this size, that  
8 it's not being used for iPads or desktops or that sort of  
9 thing. So -- Mr. Mireles.

10           MR. MIRELES: First of all, I want to once again  
11 thank staff for adding a lot of the suggested changes from  
12 the stakeholders. I think that we can all acknowledge  
13 there's been a lot of progress in improving the grant  
14 agreement.

15           A quick point of clarification. The suggested  
16 amendments that Ms. Silverman recommend, do we need to read  
17 the actual language as part of the motion in terms of the  
18 language that we're going to add to the grant agreement or  
19 would that be just conforming regulations that will come  
20 later?

21           CHAIRPERSON ORTEGA: I think Mr. Diaz was  
22 suggesting that the items that Ms. Silverman read would be  
23 part of his motion. So they would be part of the template  
24 as it's approved.

25           MR. MIRELES: Okay.

1 CHAIRPERSON ORTEGA: Yeah.

2 MS. SILVERMAN: We can restate it if you'd like.

3 CHAIRPERSON ORTEGA: Yes. All of the  
4 clarifications that Lisa stated at the top will be part of  
5 the motion. So we have a motion. I don't recall if we  
6 heard a second on that.

7 MR. KIM: I'll second that.

8 CHAIRPERSON ORTEGA: Okay. So let's call the  
9 question on the grant agreement. Sam, if you could call the  
10 roll.

11 MR. GUARDADO: Yeah. Okay. Senator Allen.  
12 Senator Nguyen.

13 SENATOR NGUYEN: Aye.

14 MR. GUARDADO: Senator Pan.

15 SENATOR PAN: Aye.

16 MR. GUARDADO: Assemblymember Nazarian.

17 ASSEMBLYMEMBER NAZARIAN: Aye.

18 MR. GUARDADO: Assemblymember Chavez.

19 ASSEMBLYMEMBER CHAVEZ: Aye.

20 MR. GUARDADO: Assemblymember O'Donnell.

21 ASSEMBLYMEMBER O'DONNELL: No.

22 MR. GUARDADO: Juan Mireles.

23 MR. MIRELES: Aye.

24 MR. GUARDADO: Cesar Diaz.

25 MR. DIAZ: Aye.

1 MR. GUARDADO: Daniel Kim.

2 MR. KIM: Aye.

3 MR. GUARDADO: Eraina Ortega.

4 CHAIRPERSON ORTEGA: Aye.

5 MR. GUARDADO: Motion passes.

6 CHAIRPERSON ORTEGA: Okay. And now we will return  
7 to the previous motion which is on the processing of the  
8 acknowledged list. So the motion and the second on the  
9 table are Option 1 with the clear direction that the  
10 projects that might be deemed ineligible would come to us as  
11 an appeal so we can consider those issues.

12 So please -- any further comment on that one?  
13 Please call -- Mr. Allen.

14 SENATOR ALLEN: I support Senator Nguyen's  
15 proposed on the -- I'm going to vote no on this and we'll  
16 see what the Board does.

17 CHAIRPERSON ORTEGA: Okay. Thank you. Sam.

18 MR. GUARDADO: Senator Allen.

19 SENATOR ALLEN: No.

20 MR. GUARDADO: Senator Nguyen.

21 SENATOR NGUYEN: No.

22 MR. GUARDADO: Senator Pan.

23 SENATOR PAN: Aye.

24 MR. GUARDADO: Assemblymember Nazarian.

25 ASSEMBLYMEMBER NAZARIAN: Aye.



1 MR. GUARDADO: Assemblymember Chavez.  
2 ASSEMBLYMEMBER CHAVEZ: Aye.  
3 MR. GUARDADO: Assemblymember O'Donnell.  
4 ASSEMBLYMEMBER O'DONNELL: No.  
5 MR. GUARDADO: Juan Mireles.  
6 MR. MIRELES: No.  
7 MR. GUARDADO: Cesar Diaz.  
8 MR. DIAZ: Aye.  
9 MR. GUARDADO: Daniel Kim.  
10 MR. KIM: Aye.  
11 MR. GUARDADO: Eraina Ortega.  
12 CHAIRPERSON ORTEGA: Aye.  
13 MR. GUARDADO: Motion passes.  
14 CHAIRPERSON ORTEGA: Thank you. We have the  
15 **Consent Calendar**, if you all want to stay for just --  
16 MS. SILVERMAN: We actually have one action item  
17 on appeal, so --  
18 CHAIRPERSON ORTEGA: Oh, we have an appeal as  
19 well.  
20 MS. SILVERMAN: Really quick.  
21 MS. KAMPMEINERT: Very quick. For **Alameda** --  
22 CHAIRPERSON ORTEGA: I think there's no objection  
23 to the appeal item.  
24 SENATOR NGUYEN: Move it.  
25 CHAIRPERSON ORTEGA: Moved by Senator Nguyen.

1 ASSEMBLYMEMBER O'DONNELL: Second.

2 CHAIRPERSON ORTEGA: Second by Mr. O'Donnell. All  
3 in favor the appeal item, please say aye.

4 (Ayes)

5 CHAIRPERSON ORTEGA: And the **Consent Calendar**?

6 MS. SILVERMAN: The Consent Calendar ready for  
7 approval.

8 CHAIRPERSON ORTEGA: Okay.

9 MR. DIAZ: Moved.

10 MR. KIM: Second.

11 CHAIRPERSON ORTEGA: All in favor of the Consent  
12 Calendar --

13 (Ayes)

14 CHAIRPERSON ORTEGA: I believe everyone is still  
15 in the room, so we'll call that a unanimous vote and we'll  
16 take up the Minutes at the next meeting.

17 MS. SILVERMAN: Okay. Yeah. We also -- clarify  
18 to -- acknowledged list at a future -- we need to  
19 eliminate -- the record to reflect the School Facilities  
20 Program unfunded list is withdrawn from Tab 8. And the  
21 future workload.

22 CHAIRPERSON ORTEGA: Okay. But we don't need a  
23 motion on that or you do.

24 MS. KAMPMEINERT: -- record to reflect --

25 CHAIRPERSON ORTEGA: All right. With no further

1 public comment to come before the Board, we're adjourned.

2 (Whereupon, at 6:30 p.m. the proceedings were  
3 adjourned.)

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

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

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

That I am a disinterested person to said action.

IN WITNESS WHEREOF, I have subscribed my name on June 7, 2017.

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Mary C. Clark  
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