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
CHAIRPERSON ORTEGA: Good afternoon, everyone.
I'd like to call the June 5th meeting of the State
Allocation Board to order. Please call the roll.

MR. GUARDADO: Certainly. Senator Allen.
Senator Nguyen.
SENATOR NGUYEN: Here.
MS. BANZON:
MR. GUARDADO: Senator Pan.
SENATOR PAN: Here.
MR. GUARDADO: Assemblymember Nazarian.
Assemblymember Chavez.
ASSEMBLYMEMBER CHAVEZ: Here.
MR. GUARDADO: Assemblymember O'Donnell.
ASSEMBLYMEMBER O'DONNELL: Here.
MR. GUARDADO: Juan Mireles.
MR. MIRELES: Here.
MR. GUARDADO: Cesar Diaz.
MR. DIAZ: Here.
MR. GUARDADO: Daniel Kim.
MR. KIM: Here.
MR. GUARDADO: And Eraina Ortega.
CHAIRPERSON ORTEGA: Here.
MR. GUARDADO: We have a quorum.
CHAIRPERSON ORTEGA: Thank you. Our first item of business will be the Minutes from the April 24th meeting. Any comments/edits to the Minutes?

ASSEMBLYMEMBER CHAVEZ: Move approval of the Minutes.

MR. DIAZ: Second.

CHAIRPERSON ORTEGA: Okay. Moved and seconded.

All in favor of approval of the Minutes, please say aye.

(Ayes)

CHAIRPERSON ORTEGA: Passes unanimously. Lisa.

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

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

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

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

We also want to give the Board an update. We just
apportioned projects on April 24th and the timelines for those projects to come in July 24th. And we were encouraging districts to submit their certification for the fund release early because we might have some issues of closing out of the fund accounts with the controller's office. So we want to remind folks that the fund release documents should be submitted as early as possible.

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

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

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


So if there isn't any objection, I'm going to suggest we move right to the items under Tab 7 so that we can take up those action items prior to taking up of the
Consent Calendar because they could potentially have some effect on items in the Consent Calendar.

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

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

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

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

And so we did receive written communication from the stakeholders. That public meeting that was held on May 8th, we had about 25 to 30 participants. We had about
175 people view the webcast as well.

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

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

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

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

We initially proposed that a grant agreement be executed prior to receiving the unfunded approval. We have since modified that and so the grant agreement -- we're recommending that be modified in accordance to one of the stakeholder's comments that it be applied or in effect before the funds are released. So that's a significant modification we made.
And we also are recommending that the projects on the true unfunded list, the projects that were processed prior to the Board change of regulations, over $368 million in projects, those projects will be excluded from the grant agreement. So that's a significant change from what we had initially from last month.

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

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

So with that, I know there is a few concerns related to technology. Those items have not changed, but can I draw your attention on page 81. There is a short summary of the changes that we did modify. As I mentioned before, the timing of the grant agreement, we actually did
eliminate and streamline -- we did receive some comments about having duplicate information, letters -- approval letters from the Division of State Architect, approval letters from the Department of Education, various approval levels that we have in our office related to financial hardship, so we also eliminated that.

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

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

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

So with that, staff wanted to reiterate the importance of having a grant agreement, to have fair guidelines for the School Facilities Program, to ensure transparency and greater accountability. This will -- school districts, not only large but also the small districts that are not frequent players in the program and this is to ensure that they are successful and having good
outcomes of the program, but they also clearly understand
the rules of what's eligible to be expended and what items
are not eligible to be expended and it's by program.

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

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

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

So we'll be tracking that and giving the Board
some update. Again, we want to reiterate to the Board that
even though we're -- the recommendations to take action on
those projects, that they're -- they don't have the ability to access the cash until they correct that. So we provide an update to the Board.

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

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

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

We definitely think that language needs to be struck out and definitely keep freezer, refrigerators, and stoves in the agreement itself, not excluding those items. And the purpose is because -- for various reasons.
Refrigerators could be used for nursing -- the nurse's office obviously could have, you know, medications that need to be housed for students and also freezers could be used for, you know, various things for science classes and, you know, obviously chemicals may be properly stored in those, so obviously the need to have that there as well.

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

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

So we would acknowledge a change in the language on page 207 and 259 to include language that would specifically reference that if the district receives written
communication from the Office of Public School Construction for items not included on the list and -- list of eligible/ineligibles, that the local auditors will be seeking that written response as a guideline and tool for allowable expenditures.

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

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

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

ASSEMBLYMEMBER O'DONNELL: Yes, I do.

CHAIRPERSON ORTEGA: Sure.

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

MS. SILVERMAN: Yes.

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

MS. SILVERMAN: Yes.

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

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

ASSEMBLYMEMBER O'DONNELL: Okay.

CHAIRPERSON ORTEGA: So can I also -- I think we had envisioned as I've discussed with staff how they would handle this, is to the extent that an issue comes up that also really warrants further revision of the grant agreement itself. So if someone -- if a district comes to OPSC and seeks advice on whether something is allowable, OPSC could
provide that information in writing. The grant template would have the guidance for the auditor to look at, whether there's any such document, but OPSC would also come back to the SAB to request a revision to the grant agreement template.

ASSEMBLYMEMBER O'DONNELL: Correct. Yeah.

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

MS. SILVERMAN: Right.

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

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

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

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

First of all, thank you for the opportunity to provide input on this important topic. You have received letters from me and today really I just want to summarize
what the issues are and the position that CASH has taken on these topics.

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

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

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

    Regarding the grant agreement -- and I -- this one, you know, you've discussed briefly, but we really recommend that you allow only ineligible expenditures or, you know, to put it another way, those that you can't purchase. We just feel like this is a more clear transparent and more easily accountable -- would be easier
with this than what you're recommending which is listing eligible expenditures.

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

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

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

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

      And finally, you know, while these are all important positions from a state level, I think even more important is that we hear the effects of moving the program forward as quickly as possible. You know, what that does for our local school districts, for the projects that teachers and kids out there need to have happen, or on the
other hand, what happens if we don't move the project forward and we keep taking this valuable time away from getting projects done for kids and for teachers out in our schools.

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

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

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

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

MR. ULRICH: Yeah.
CHAIRPERSON ORTEGA: -- a clear change, what is an item of expenditure that you think might come up in a project that you would have -- that would be in conflict with the grant agreement?

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

CHAIRPERSON ORTEGA: Um-hmm.

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

CHAIRPERSON ORTEGA: Okay. Mr. Kim.

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

MR. ULRICH: Um-hmm.

MR. KIM: -- receiving state funds when I was at the local government level, and whether it was the small counties or the large counties, we always wanted to get clarity on what was an eligible or ineligible expense. That's why I'm a little unclear why CASH wouldn't want the local school districts, many of whom have seen massive
turnover staff -- administrative staff who may not know all the rules of engagement, why you wouldn't want a clear list of what was eligible and ineligible especially given that, to my knowledge, with the exception of the discussion regarding technology, there's been no question about any of the ineligible expenses.

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

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

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

And I think some of those people that have experience can testify today to that effect, but that's our opinion on it. That's how, you know, the practitioners that have been doing this for decades have seen this, and as a
Board, that's the position we're taking at this time.

CHAIRPERSON ORTEGA: Anything else? I think --

thank you, Mr. Ulrich.

MR. ULRICH: You bet.

CHAIRPERSON ORTEGA: I'm going to call a couple

names at a time so that we can move through the list of

speakers expeditiously. Margaret Brown and Robert Pierce.

MS. BROWN: Good afternoon, Chairwoman Ortega,

members of the Board, Senator Nguyen especially. I'm from

Garden Grove. My name's Margaret Brown. I am the Director

of Facilities for Garden Grove Unified School District. I

also went to elementary, middle, and high school in Garden

Grove, graduating from Bolsa Grande which is currently being

modernized at this time. My mom's also a retired teacher

from that district, so I have a lot of ties to that district

and that community.

I'm here today to talk about a number of our

projects that are on the list for funding. Garden Grove for

the very first time passed its very first bond measure in

2012 -- in 2010. Never did a bond before that. Never

actually improved any of our facilities and most of them did

not have air conditioning.

I joined the staff in 2013 and we really started

going back through the plans and looking at how we could get

air conditioning in our schools. We had times when it was
95, 103 degrees in the classroom and we're asking our students to take -- to study physics, take final exams, and it's almost impossible in there.

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

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

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

We actually are in the middle of doing that work or that work is already done and we're hoping to get that money back. Unfortunately, the state hasn't sold anything from Prop. 51. I know we're looking at selling a little bit
and I'm really here to say I hope we sell a lot because we are on a list. What list? The acknowledged list, but that doesn't mean we're anywhere near the top. We're sort of towards the bottom, but we're hoping that if we start selling bonds and OPSC starts working our applications and doing the eligibility that eventually we'll get that funding because that $12 million reimburses the pot that allows us to air condition the next batch of schools.

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

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

With respect to eligible/ineligible item, the costs for Garden Grove -- the amount of state money we get is so small compared to the amount of the construction costs, it's barely 30 percent. So we're not going to have a problem with the eligible/ineligible, but if this was another time, I would tell you that I really would be concerned about what's on that list.
If it only says what's eligible and everything else is not, it can be very complicated as a -- someone who's responsible to my community and to my board about all of a sudden, it's not allowed and now it's coming out of Prop. 98, I'll be looking for a new job. And just wanted to share those thoughts.

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

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

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

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

I will tell you from our perspective at Elk Grove Unified we're in complete support of the notion and the
thought behind the grant agreement. I can tell you as a
public official myself, there is no other public entity than
school districts that want to comply, that want to fulfill
requirements and obligations of us, and in that regard, the
grant agreement does a good job.

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

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

We have a school under construction in the City of
Rancho Cordova and a school under construction in the City
of Elk Grove. Both of those schools are in such a high need
right now, absent state funding and absent certain triggers that have allowed us to generate capital dollars, our board was forced to make a very tough decision and issue $30 million of certificates of participation leveraging our general fund.

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

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

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

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

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

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

CHAIRPERSON ORTEGA: Yes, Senator.

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

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

time.

That's not a problem for Elk Grove Unified

frankly. It may be a problem for other districts who had

eligibility at the time of their application and built those

projects and now won't be able to receive new construction.

So selfishly for me, that's not an issue. I think

it would be issues for other districts.

SENATOR ALLEN: I guess I'm -- how would it be an

issue for another district if it was always an eligible

project?

MR. PIERCE: So they theoretically could have

either started construction on a project and/or completed

construction on a project and they're just awaiting funding

and there could be some results of the great recession. As

we know, a lot of tentative maps have expired and other

things have happened where they may not be eligible for new

construction dollars, and then they would lose funding on

those projects or not receive funding I should say.

Just a technicality, but a significant one.

MR. MIRELES: And if I could just add to that.

There could be a situation where districts when they apply

for funding, their enrollment trends were going up and they

had eligibility to justify the project, but from that year,

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

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

MS. KAMPMEINERT: Yes.

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

MS. KAMPMEINERT: Um-hmm. Right.

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

CHAIRPERSON ORTEGA: I think the -- what's assumed in the options is that -- I don't think there's any -- I don't think we've really entertained Option 3 of sending the applications back. So I don't think the issue of reapplying is going to really --
MS. SILVERMAN: No. This was Option 1.

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

MS. KAMPMEINERT: Under Option 1, it was with regard to new construction regardless of whether you've already built the project --

CHAIRPERSON ORTEGA: Right.

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

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

SENATOR ALLEN: So when you say new construction that's already been built, I can see people getting confused about your definition of the word new.
MS. KAMPMEINERT: So we haven't been processing applications for funding since 2012. So on our second action item on the applications received beyond bond authority, the Board in 2012 decided to keep a list of projects that we would acknowledge but not process.

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

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

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

SENATOR ALLEN: Um-hmm.

MS. KAMPMEINERT: -- because it's adding capacity
that we didn't know of prior to that 2012 time frame.

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

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

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

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

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

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

SENATOR ALLEN: Right.

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

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

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

CHAIRPERSON ORTEGA: Just the recertification?

ASSEMBLYMEMBER O'DONNELL: You could modify --

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

ASSEMBLYMEMBER O'DONNELL: I'm sorry?

CHAIRPERSON ORTEGA: Just the recertification of eligibility?

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

MR. MIRELES: I think that's a way that it could be structured to meet your comments, Senator Allen, is that there could be consideration for projects that have already been built, say through the contract date. Projects that have entered into contract after a certain point in time,
whether it's today or another day, that they could use the
enrollment projections at the time of submittal versus the
ones that have not entered into contracts or have not been
built, they would use enrollment projections at the time of
review.

That could be a way that it could be structured.

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

MS. KAMPMEINERT: We would need to process first.

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

ASSEMBLYMEMBER NAZARIAN: Option 1 processes it.

Option 1 assumes the processing.

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

They would probably need to get updated enrollment
information at the time of review to determine whether they
have eligibility at that time. And keep in mind that it
could be four or five years between the time of submittal versus the time of review.

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

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

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

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

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

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

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

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

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

I don't have that specific issue because we were just doing straight up modernization, but it can happen to
school districts and you might actually hear from somebody
if we ever get down from here.

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

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

    CHAIRPERSON ORTEGA: Could I suggest -- staff help
me out here. If we moved forward on Item 1 to process the
applications but require recertification as sort of an --
not as a final decision on those applications, but to get us
some more information about whether there is anyone harmed,
are there any projects that are going to essentially jump
ahead of a project that has more critical eligibility
because that would be the concern that I would have if we
approved Item 2 is we may be letting projects move forward that clearly should not be ahead of someone else and in a limited bond sale, you know, scenario, that doesn’t seem to make sense.

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

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

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

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

CHAIRPERSON ORTEGA: Lisa.

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

CHAIRPERSON ORTEGA: Yeah.

MS. SILVERMAN: -- that are applying for new construction and so that's over $1.5 billion in requests.
And so just to clarify what the magnitude of the issue, so --

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

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

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

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

SENATOR ALLEN: And we want to move forward -- we
want to move forward on worthwhile projects and we want to
make sure there's enough money for those projects that
really need the --

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

SENATOR ALLEN: For recertification within the
district?

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

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

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

CHAIRPERSON ORTEGA: Senator Nguyen.

SENATOR NGUYEN: Madam Chair, can we ask the
representative from CASH up here because CASH -- you know,
you represent a variety of school districts throughout the
state, right? I mean I -- for the record, I'm also -- I
graduated from Garden Grove High as well.
I just want to make sure that, you know, if you can -- you've heard the discussion up here. I mean what are the -- what are you hearing across the state?

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

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

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

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

So there's lots of nuances to going back five
years and making you recertify for those projects that you might have already built.

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

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

CHAIRPERSON ORTEGA: Senator Allen --

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

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

I think the question's for those that have not been constructed that would no long be eligible. We just
want to make sure that we're spending our money wisely moving forward. That's my -- that's the distinction I'm drawing.

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

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

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

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

ASSEMBLYMEMBER O'DONNELL: I'm sorry?

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

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

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

SENATOR ALLEN: Even if the --

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

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

CHAIRPERSON ORTEGA: Senator Pan.

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

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

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

So I think, you know, one level is that -- is to either -- you know, either you're going back and looking at submission time or if they haven't built it, you're looking
at now and then the question is to what degree, you know, are we trying to imagine a problem that may or may not exist as was pointed out. So we also want to make it as streamlined as possible so that we can move these projects' fundings as quickly as possible while still assuring that people meet eligibility at whatever appropriate time they should be meeting it for construction.

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

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

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

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

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

ASSEMBLYMEMBER O'DONNELL: And those are projects going forward not back.
MS. KAMPMEINERT: Under Option 1, it would be for all projects.

MS. SILVERMAN: Anything you have --

ASSEMBLYMEMBER O'DONNELL: But then you've --

again we run into the conundrum where we have projects that were built based on earlier numbers or projections.

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

MS. KAMPMEINERT: Which would be Option 2.

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

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

SENATOR PAN: Right. Right.

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

MS. KAMPMEINERT: We haven't done the review on the applications, but they are signing forms indicating that the information is correct. But typically, when we process the information, I would say a fair number of times we find
some data issue that does need to be addressed and -- so they're certifying, but it may be -- they may need to adjust it a little --

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

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

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

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

ASSEMBLYMEMBER O'DONNELL: So under Option 1 -- right. So Option 1 -- but Option 1 doesn't exclude at this point -- unless amended, it doesn't exclude constructed projects.
MS. KAMPMEINERT: That is correct.

ASSEMBLYMEMBER O'DONNELL: Or projects under contract.

MS. KAMPMEINERT: That is correct.

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

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

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

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

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

MS. KAMPMEINERT: So if we -- so we do have limited bond authority under the program. So, yes, there are districts that may have opted not to participate and
submit an application during the time when we were not processing.

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

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

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

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

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

ASSEMBLYMEMBER NAZARIAN: Thank you. Couple of
quick questions, just so that I can clarify something.

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

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

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

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

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

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

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

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

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

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

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

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

ASSEMBLYMEMBER NAZARIAN: Right. Right.

CHAIRPERSON ORTEGA: That's why we're --
ASSEMBLYMEMBER NAZARIAN: Right.

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

MR. KIM: Can I ask a related question?

CHAIRPERSON ORTEGA: Yes.

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

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

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

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

MR. MIRELES: One thing that I would note is that if the Board were to adopt Option 2, it's consistent with the way the program has worked in the past. Basically, all the applications at the time of submittal are required to update eligibility, basically enrollment information upon submittal.
That's been the application process since 1998.

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

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

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

The other one would be is if you have submitted -- because we haven't processed it and it's about five years, you need to do a self-certification of your eligibility today and if you are eligible today, then we move forward with you, and if you're not, then we're sorry. We go to the next new application.
I think that kind of gives you a sweet spot of both.

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

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

SENATOR NGUYEN: That's the trust unfunded --

ASSEMBLYMEMBER NAZARIAN: And is ready to go --

CHAIRPERSON ORTEGA: We're not talking --

SENATOR NGUYEN: We're not talking about --

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

SENATOR NGUYEN: Talking about the acknowledged list.

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

SENATOR NGUYEN: None.

ASSEMBLYMEMBER NAZARIAN: Okay.

MS. KAMPMEINERT: Just a quick -- that was less
than five minutes. The components, yeah, we have not
reviewed at all. So self-certification, we would not --
especially we would not be reviewing the eligibility at
all.

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

CHAIRPERSON ORTEGA: Senator Pan.

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

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

So it's really unfortunate that we do now penalize
them for trying to be efficient because I mean at the end of
the day, here's a challenge I have, having two young
children, one that's actually in kindergarten is that by the
time we finish construction of say anything in my area, my
kids are out -- they're in high school by then and they're
gone and graduated.
And that's kind of what we should be doing is that good for these school districts who have tried to move forward even though state is unsure. But they've moved forward some of these projects, and I mean, you know, they've been sitting on five plus years now and, you know, if they waited and they needed the school capacity, we would be yelling at them for not building.

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

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

I think if you merge both of those in I think you get a sweet spot of both and again, we don't even know what
those projects -- it could be 80 percent of them. It could be two. We don't know because we've stopped processing them.

CHAIRPERSON ORTEGA: Senator Pan.

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

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

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

Because I think we are putting ourselves at risk if it turns out someone wasn't actually eligible -- and there's going to be -- I hate to say it, but bond is not so
large to meet all of the schools' construction needs. And I'm not saying you all have to agree with me there.

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

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

Because -- I mean you pointed out. When you actually reviewed the documents, even though they're -- and I think everyone's trying to deal in good faith. They're not -- I don't think anyone's trying to cheat the state or anything, but then you find discrepancies, issues, and so forth and while some people may call that bureaucracy, believe me, I'm a physician. I had to deal with MediCal and fill out lots of forms and I'd like to see fewer of them.
There's got to be at least some standard to say that this means you meet eligibility or you don't because that's fairness not just for that person, it's everybody who wants to apply for this pool of money because, unfortunately, it's not large enough to cover everything.

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

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

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

And I do recall the flurry of activity of
applications of coming in from school districts because the Legislature was looking to put another bond on the ballot and having very deep conversations with the Governor's office and between both houses.

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

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

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

I think it's the most beneficial one because it avoids all the unnecessary -- basically the scenarios. I
think Senator Nguyen is right. There might be some, there might be a lot, there might be none, right? But given the criteria that a lot of it was just basically, you know, for a lot of show -- to show that there was a need, I think we should demonstrate that they actually are accountable for their eligibility as they put forward.

CHAIRPERSON ORTEGA: Mr. Mireles.

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

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

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

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

ASSEMBLYMEMBER O'DONNELL: Can I ask a question?
I'm confused here. So if it's at the time of submittal and of course the time -- we could answer that today, though. We don't need to have you go through and review all these projects, right?

MS. KAMPMEINERT: That's correct.

MS. SILVERMAN: That's Option 2.

ASSEMBLYMEMBER O'DONNELL: Okay.

MS. SILVERMAN: Option 1 would be recheck eligibility.

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

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

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

MS. SILVERMAN: That's the difference --

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

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

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

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

ASSEMBLYMEMBER O'DONNELL: That's the --

CHAIRPERSON ORTEGA: The processing --

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

CHAIRPERSON ORTEGA: Yes. The processing --

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

SENATOR NGUYEN: And that's my recommendation --

ASSEMBLYMEMBER O'DONNELL: Right.

SENATOR NGUYEN: So those who submitted and constructed --

ASSEMBLYMEMBER O'DONNELL: Yes.

SENATOR NGUYEN: -- should be grandfathered in.

ASSEMBLYMEMBER O'DONNELL: Not a guarantee --

SENATOR NGUYEN: Not a guarantee. Obviously, they have to go through the process. Those who have submitted but haven't constructed, they have to immediately do their
certification or re-eligibility for today's projections because they're going to build with the money to go forward, but using, of course, a streamlined process such as self-eligibility and so, you know, the process will be shorter and faster among themself and that they don't --

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

SENATOR NGUYEN: But the gentleman from his school district stated that, although it's a one page application, but you have all the documentation to justify it or to show evidence of the increase in enrollment is quite extensive. So it's not just the application that we have. It's the backup documents that is pretty extensive for the school district.

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

ASSEMBLYMEMBER O'DONNELL: Right.

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

ASSEMBLYMEMBER O'DONNELL: But why?

SENATOR ALLEN: Because you've already -- for precisely the reasons you were describing before. These are
folks who applied in good faith, wanted -- you know, they were eligible for the projects before. The money wasn't available.

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

SENATOR ALLEN: I'm sorry?

ASSEMBLYMEMBER O'DONNELL: They built their project.

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

ASSEMBLYMEMBER O'DONNELL: Right.

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

ASSEMBLYMEMBER O'DONNELL: Yes.

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

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

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

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

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

CHAIRPERSON ORTEGA: Yes. But there was no money.

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

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

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

CHAIRPERSON ORTEGA: And let's remember that their board submitted an application with a document that said I understand as a board that I am submitting an application with no guarantee of funding approval, no guarantee of what kind of program might exist in the future.
It's not as if we have those applications in house with everyone having a guarantee of funding. We have those applications in house simply because the Board said people could keep sending them, even though there was no money available.

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

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

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

ASSEMBLYMEMBER NAZARIAN: So how about if we were to make a motion that we move forward with let's say Option 1, but if there are impacted schools, they receive first hearing or first priority so that they're not losing any opportunity.
ASSEMBLYMEMBER O'DONNELL: That's Option 2, isn't it?

ASSEMBLYMEMBER NAZARIAN: Yeah, because --

SENATOR NGUYEN: So basically --

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

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

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

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

SENATOR ALLEN: Yeah. That's fair --

ASSEMBLYMEMBER NAZARIAN: So if we're ready, I'm happy to just state the motion and say --
MR. DUFFY: Madam Chair, may I --

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

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

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

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

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

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

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

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

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

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

MR. DUFFY: Yes.

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

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

CHAIRPERSON ORTEGA: Sure.

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

MR. DUFFY: And that --

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

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

CHAIRPERSON ORTEGA: Right. Right.

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

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

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

MR. DUFFY: But what you're doing then is you're
further complicating a program that I thought the
administration wanted to simplify. If you --

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

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

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

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

So what I would ask you to do is really consider
the fact that districts have spent money that's hard to get
at the local level, GO bond money, developer fee money, whatever it is and allow those projects to be filtered out through whatever this system is, but go with Option 2 because I think you are not following the provisions of the law if you say we're going to deny.

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

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

CHAIRPERSON ORTEGA: Yes.

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

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

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

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

ASSEMBLYMEMBER NAZARIAN: Oh, we haven't heard anything that suggests -- that's why I'm trying to figure out -- why not just go through this process and see --
MR. DUFFY: -- there isn't an issue if you went with Option 2, Assemblyman, because -- maybe there is not issue, but it's very difficult, if you're running a school district -- I ran a school district for 12 years. It's -- you have trouble going beyond just taking care of the needs and the teachers in your community. So reaching into this program takes extraordinary effort and it may be that districts just aren't aware of all the things that are going on.

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

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

ASSEMBLYMEMBER NAZARIAN: I think you got it right.

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

ASSEMBLYMEMBER NAZARIAN: Yes.

CHAIRPERSON ORTEGA: So we'll take comment from
the Board members and then what I want to do is ask if there is any public comment on this acknowledged list processing question -- we'll save the grant agreement public comment next -- come on up.

Senator Nguyen, did you have a comment?

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

And as you know, appeal to any government agency is not something that is easy either. So I'm not sure if we go with just purely Option 1 and allow everybody to appeal is the right -- if you're going to do that, then you're going to have to be more specific to staff to allow them to -- you know, what is appeal -- what they appeal and what's not because I think you're asking for something larger than what we are anticipating or wanting.
And then I respect Madam Chair's view of not wanting to support it sounds like Option 2, but, you know, staff -- I'm going to assume that staff didn't put Option 2 in there knowing that it's not legally allowed.

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

CHAIRPERSON ORTEGA: Any other Board comments?

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

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

So I think there's the larger policy issue of do we -- for the limited funds that we have available for a bond, do we want to see those monies go to a project that isn't eligible under the current rules, but that's already been constructed, possibly for a school district that
already has local bond funds to pay for those things, or do we want to see those monies go to a school district that maybe never had the opportunity to apply because they didn't have the resources and knew they couldn't issue a local bond and now are eligible because of increasing enrollment.

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

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

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

MR. KIM: I'm sorry. Maybe I was misinterpreted. I think the larger issue for me is that if these school districts that went -- were on the acknowledged list. They bet on the come. They didn't get the funds. They probably
have local funds to pay for these schools -- the
construction which frees up additional funds for school
districts that may not have had the ability to do local
bonds, still do not have the ability to do local bonds, and
they can build more schools.

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

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

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

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

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

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

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

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

CHAIRPERSON ORTEGA: Okay. Thank you.

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

I have about nine projects on the acknowledged list and I just wanted to actually speak to -- we're talking about eligibility.
So eligibility really is a snapshot in time for any project. So if ten years ago, there was bond funding, I may have had eligibility for a new school with 2,500 students. I may not have that today. I built that school. That school's changed.

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

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

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

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

So I think that's really what we're talking about here is why it's important to keep the eligibility at the time of submittal. That was the need. That was the design that I built on. That was the project that went through DSA
and received approval. That was the project that went through CDE and received approval. That's the project that I submitted when I submitted my 5001, my 5002, my 5003, and submitted my 5004 at that time.

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

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

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

MS. ARTHUR: So and again, I was going to ask -- I really wanted to put out that again the date order is equitable. It's something that we've -- school district personnel has worked with for 10, 12, 15 years and realize
that most school districts have seen Measure 51 language for 18 months.

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

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

CHAIRPERSON ORTEGA: Option 1 does that --

MS. ARTHUR: On the acknowledged list?

CHAIRPERSON ORTEGA: Yes. Yes.

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

CHAIRPERSON ORTEGA: Sure. Thank you. Okay.

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

So the first is why hasn't staff heard from districts saying specifically that they will be caught in the situation where they will be affected detrimentally if
they have to use today's eligibility numbers, and the reason for that actually goes back to something that Mr. Pierce on behalf of Elk Grove Unified said.

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

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

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

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

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

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

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

So is it fair, is it worthwhile? Absolutely. Because these governing boards moved forward in good faith and they were expecting this program to be consistent with past practice. So if generally speaking for grant programs and construction in particular it's viewed as a good thing to fund projects that are, quote, shovel ready, I don't see why this program would need to be an exception, particularly when we can achieve that while maintaining accountability and transparency.
So I would encourage you to support Option 2.

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

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

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

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

So we currently -- in Long Beach, we have ten applications on the acknowledged list that total in excess of $71 million. Eight of those projects have already been completed and are occupied. There are two more that will be done by the time in early 2018. They're currently under
Each of these projects represent high priority, critical needs that our school district had at the time. We elected to move forward with these projects because these were critical needs to the students of our district. We actually elected to move monies from other available sources that we had in order to meet those needs of our students and our staff of our school district.

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

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

That $71 million will go a long ways to meeting the critical needs of students in other areas of our school
As far as districts that may potentially be harmed with new construction, several of those projects on the list are for new construction. We have been going through an era of declining enrollment, although I have not -- because of the complexity of the effort, I have not updated my eligibility, so I couldn't tell you factually. It would not surprise me if one or more of those projects, in fact, had some challenges with eligibility.

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

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

Projects that have not been constructed, we could
see that there would be definitely a need to relook at your enrollment data to see if it's still a wise decision to move forward, but don't penalize school districts for using all available tools and all available resources at their disposal to meet kids' needs.

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

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

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

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

MR. REISING: Thank you. Thank you for that. But again, the point being is that those needs existed clearly at that time and so five, six years later, some seven years later to say that there has been a change in those data
points and that now we would not be eligible to receive that money.

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

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

CHAIRPERSON ORTEGA: Senator Pan.

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

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

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

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

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

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

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

MR. REISING: Depending on the eligibility, yes.

SENATOR PAN: Okay. Thank you.

ASSEMBLYMEMBER O'DONNELL: Can I ask a question?

CHAIRPERSON ORTEGA: Yeah, go ahead.

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

MR. REISING: Yeah. Concurrently.
ASSEMBLYMEMBER O'DONNELL: To this body because there was an expectation that we were going to participate in that venture.

MR. REISING: Yes.

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

MR. REISING: Yes. Absolutely.

ASSEMBLYMEMBER O'DONNELL: Thank you.

CHAIRPERSON ORTEGA: Okay. Yes, Senator Allen.

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

MR. REISING: Yes, they were.

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

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

CHAIRPERSON ORTEGA: Yeah.

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

CHAIRPERSON ORTEGA: Correct.

SENATOR NGUYEN: With the amendment, though.
ASSEMBLYMEMBER CHAVEZ: Right. With the amendment --

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

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

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

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

CHAIRPERSON ORTEGA: Okay. Next speaker, please.

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

A real example for us, 83 percent free and reduced lunch, high poverty area. We have a lot of assessed
valuation challenges as you can imagine from that type of poverty.

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

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

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

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

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

I really encourage you -- I'm not sure there's a difference between the option compromise presented by Senator Nguyen and Option 1 with the appeal, with the
exception of certainty. Why would we build -- why would we want to have another step in there of an appeal process -- and I would never want to say -- I don't know how you would deal with those at that time. Would it be a -- I don't like the term rubber stamp, but like an audit, have to be approved? Is there -- that you can provide to the locals that need to get these funds so that we can build our next projects and finish the ones we're in currently. So I really --

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

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

That isn't there and so not knowing what we'd be agreeing to respectfully with Senator Nguyen's proposed amendment, with not knowing what that really means is why we'd be uncomfortable supporting that route.
Senator Allen, did you have --

SENATOR ALLEN: What do you mean not knowing --

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

SENATOR ALLEN: Should we get some --

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

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

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

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

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

SENATOR ALLEN: The grant agreement is the Alameda thing?

CHAIRPERSON ORTEGA: No. The grant agreement --

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

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

MS. SILVERMAN: They're on page 84.

CHAIRPERSON ORTEGA: Page 84.

MS. SILVERMAN: Is the grant agreement --

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

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

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

MS. SILVERMAN: And also acknowledge that we would
modify the grant agreement to acknowledge the advisory letters that are --

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

MS. SILVERMAN: That we would provide that --

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

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

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

MS. SILVERMAN: Yes.

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

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

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

CHAIRPERSON ORTEGA: So I'll call a couple of speakers up. Kirk Nicholas and Julie Arthur. This again would be comments related to the grant agreement as we've
already heard the comments on the processing of the acknowledged list and again I'll ask you to be brief. Do we have Julie Arthur? Oh, you can come back up. And Eric Bakke would be next.

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

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

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

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

Concurrently, we're also building a state of the art high school, about $135 million project. We built in
phases similar to what the gentleman before me spoke.

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

CHAIRPERSON ORTEGA: Thank you, Julie.


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

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

And I would like to again bring up the point about technology. It really is the computers. I know we look at the frame of a computer. We're saying it's only three years, but in reality, we use our computers much more than
They go from -- everywhere from our career tech programs and from sound boards to all kinds of different things, to our energy management for our school sites and making sure that's how we control our temperatures there and we're not really able to use many of the items that are eligible like projectors without these computers.

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

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

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

I don't think many schools are abusing it. I hope not. We just finished our audit process of over
$230 million for a project and I'm getting a check back for 150,000, so -- which will go in there.

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

CHAIRPERSON ORTEGA: Thank you.

MS. ARTHUR: Thanks.

CHAIRPERSON ORTEGA: Mr. Bakke.

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

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

I just want to point out, though, that -- and I think it was brought up, when we look at the eligibility list, what projects are deemed eligible, I think even today we just learned that there's new items being added to that
list today that were added at the last SAB meeting, and I expect there will be more items added to this list, which is what prompted my original statement about not having defined lists.

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

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

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

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

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

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

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

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

Now, I understand the intent was to speak to providing direction to the auditor about how savings shall be viewed and looked at, but the way it's drafted in its very simple form, an auditor who doesn't know this program
will interpret that the savings can only be used as matching
share and not as other high priority capital outlay
projects. That's a big problem.

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

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

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

MS. HANNAH: Good evening. I'm Jenny Hannah. I
with the Kern High School District in Bakersfield,
California, and I won't repeat what I've heard from others,
but what I would say first to this Board is you have an
obligation first to do no harm to these districts and with
that, I mean you need to prospective, not retroactive in
applying this program.
Even if there's one district that could be harmed by this, this could be significant to especially small school districts who large capital projects are, you know, a big hit to their budget.

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

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

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

CHAIRPERSON ORTEGA: Thank you. Mr. Watters.

MR. WATTERS: Darrin Watters, Val Verde Unified.

On the grant agreement itself, eligible and ineligible lists, I would implore the Board to remove the eligible list. The ineligible list makes perfect sense. I have no issue with a list of things we can't buy. I think that gives us the parameters. That tells us what we need to know
about the program.

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

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

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


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

So we work a lot with our clients on answering calls of what's eligible and not eligible and one of the
things that is a challenge is -- and to back up, I'm old
enough that I remember the program before this program when
we had lists. So I kind of am having echos of oh, my
goodness, we're going back to lists where we had to maintain
them.

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

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

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

And that's where the difficulty occurs. For, for
instance, if I have a contract and I have window blinds in
my construction contract, the kind I specified are no longer available. It's the end of the contract. You don't want to hold that contract open while you go through and order blinds.

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

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

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

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

MS. BOGGS: The routine budget is for breakage, replacement, those -- not for the full equipping of that lab. So context matters with respect to whether it's a supply item or not and I would urge you to allow the users,
the constituents to give some input into what things are considered allowable in that essential equipping of the school.

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

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

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

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

We do want to thank OPSC and the staff for the changes they've announced today. We still think that having an eligible list is not the way to go. To have an
ineligible list that's clear but to have guidance on what is eligible. And I think I'll keep it there and thank you very much.

CHAIRPERSON ORTEGA: Thank you. Next speaker.

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

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

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

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

Our concern with the large detailed eligible list is that it simply doesn't mesh with the way auditors do their work and we fear that it will create a very
complicated system with a greater incidence of things that appear to be negative findings that will either -- either may be resolved or will have to be appealed to the Board, but that should have rightfully been allowed in the first place.

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

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

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

Mr. Reising.

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

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

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

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

We suggest on the other hand to actually setting a date similar to the date that we talked about for the acknowledged list where projects that were awarded before essentially July 1st or another date would not be subject to the grant agreement, much as we did the true unfunded list.
Secondly, to quickly talk about this -- and you've heard from several other speakers here, the concept of the eligible and ineligible expenditures. We very much think it's much easier and simpler to simply design and produce a list of ineligible expenditures. Very clear for districts moving forward to know what you cannot spend your money on.

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

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

So relying on appeals to staff members at OPSC just doesn't seem to be a realistic solution. It doesn't seem to be something that can be applied evenly and equitably across the length of the program. Staff members come and go. I know I struggle with that myself. And having a fair and equitable application of exception rules seems to be troubling and be hard to maintain going forward. So thank you very much and I appreciate your time.
CHAIRPERSON ORTEGA: Thank you. Mr. Diaz and then Mr. Allen.

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

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

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

I think I'm ready to move forward on this item. We've kind of beat this item to death especially since the last meeting that we've had and we did identify major areas of concern and we can also -- I would remind the Board, we can also make several changes in the future to these grant agreements.
So I move to approve the staff's grant agreements pursuant to page 84 along with Ms. Silverman's recommendations announced today during her presentation.

CHAIRPERSON ORTEGA: Mr. Allen.

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

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

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

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

CHAIRPERSON ORTEGA: Just on the moving the goal posts issue, I think that is why after the April meeting we
went back and looked at the issue of the process
applications and why -- you know, at least I was supportive
and asked staff to bring forward the recommendation that we
exempt the processed applications, so the $370 million worth
of projects from the grant agreement.

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

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

There would be no penalty. They would simply make
an amendment to the application that OPSC has before it's
processed. So that's -- for us, that's where the dividing
line was between grandfathering in, if you will, or moving
the goal posts was if it's been processed, fine, we're going
to let it go. But if it hasn't been processed yet, there's
still plenty of opportunity to work with OPSC.

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

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

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

There is nothing in the template that creates a
new standard for the use of the funds, again with the
exception of the technology. Everything is already required
to not required in the program.
Now, could there have been misunderstandings about how --

SENATOR ALLEN: Technology is significant.

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

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

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

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

MR. MIRELES: Okay.
CHAIRPERSON ORTEGA: Yeah.

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

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

MR. KIM: I'll second that.

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


Senator Nguyen.

SENATOR NGUYEN: Aye.

MR. GUARDADO: Senator Pan.

SENATOR PAN: Aye.

MR. GUARDADO: Assemblymember Nazarian.

ASSEMBLYMEMBER NAZARIAN: Aye.

MR. GUARDADO: Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: Aye.

MR. GUARDADO: Assemblymember O'Donnell.

ASSEMBLYMEMBER O'DONNEILL: No.

MR. GUARDADO: Juan Mireles.

MR. MIRELES: Aye.

MR. GUARDADO: Cesar Diaz.

MR. DIAZ: Aye.
MR. GUARDADO: Daniel Kim.
MR. KIM: Aye.
MR. GUARDADO: Eraina Ortega.
CHAIRPERSON ORTEGA: Aye.
MR. GUARDADO: Motion passes.
CHAIRPERSON ORTEGA: Okay. And now we will return
to the previous motion which is on the processing of the
acknowledged list. So the motion and the second on the
table are Option 1 with the clear direction that the
projects that might be deemed ineligible would come to us as
an appeal so we can consider those issues.

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

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

CHAIRPERSON ORTEGA: Okay. Thank you. Sam.
MR. GUARDADO: Senator Allen.
SENATOR ALLEN: No.
MR. GUARDADO: Senator Nguyen.
SENATOR NGUYEN: No.
MR. GUARDADO: Senator Pan.
SENATOR PAN: Aye.
MR. GUARDADO: Assemblymember Nazarian.
ASSEMBLYMEMBER NAZARIAN: Aye.
MR. GUARDADO: Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: Aye.

MR. GUARDADO: Assemblymember O'Donnell.

ASSEMBLYMEMBER O'DONNELL: No.

MR. GUARDADO: Juan Mireles.

MR. MIRELES: No.

MR. GUARDADO: Cesar Diaz.

MR. DIAZ: Aye.

MR. GUARDADO: Daniel Kim.

MR. KIM: Aye.

MR. GUARDADO: Eraina Ortega.

CHAIRPERSON ORTEGA: Aye.

MR. GUARDADO: Motion passes.

CHAIRPERSON ORTEGA: Thank you. We have the Consent Calendar, if you all want to stay for just --

MS. SILVERMAN: We actually have one action item on appeal, so --

CHAIRPERSON ORTEGA: Oh, we have an appeal as well.

MS. SILVERMAN: Really quick.

MS. KAMPMEINERT: Very quick. For Alameda --

CHAIRPERSON ORTEGA: I think there's no objection to the appeal item.

SENATOR NGUYEN: Move it.

CHAIRPERSON ORTEGA: Moved by Senator Nguyen.
ASSEMBLYMEMBER O'DONNELL: Second.

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

(Ayes)

CHAIRPERSON ORTEGA: And the Consent Calendar?

MS. SILVERMAN: The Consent Calendar ready for approval.

CHAIRPERSON ORTEGA: Okay.

MR. DIAZ: Moved.

MR. KIM: Second.

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

(Ayes)

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

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

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

MS. KAMPMEINERT: -- record to reflect --

CHAIRPERSON ORTEGA: All right. With no further
public comment to come before the Board, we're adjourned.

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