CALIFORNIA STATE ALLOCATION BOARD
PUBLIC MEETING

STATE CAPITOL
ROOM 447
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, JANUARY 24, 2018
TIME: 4:00 P.M.

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APPEARANCES:

MEMBERS OF THE BOARD PRESENT:

JACQUELINE WONG-HERNANDEZ, Chief Deputy Director, Policy, Department of Finance, designated representative for Michael Cohen, Director, Department of Finance

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 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
PROCEEDINGS

CHAIRPERSON WONG-HERNANDEZ: It's 4:00 o'clock. I'd like to call this meeting to order. Secretary, will you please call the roll.

Senator Nguyen.
SENATOR NGUYEN: Here.
MS. JONES: Senator Pan.
Assemblymember Nazarian.
Assemblymember Chavez.
ASSEMBLYMEMBER CHAVEZ: Here.
MS. JONES: Assemblymember O'Donnell.
ASSEMBLYMEMBER O'DONNELL: Here.
MS. JONES: Juan Mireles.
MR. MIRELES: Here.
MS. JONES: Cesar Diaz.
MR. DIAZ: Here.
MS. JONES: Daniel Kim.
MR. KIM: Here.
MS. JONES: Jacqueline Wong-Hernandez.
CHAIRPERSON WONG-HERNANDEZ: Here.
MS. JONES: We have a quorum.
CHAIRPERSON WONG-HERNANDEZ: Great. Thanks. So there has been a request by a member to take the action
items out of order. The Charter School Facilities Program Unfunded Preliminary Apportionment item and the Seismic Mitigation Program and Other Technical Conforming Regulatory Amendments item. Both items are in Tab 6. If the Board agrees, we'll start with those items and then move to the Consent Calendar which is in Tab 4 and then to the Minutes which is in Tab 2. Is it without objection --

UNIDENTIFIED SPEAKER: Do you need a motion or is it just --

CHAIRPERSON WONG-HERNANDEZ: That's what I was --

MS. JONES: You don't need a motion.

CHAIRPERSON WONG-HERNANDEZ: Okay. We're all good. Everyone will object if they want to. Okay. Then we'll proceed in that order. So then the first order of business in Tab 6 is the Charter School Facilities Program Unfunded Preliminary Apportionments.

MS. SILVERMAN: Yes. Hi. Good afternoon. We wanted to highlight to the Board that since Proposition 51 was approved, there was $500 million for the Charter School Facilities Program and with that, we were happy to announce in February that the filing round had opened.

And that filing round did close in June and as a result of that, we had over 191 applications for 3 and a half billion dollars. So it was definitely well worthwhile filing round. So -- very competitive, if I may add.
So in order for a charter school to compete, they actually have to have financial soundness tests performed by the California School Finance Authority and then the application reviewed and scored by our office.

So at this time, I just wanted to highlight to the Board that the Attachment B, we're seeking the Board to approve for 25 projects for $243 million and those were the preliminary reservations of funds. So once the Board takes action, they have four years to perfect their project. So it's just a preliminary reservation and charter schools actually have the ability to apply for a loan as well if they don't have a local match.

And if they are seeking site and design, along with that attachment, we will be placing those items on the unfunded list. So those charter schools will have the ability to seek out the design and site funds in advance.

So with that, we are asking the Board to approve the Attachment B along with the 25 preliminary apportionments for $243 million and also place the advanced site and design projects on the unfunded list.

We also will be bringing back a complementary item for February so we can bring forward additional projects at the February Board and that will obviously subsume the rest of the 500 million. Seeking your approval.

ASSEMBLYMEMBER CHAVEZ: Move approval.
CHAIRPERSON WONG-HERNANDEZ: Before we do that -- thank you, Assemblymember Chavez. Is there any public comment on this item? Okay. I was going to ask for a motion. Thank you.

ASSEMBLYMEMBER CHAVEZ: Motion to approve.

MR. DIAZ: Second.

CHAIRPERSON WONG-HERNANDEZ: Great. And we have a second.

MS. JONES: Senator Nguyen?

ASSEMBLYMEMBER O'DONNELL: I'd like to ask a question.

CHAIRPERSON WONG-HERNANDEZ: Yes.

ASSEMBLYMEMBER O'DONNELL: So I just want to clarify where -- this is Action Item No. 6. It's speaks to the Charter School Facilities Program only.

MS. SILVERMAN: Yes.

ASSEMBLYMEMBER O'DONNELL: Just want to clarify.

Thank you.

MS. JONES: Senator Nguyen.

SENATOR NGUYEN: Aye.

MS. JONES: Senator Pan.

SENATOR PAN: Aye.

MS. JONES: Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: Aye.

MS. JONES: Assemblymember O'Donnell.
ASSEMBLYMEMBER O'DONNELL: Aye.

MS. JONES: Juan Mireles.

MR. MIRELES: Aye.

MS. JONES: Cesar Diaz.

MR. DIAZ: Aye.

MS. JONES: Daniel Kim.

MR. KIM: Aye.

MS. JONES: Jacqueline Wong-Hernandez.

CHAIRPERSON WONG-HERNANDEZ: Aye.

MS. JONES: Motion carries.

CHAIRPERSON WONG-HERNANDEZ: So then we're moving onto the next item and I know we have a lot of public comment on and we'll get to you, but we're going to start with the staff presentation on the Seismic Mitigation Program and Other Technical Conforming Regulatory Amendments.

MS. KAMPMEINERT: So the item we have before us -- there are a couple things happening in this item. One is sort of good news situation.

We have -- with the approval of the Consent Agenda at this Board meeting, we will have exhausted the funding that was made available for the Seismic Mitigation Program through Proposition 1D.

Through that bond, there was 199.5 million made available out of the New Construction Bond Funds to address
seismic mitigation projects for the most vulnerable Category 2 building types and the Board set aside that full 199.5 million back in 2007 and it has been going out over the past few years and we will exhaust it in the applications that we've received to date.

That brings us to a new issue and we have now received more funding application requests for the seismic funds than we have bond authority available.

If I can draw your attention to the chart on page 129 of the agenda, there is a chart there with a black line. Without any additional action by the Board, we will be able to provide partial funding to the first project on that chart and then according to the regulations in effect today, we would need to return the five applications below that line as well as any other seismic requests that are submitted to our office.

So when we realized this was -- we had reached this point, we took a look at the Proposition 51 language and the statute to see if there were any options if the Board so chose to continue to fund seismic mitigation projects and we do believe that there is room within the Proposition 51 bond funds under the new construction funding category to include Seismic Mitigation Program projects as part of a standard facility hardship application.

To do so, we would need regulation changes that
would remove the limit of $199.5 million in funding for those project sites. It would also align the regulations so that this would all be part of the regular Facility Hardship Program and it would remove the requirement that we return the applications in excess of that $199.5 million.

So if the Board chooses to make the change to continue to allow these projects to go forward as health and safety projects under the Facility Hardship Program, we've included proposed regulations that would enable us to continue processing the applications under the regulations once they become effective.

With that, the regulations -- the entire regulation packet, we have requested that if the Board approves the regulations, we do so on an emergency basis because these are health and safety projects, and with an emergency track, then the regulations would be in effect prior to the next priority funding certification period which means that the projects would be able to access the cash faster than if this is the normal regulation route.

So that is one decision point that we need from the Board there.

Also included in the regulation package are conforming amendments to the regs related to the June 5th policy decision that the Board made for how to process funding applications moving forward now that we're back
within bond authority under Proposition 51.

So what you will see in that regulation section are two things to note. The technical amendments have been made for those applications that were submitted on June 5th, 2017, or later so that they have in regulation that they would be updating their new construction eligibility at the time that OPSC is processing the application, which is consistent with the Board's action on June 5th.

And then also we have put into place how that works for the small school districts. You may remember a couple discussions that we've had at the Board meeting where small school districts have a statutory provision where we don't have to process a decrease in their new construction eligibility for a period of three years from the time that the Board approves their eligibility adjustment.

So we have included in there the language that would have small school districts update beginning in the '16-'17 enrollment year which was the first opportunity for those new construction adjustments to be submitted or '17-'18 or future years, whenever the small school districts are ready to provide that eligibility update.

And then once that update is approved by the Board, we would not decrease the eligibility for a period of three years after that approval.

If the small school districts choose not to make
that update in advance of their funding application being processed, they would be subject to the enrollment in place at the time that the application is processed by OPSC.

Another thing to note in these regulations related to the process that we would be using to notify school districts of the need to do an eligibility update and that we would be processing the funding application, we have had the regulations out a couple of other times in the past and originally we had proposed that we would notify school districts 60 days in advance of processing and that if the enrollment information was not submitted, we would return the funding application at the end of those 60 days.

We've received some feedback from stakeholders and we believe that there is some room here to make this a little bit easier process for everyone. So we have changed the regulation language to specify that we will notify school districts 90 days instead of 60 days in advance of OPSC processing the application. And at the end of that 90 days if we do not receive the enrollment information, we may return the application, and that gives OPSC some discretion in the event that something unexpected/unanticipated comes up, the fires, for example, where a district is making a good faith effort to move forward with updating the eligibility, but something comes up and they need a few more days/a few more weeks, something in that time frame.
So those have been included in this regulation package as conforming amendments and we are recommending that the Board adopt the regulations that are shown in Attachment B and we are asking that the Board authorize us to file these regulations on an emergency basis.

CHAIRPERSON WONG-HERNANDEZ: Thank you. So we're going to actually start with questions and comments from the Board. Mr. O'Donnell.

ASSEMBLYMEMBER O'DONNELL: Yes. What I'd like to do is put forward a motion that separates these items. I don't necessarily have any issues with the seismic mitigation side of the question -- of the item, but on the other technical conforming regulatory amendments, I do have some challenges mainly along the lines of process because I don't feel it's been significantly vetted at the Board level.

I think there are some practical issues there with districts maybe limiting how many facilities they'll build because of their fear that they might be rebenched at a later date, and I think there's even some legal considerations with regard to state law there.

So what I'd like to do is -- hopefully I'll get a second on this -- is put forward a motion that segregates the Seismic Mitigation Program elements of Item No. 6 from the other technical conforming regulatory amendments of Item
SENATOR NGUYEN: Second.

CHAIRPERSON WONG-HERNANDEZ: Okay.

ASSEMBLYMEMBER O'DONNELL: So we have -- essentially it has two questions. It needs two votes.

CHAIRPERSON WONG-HERNANDEZ: I'm trying to figure out how that works -- sort of add the regulations package the way that the package is written?

SENATOR NGUYEN: I think you could always divide the motion.

ASSEMBLYMEMBER O'DONNELL: Well, we're splitting the question into two parts -- two votes.

CHAIRPERSON WONG-HERNANDEZ: Right.

ASSEMBLYMEMBER O'DONNELL: One adopting the seismic regulation. I don't have a challenge with that. What I do have an issue with is the technical conforming regulatory amendments.

MR. KIM: Just to clarify, I'm wondering if we split the motion, what are the consequences? Can we make that action now or would that require staff to go back and make changes because the motions are inextricably linked and you'd have to change the reg packet?

MS. KAMPMEINERT: The reg packet's been structured as one regulation packet. So there are multiple sections of the regulations that have been put into the same packet. So
it might be unclear if we submit the regulation packet with separate Board action pulling them out because we're going to have to list all the individual regulation sections that the Board approved versus the ones that they didn't approve.

So we could separate it out, potentially bring them both back in the future so that it's clear exactly which regulation package was approved by the Board, but it might be a little messy to do it as an action today.

MR. KIM: So if we took that action, we basically would have staff go back, review that, and make those changes and in the meantime, we wouldn't be able to fund any of the schools; is that correct?

MS. KAMPMEINERT: Without a regulation change on seismic, we would not be able to continue processing the applications because current regulations would direct us to return those applications.

ASSEMBLYMEMBER O'DONNELL: So what you're telling me is you can't -- we don't even know what the vote will be, number one, but what you're telling me is you can't segregate these two? Why were they combined? You know, again, I don't feel like there's been adequate discussion on the second -- so it kind of puts me in a position too as a Board member who's not comfortable with voting on something unless it's further vetted.

You know, I want the seismic regulations -- I
don't like them. In the future going forward, hopefully we
wouldn't bunch these things together and how are they
bunched together so they can't be segregated today.

MS. KAMPMEINERT: Well, we included them as part
of one item because we are seeing these as just technical
changes because the Board already had the policy discussion
on the new construction eligibility adjustments. So we're
just bringing the conforming regulations on that.

We weren't seeing that that was a separate policy
decision, but there are multiple sections of the regulations
that are being amended, some for seismic, some for new
construction eligibility.

So it is technically possible to pull them out,
but it makes for a less clear regulation package to OAL.

ASSEMBLYMEMBER O'DONNELL: So it is possible,
number one, but remember our discussion was about beyond
authority and there was significant discussion. I don't
believe it was -- there was any discussion on the new
projects.

MS. BANZON: Excuse me. I would just like to
remind the Board that if we were to bifurcate, the
requirement would be that each proposition has to stand on
its own. Apparently, there are some mesh up with the other
proposal. It might be quite difficult, just as a
reminder. Thank you.
CHAIRPERSON WONG-HERNANDEZ: So can I kind of just take a step back. Can we have the discussion of both of the items and just kind of fully flesh out the actual discussion of the two pieces people want to talk about and then kind of come back to the bifurcating of the actual motion.

ASSEMBLYMEMBER O'DONNELL: Well, that motion's been made thus far, been seconded, but we can come back to that discussion.

CHAIRPERSON WONG-HERNANDEZ: So we can take a vote on the motion. So I at this point don't a reason to bifurcate them without further discussion. So I'll be asking for a no vote. But we can -- we have a motion and a second. Oh, sorry. Senator Pan.

SENATOR PAN: So I understand that the regulations regarding the second portion, which I did support the policy, so, you know, so that's not the issue for me, but I mean to be fair, that was actually part of the last meeting. We decided to defer it. So we know what body of regulations apply to that particular item.

So are you telling me that seismic ones are -- you know, those are new to this -- are you telling me that those are so interdigitated with the other one -- because we know what the ones that are related to the second portion, the regulatory, because those were actually on our agenda at the last meeting and then we decided not to --
ASSEMBLYMEMBER O'DONNELL: But what list -- the real question here is what lists we're applying them to. The discussion last time was that they would apply to the beyond authority list. Now we're talking about other new projects as well, correct?

SENATOR PAN: Okay. So besides from the merit of each of the items, I just want to clarify our ability to divide the question clearly should be present. Right? I mean I'm not sure why we can't divide the question.

MS. KAMPMEINERT: It could be divided, but typically we submit a copy of the Board item to OAL when we're sending -- to the Office of Administrative Law when we're sending a regulation package forward. So we would need to be very specific in the Board option on how we moved forward with this to make sure that we are adopting just the pieces that apply to seismic and make sure that we're not blending sections. So we would need a minute to kind of take a look at that and see exactly what that structure would be.

SENATOR PAN: Okay. But we know exactly which ones apply -- well, just want to say. We know which ones apply to the technical regulatory amendments because we actually had them as a separate set last meeting except we decided to put it off to this meeting and then we also have some additional regulations relating to seismic.
Unless they're interdigitated, we should -- at least we certainly know what one group is and I assume the remainder is the other one unless somehow they're interconnected.

ASSEMBLYMEMBER O'DONNELL: Can I ask a question? It's my feeling that we had the discussion on the beyond authority list, but the vote here today is on beyond authority and new projects list. Is there a way to just segregate out the new projects?

MS. KAMPMEINERT: The staff position on the Board's past action based on the staff write-up and the conversation is that the -- Option 1 applies to all the projects. So the regulations as written do not actually apply to the projects that were on the applications received beyond bond authority list. They apply to applications moving forward that were submitted on or after June 5th.

ASSEMBLYMEMBER O'DONNELL: That was in a follow-up memo, but I don't believe it was a point of discussion at the Board level. That's why I have this struggle. Beyond authority list, I concur it was discussed. New projects, that's where I'm not comfortable saying that -- significant discussion at the Board level.

CHAIRPERSON WONG-HERNANDEZ: So I have a question. I obviously wasn't here in June and you all were. I have read through the June 5th items and it seems to me that in
several places they talk about all applications in referencing anything received on or after June 5th, 2017. So I took that to mean applications already received and those in the future. Is that not correct?

MS. SILVERMAN: That is correct.

ASSEMBLYMEMBER O'DONNELL: But where are you seeing that? Is that on a post-meeting document?

MS. SILVERMAN: That was the June 5th report.

CHAIRPERSON WONG-HERNANDEZ: Yes, on our report, and so if that's not -- if that report isn't correct, I would -- I'm looking to you, if you're saying that's not what the discussion was. You all were here. Can you all clarify what was discussed?

MS. SILVERMAN: Yeah. It was actually stated on a few pages on the June 5th report, to be exact, in highlight actually on the first page 554, we talk about applications received beyond the bond authority list and any future applications. So that's under the -- the first paragraph.

On the bottom of page 555 on the background, we actually list out the applications that we receive beyond authority and then we also highlight that this list does not include approved applications for new construction and modernization that were received on or after April 1st, 2017, but yet acknowledged by the Board.

So that was discussion about what the process
would be and how we need to update new construction eligibility.

It is further defined also in page 557 of the report under staff analysis, top paragraph, and it seeks the Board direction on how to proceed with a project when the application is received beyond bond authority list as well as approved applications for new construction and modernization received on or after April 1st, 2017, that have not been added to the list.

MS. KAMPMEINERT: It's also in the options on page 551 where it indicates that in this option, the Board would move the applications from the applications received beyond bond authority list and those approved applications received on or after April 1st, 2017, to the standard OPSC workload list.

SENATOR NGUYEN: Madam Chair, I understand if we bifurcate and have two separate motions. What I'm hearing -- and correct me if I'm wrong, Barbara -- is really it's just a little more juggling from staff in terms of making sure that the documents are correct.

There's not really that many items on the seismic portion of it anyway. It's not it's a thousand list of projects. So legally, I don't -- is there legal problems for us to divide the item?

Here's why I'm supportive of it is that, because I
did not support the policy, I would like to stay consistent, but I do support the projects. So I have no problem with the projects. It's just that I want to be consistent with my previous vote and we did have a very lengthy discussion of the policy.

And then so that's really -- I mean legality wise can we or can we not do it. I mean set aside the mechanical part of paperwork and documentation from staff's, you know, concerns. Legally, can we bifurcate it?

MS. BANZON: I gave the guideline that if -- to be able to bifurcate according to Mason's Legislative Manual, it has to be a proposition that can stand up on its own. Each proposition has to stand up on its own.

So I would leave to staff, you know, how -- as they've testified here that there is -- it's kind of unclear as to the division. It's --

SENATOR NGUYEN: But the items don't -- I mean when you're saying stand by its own, I mean I'm going to assume most of the members here might support the policy because you voted last time. So that passes, then the seismic projects can still pass. You can't pass seismic project without the policy, but I don't know where other Board members stand, but I mean I guess that would be a concern if the policy doesn't pass and the projects pass.

Is that what it is? Because they can't stand
alone.

MS. BANZON: If they cannot stand alone, then it would be very difficult to bifurcate them.

ASSEMBLYMEMBER O'DONNELL: Well, it's very clear it's new projects versus the beyond authority list. The argument that I'm making is that the last -- when we discussed this in June, right, we spoke specifically about the beyond authority list, okay, not the new projects.

Beyond authority list was that old list. Now we're talking about all projects going forward. Your districts could have the potential they build a project and when it comes time to their application getting processed, their student numbers get rebenched and they don't get the money for the project.

MS. BANZON: So according to staff, they testified according to what they were reading was beyond bond authority plus future applications. I'm not sure at what point we can clearly separate them.

MR. DIAZ: Yeah. I just want to clarify. I think, you know, this discussion is healthy, but it's also I think hurtful. We've been talking about a possible delay of actually approving projects and even if there was an ability to bifurcate, staff would have to delay and actually look at it and present it back to the Board, still with no guarantee that we'll actually adopt those changes because we're going
to have to look at that as well.

For consistency purposes, I do think that if the item is presented the way it is, we have the option to oppose the actual proposal and still be consistent with it while still being supportive.

I do think that a delay based on what staff has already outlined what was detailed in the actual item about applications received and the date certain and the processing, I do want to kind of highlight a concern that we have is we would be operating under an underground regulation if we actually don't do something about a proposal that we have already approved an item. Is that correct or --

MS. KAMPMEINERT: Yes.

MR. DIAZ: Okay.

MS. KAMPMEINERT: We need to put the regulations in place so that we are avoiding the underground regulation situation with the projects moving forward after the beyond authority list.

MR. DIAZ: And what is the potential harm for having underground regulations and the harm that it may cause to projects?

MS. BANZON: Underground regulations would mean that any action we would take is invalid.

MR. DIAZ: Thank you.
MR. KIM: If I could. I totally appreciate Senator Nguyen's position that she just wants to be consistent with her position in the June hearing.

I think my question is there's one thing being consistent with your beliefs, but I think what we're trying to do here is -- the question I have is do we think that the conforming regs reflect the policy action that we took in June.

That's a different question than are we going to read this as the policy and I think from my understanding, the conforming regs do reflect the policy decision we made and if we could vote on whether it does reflect -- if members here don't feel it reflects the decision, that's a different thing.

But it would seem to me that it does reflect the action we already took.

CHAIRPERSON WONG-HERNANDEZ: Does anybody want to -- go ahead.

SENATOR NGUYEN: I just wanted just to -- I know the comment was made that this -- bifurcating could delay the projects. I don't believe so. And then when I say consistency, for me it's more, you know, if -- I believe in seismic retrofitting. I believe we should do that.

So by me voting no on this would then show that I don't believe in that and I don't support that. So that is
not consistent of -- I mean the regs and the policy's
different to me than the actual project and the merits of
the project.

And so that's what I meant by, you know, staying
consistent. So the comment that was made earlier, I just
want to make sure it's understood that I'm not -- I mean
just -- yes, I do have a choice to vote yes or no on this
currently as it stands, but by voting no, then it shows that
I don't believe that we should retrofit seismic for our
children's schools.

I don't believe in that, you know, and I don't
believe any of us here does. So then that won't be where I
would stand. It's just that the policy -- you know, I agree
with the Assemblymember, I don't believe it's consistent.
This is new projects -- did not vote those in the past. But
I -- that's all my comments for now.

ASSEMBLYMEMBER CHAVEZ: Can I make --

CHAIRPERSON WONG-HERNANDEZ: Yes. Assemblymember
Chavez.

ASSEMBLYMEMBER CHAVEZ: I appreciate all the
discussion we're having because I was -- I'm sure we've all
heard from our districts and the concerns on the second
portion that trying to be segregated.

But if I hear this right -- and I want to get the
lawyer to tell me if I'm right -- is that if we -- the
motion on the floor to bifurcate this would not be legally prudent. Is that what I'm hearing you say? From the understanding of the staff's guidance; is that correct?

MS. BANZON: That is correct.

ASSEMBLYMEMBER CHAVEZ: Okay. So the motion on the floor would not be legally prudent. The second issue I see coming forward is that we can either approve the recommendation by the staff or disapprove the recommendation by the staff.

If we disapprove the recommendation by the staff, what would concern me is the seismic issue and if you look at the chart that they had, the -- we could only do this Orange, Garden Grove, and not the other ones.

One in particular to me is in Desert Jr.-Sr. High at Edwards Air Force Base. It's a military school. So I would like to make sure we take care of them.

And so I would be supportive of what we have here. If we vote no to it, then we wouldn't be able to support this and not get the money out. I think the real mission of this whole Board is to get resources out to the school districts to build schools for kids.

So I mean under that situation. I would ask, though, that maybe we could leave it to staff to come back on February 28th or if there's any other concerns that are being voiced from our school districts. I'm sure that
the -- Assemblymember O'Donnell's running across also that maybe we can look at that and study that, figure out how to address those concerns.

But I -- if there's some way we could do that. Staff, Barbara or Lisa, do you think?

MS. SILVERMAN: The option -- I mean the whole discussion that was had on June 5th, the Board did make the recommendation also to hear appeals.

We have no appeals to date with the issue of updates on the new construction eligibility. So -- and we were supposed to fast track if there are any appeals in that arena, and we have not received anything to date.

So I just wanted to clarify that. I think it's an important point. We've also had -- you know, there's been news reels about recent seismic activity in Alaska, over 8.6 earthquake that just happened yesterday, some other seismic events that happened in California just recently.

So, again, we want to just to clarify concerns. We have no appeals related to the new construction eligibility updates.

ASSEMBLYMEMBER CHAVEZ: So there is an ability to appeal --

MS. SILVERMAN: Absolutely.

ASSEMBLYMEMBER CHAVEZ: -- so in my particular case (indiscernible), if they chose to appeal their -- the
impact of this decision, then we would be willing to hear that.

MS. SILVERMAN: Absolutely. That was part of the recommendation.

CHAIRPERSON WONG-HERNANDEZ: So it seems like --

ASSEMBLYMEMBER CHAVEZ: Okay. Thank you.

CHAIRPERSON WONG-HERNANDEZ: Thank you, Assemblymember Chavez.

MS. SILVERMAN: Appreciate it.

CHAIRPERSON WONG-HERNANDEZ: I want to acknowledge that a motion has been made and a second. I think that if there is no further discussion, I think people have made their points, raised legal concerns, raised the points about wanting to be consistent with their previous policy votes. Go ahead.

ASSEMBLYMEMBER O'DONNELL: What I don't appreciate is trying to be scared in to voting for this. I don't appreciate that. Listen I think -- bluntly, I think there's some more work done on this, quite frankly. There was a discussion held in June and that discussion was on the beyond authority, a list of projects. That's what that discussion was about.

Now we're adding in projects -- all projects going forward. So your districts may not be able to build certain projects because they don't know what money they're
ultimately going to get back from the state because the application for the project that's built today might not get worked on for three, four years down the line and at that point, going to say, well, rebench your numbers. How many students you have today? Uh, you get less money.

So this ultimately might have fewer school -- fewer safe school facilities built, fewer seismically safe school facilities built if we do go down the path of approving a new projects list as well because a district may be limited on the financial side from constructing those facilities.

CHAIRPERSON WONG-HERNANDEZ: Okay. So we're going to entertain the motion that was made to bifurcate this item into the two -- seismic regulations versus the technical regulatory amendments. Do you want to call?

MS. JONES: Okay.

CHAIRPERSON WONG-HERNANDEZ: Go ahead.

MS. JONES: Senator Allen.

SENATOR ALLEN: Aye.

MS. JONES: Senator Nguyen.

SENATOR NGUYEN: Aye.

MS. JONES: Senator Pan.

Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: No.

MS. JONES: Assemblymember O'Donnell.
ASSEMBLYMEMBER O'DONNELL: Aye.

MS. JONES: Juan Mireles.

MR. MIRELES: Aye.

MS. JONES: Cesar Diaz.

MR. DIAZ: No.

MS. JONES: Daniel Kim.

MR. KIM: Nay.

MS. JONES: I'm sorry?

MR. KIM: No.


CHAIRPERSON WONG-HERNANDEZ: No.

MS. JONES: The motion does not carry.

CHAIRPERSON WONG-HERNANDEZ: Okay. So the motion does not carry. We're back to considering the item in its totality and I do want to continue the Board discussion and then take public comment on the item as a whole. So please feel free to continue with your questions and concerns for staff or for other Board members.

Okay. I'd like to take public comment. I have a number of speaker cards here and so the first one I have is Julie Arthur. Please come forward.

MS. ARTHUR: Madam Chair, members of the State Allocation Board, thank you for the opportunity to address you this afternoon. I think it's still afternoon, not evening yet.
My name is Julie Arthur. My day job is Palm Springs Unified School District. I'm Executive Director of Facilities, Planning, Development there. I'm also the vice chair of the Coalition of Adequate School Housing, CASH, and you should have received a letter from our chair, Don Ulrich, regarding Tab 6 which is the seismic mitigation regulation that we're here to speak about.

And I wanted to go on the record about a few things. The first is we are in opposition to the latter part of the regulation being proposed as technical conforming regulatory amendments.

The proposed regulation is in conflict with Education Code 17071.75(a)(2) which states that a school district shall calculate enrollment projections for the fifth year beyond the fiscal year in which the application is made.

The proposed regulation presented in the agenda adds language to the requirement, current year enrollment for purposes of beginning application processes by OPSC. This is a new concept, totally inconsistent with the statute that states the enrollment is projected.

Proposed regulation also intends to penalize districts for failure to provide the current year enrollment within 90 days. This is also a new concept, totally inconsistent with statute.
Planning for school building construction is challenging, requiring great expertise in advance of submission to OPSC for new construction funding. Plans for new construction funding submitted based upon student projection anticipated by Ed Code 17071.75(a)(2) is predictable and logical.

The unpredictability that's being proposed will result in a waste of local bond funds used in developing new school construction plans. It is therefore our request that the Board respect the technical performing regulatory amendment as proposed as in direct conflict with Ed Code 17071.75(a)(2).

Also we do want to put forward that CASH and most of our districts here today, we do support the Seismic Mitigation Program. My district was -- has received quite a bit of funds on that and we greatly appreciate it and we look forward to a new program on that.

However, we fail to see any need for the regulations being proposed to be presented on an emergency basis. I don't see the difference of processing these forms and coming back with separate items here decoupling these two by February 28th. I don't believe that there will be a check cut in the next 30 days. So there wouldn't be any districts or any projects harmed if holding to the 28th, come back, and taking these as two separate items.
So again, the Board has no available funds which to provide an apportionment for seismic mitigation or for health and safety projects. Such funds may not be existing or accessible to the Board until May or June which would be the next bond sale.

So it is our request that the Board take action to decouple the seismic mitigation regulation language from the item as presented and take action to approve the seismic mitigation regulation only and without an emergency determination. Thank you. Any questions or --

CHAIRPERSON WONG-HERNANDEZ: Thank you. Next I have Randall Rowles. I'm not sure if I'm pronouncing the last name correctly.

MR. ROWLES: Thank you very much and you did get my name right, by the way. Board, we're very glad to be here. I first of all want to -- my name's Randy Rowles and I'm Director of Maintenance, Operations, and Transportation for the Bakersfield City School District. We're the largest K-8 school district in the state of California with over 31,000 students.

A profile of our students: 90 percent of our students receive free and reduced lunches. 33 of our 44 schools are over 60 years old. Our school district is 45th out of 47 school districts in Kern County assessed valuation per student, and our average home value in our district
As you can tell, the state facilities program is extremely important to districts like ours and others. To enact -- well, let me say this.

Additionally during this time, we built two schools and we received the funds last week, 25 and a half million dollars, so thank you all very much for that. It's in the bank and we're putting that to use on a new school. So during the time -- we turned in our application in 2012. Until now, our district's grown almost 3,000 students in that time.

We've had the delay building our new school for six years in order to receive those funds and do that.

Our district benefits because we've grown, but I could imagine the uncertainty that the new policy and technical conforming regulations can cause many districts to have to go out, address growth issues, and then have the potential of migratory district student movement and changing your numbers and then have to go back and return money.

The key to the program for all of us districts that have to leverage it so much in order to address our growth needs is to have a certain and logical and noncomplex system for us to understand. We have to plan 10 to 15 years in advance and we have to deliver our projects.
So we support the idea of bifurcating the two issues. We think the issues particularly with eligibility and others, the changes in the regulations have dire consequences to our district and several districts that had such growth. We had to go out and fund our own projects to the tune of $49 million and have had to wait six years to receive our funds.

We're very appreciative of those funds, but we're equally appreciative that we need to have a certain logical and reliable system, the state facilities program, that we can count on. Thank you.

CHAIRPERSON WONG-HERNANDEZ: Thank you. I'd like to ask Julie Boesch or Boesch -- you can let me know if I got that one. You can come up here.

MS. BOESCH: It's Boesch like the u-s-h. It just doesn't look like it.

Thank you for the opportunity to address you today. I was here last month because we were incredibly blessed with a facility hardship approval and a scope change that you all approved, although many of you weren't here.

So incredibly thankful also for the support of -- from the State Allocation Board and from the Office of Public School Construction. They did amazing work on the part of our district.

So I am the Superintendent of a small school
district in Shafter in Kern County. I have absolute fire, life, and safety conditions that are unsafe for my students. 

So I understand this item and I'm absolutely in favor of the seismic portion, but I think that the additional portion makes an already complicated process even more complicated. So I'd like to impress upon you and just give you a little bit of insight into the importance of the work that you do here and also encourage you to really consider all of the aspects of the decisions that you make.

In my particular case, I have project approval for facilities hardship, but one of the things that's really important and one of the things that was brought up in the comments is that none of us are receiving any money at this moment.

So at my particular district, my sixth grade teacher gets shocked every time he turns the lights on because water is running down the walls in my classroom and it is intermixing with the electrical.

My library ceiling fell in last week -- portions of it, creating hundreds of books to be damaged. We have no bond capacity and we have no developer fees, so we are completely 100 percent dependent upon the school facilities funding.

And also due to past experience with school facilities funding, my contractors, even though they are...
committed to my project, are afraid to take action to mitigate the circumstances that I have right now because they don't really believe that money is coming. So complicating the process and the project that is already in place just creates additional issues for us.

So please consider the importance of the decisions that you make and the consequences of the numerous districts who are facing similar challenges as mine. Thank you.

CHAIRPERSON WONG-HERNANDEZ: Thank you. Could Shawn Atlow please come to the front.

MS. ATLOW: Hello. I am Shawn Atlow. I'm from Los Angeles Unified School District. I'd like to start by thanking OPSC for reaching out to us to try to address our concerns related to this item.

They did put a lot of effort into it and though it doesn't necessarily get us exactly what we want, we appreciate that they're working with us.

I'd also like thank the Board for already entertaining a request to split these two items. Though you didn't approve that, I'm going to ask again if you could consider or reconsider splitting these two items.

I think they're not inherently connected to each other. The connection is being made only because the regulations have been presented together, but outside of that, there's no commonality between them and they probably
should be considered as two separate issues because from our point of view, they are two separate issues.

On the seismic item, half of the value you see in the report is related to projects at LAUSD. We are willing to wait if that's the only way to get the two items segregated. So if you have to bring it to a future meeting in order to consider them separately, we would support that.

For the new construction eligibility item, we are of the opinion that the conversation in June was not clear, so much so that OPSC had to come back at the next meeting and clarify. So I think there's probably among stakeholders some agreement that the action the Board took might not have been black and white that it was intended to apply to all future applications.

When we rewatched the webcast and when we were here at the meeting, we left with the impression that the action was only related to the beyond authority list.

We would ask that the Board have a public discussion that very clearly is intended to cover all future applications so that it's 100 percent clear to everybody what the Board's intent is.

The one thing that I do recall from the June meeting is the absence of a conversation about what it actually would cost a district to get an eligibility review if this new rule is put in place.
And so the rules as they stand today, we can have our eligibility evaluated by OPSC and acted upon by the Board and we know before expending money on our project whether or not we would be eligible for funding in that fiscal year.

This rule change would require us to acquire land, get all of our agency approvals, basically finish design which could cost us tens of millions of dollars, only -- that's only to get a determination of whether or not we might be eligible for funding.

So it's not just a policy question for us. This could be tens of millions of dollars of investment just to get an answer on whether or not we're eligible for the program.

And so we would very much like the Board to just have that conversation in a way that makes it clear that the context is not just the beyond authority list because when we left that meeting and when we rewatched the item or the webcast, it seemed like it was only about the beyond authority list.

And I do acknowledge that the written item did speak to projects beyond -- or projects going forward, but it was posed as a question and I don't believe that question was actually addressed in the meeting. Thank you for your time.
CHAIRPERSON WONG-HERNANDEZ: Thank you. Next I have Thomas Pace.

MR. PACE: Good afternoon. I wanted to start by thanking Lisa and her team for their continued support of our building program. We always don't see eye to eye, but they always give us a lending ear and we seem to work out our issues over time.

I'd also like to thank the Board for their continued support of our building program. We've benefited greatly over the years from the money we've received from the state.

Like Randy, we deal with a lot of need. Over the past ten plus years, we've received well north of $600 million under the state facility program, and I can tell you that since that time, that capital investment has led or contributes to at least a 5 percent growth in our grad rate over the last ten years. There is a direct correlation of capital investment and our grad rate.

We are extremely thankful for the funds we've received, which is one of the reasons why we've stayed quiet over the past few months in discussions concerning new regulations, but the time has come for our silence to end.

We stand in opposition to the proposed regulations that would require the use of current year enrollment at the time of application processing date for the following
reasons.

The School Facility Program requires districts to invest in the planning with new construction projects with local funds. For us local funds are a gift. They don't come very easily.

Given the time frames required for the planning of new construction projects, the proposed regulations could potentially waste local taxpayer dollars. Predicting future enrollment in a large urban school district such as ours is challenging and an inexact science.

Challenges that affect our ability to provide accurate enrollment projections to an unknown date in the future include a diverse and ever changing economy and a volatile political landscape.

The beauty of the current School Facility Program is that risk and financial obligations are shared between the state and the LEA. Under the proposed regulations, all risk in the planning and reporting of enrollment projections transfers to the LEA.

The proposed language only benefits the state and is potentially punitive to local districts.

We'd like you to reconsider the proposed language found in the technical conforming amendments and I thank you for your time.

CHAIRPERSON WONG-HERNANDEZ: Thank you. I'd like
to call up Bill McGuire.

    MR. McGUIRE: Good evening. I'm calling it
evening. I don't care what anybody else says.

    Madam Chair, members of the State Allocation
Board, thanks for the opportunity. I'm breaking ranks with
all my members. You heard great stuff from all those school
districts.

    Twin Rivers Unified School District, I'm the
Deputy Superintendent. We're the guys right over there.
We've been before you over hardship for various projects and
you have helped us every step of the way.

    I hate to tell you this. You know, we have a
(indiscernible) count of 88 percent. We got 28,000 kids
that need you every day. We have $3.5 billion of unmet need
in Twin Rivers. Our schools are 45 years old on average.

    We have an opportunity for a new school in the
Greenbriar Development which is bound by 99 and I-5 which
will be the first school in our district in 20 years and
these regulations will make it next to impossible for us to
implement the developer fee agreements that we already have
in place because they're based on the current law in place
not a change in statute.

    So while everybody else have all these other great
things and they did all the statutes and I can do all those
things to you, I can tell you this is going to affect us.
It's going to affect our kids right over there next to the Sacramento Metropolitan Airport where our school's going to be going in.

And as everyone has said we got to have the certainty to know that we're going to invest $45 million in a K-8 school for that community and it's desperately needed in our community. And these regulations make that almost impossible.

And the most important thing, everybody's asked you to bifurcate this issue. You have already voted not to bifurcate it. I urge you to vote no today on these and reconsider that action. Thank you.

CHAIRPERSON WONG-HERNANDEZ: Thank you. Could you stay. I think Senator Allen has a question for you.

SENATOR ALLEN: Okay. So -- I think there's a series of competing narratives here about the impact of these regulations. Now, I didn't vote for the proposal back in June and I voted to bifurcate this now. Both cases, my side lost.

But it does appear as though the Board's made a decision a couple times, and, you know, I don't agree with that decision, but the Board's made a decision. But one thing I am struggling with is the extent to which your really rather strong assertion is true or not.

And I'd like to get a little bit of clarification
maybe from the staff or from others to just respond to this whole idea that what -- it seems to me that, at least the way it's been presented, that there -- basically the Deputy Superintendent's assertion is a little hyperbolic from the staff's perspective and I'd love to just get -- I'd just love to get a better understanding because I'm struggling here given the strength of some of the things that have been said in public comment.

And I'd love to have an opportunity for you to respond because we're -- you know, we're running around here voting on prison reform and taxes and parks and transportation plans and then we're here. So we're trying our best to keep our head -- you know, make thoughtful decisions on a lot of different topics and I'm hearing such fundamentally competing areas and I want to get a better understanding.

CHAIRPERSON WONG-HERNANDEZ: Senator Pan, do you want to pile on Senator Allen's question --

SENATOR PAN: Just -- yeah. Well, certainly Twin Rivers is in my district out in the middle of the Greenbriar which is a brand new development. There's no one living there at the moment.

So -- but I am -- I actually admit I'm a little puzzled that you're going to be -- saying that actually you can't build the school based on the -- because we implement
a set of regulations.

So I mean I'd like to have an explanation as to why that is the case. I'm happy to talk to the developer as well to find out if that's their determination as well. It's -- this has not been, that I know of, communicated with my office and you're in my district.

CHAIRPERSON WONG-HERNANDEZ: So -- okay. So I'd like staff to respond to Senator Allen's question and sort of pile onto that. You know, if the Board is taking an action, made a policy decision in June, and these are the regulations and the regulations are in fact voted down as is being suggested, sort of where does that leave us. So that's sort of my pile on to the broader question. I'd kind of just like staff to respond to those few things.

SENATOR ALLEN: And I understand that they oppose the original idea, but is it really accurate assert that you won't be able to move forward with your building program.

MS. KAMPMEINERT: So to answer the question about the technical end of the regulations, I think what we're hearing from the school districts is the projection may be accurate now.

So the way new construction eligibility is calculated, it looks at your current classroom capacity and then it looks out either five or ten years, depending how a school district files their eligibility, to determine
whether or not you're going to have a projected need for more seats than you currently have.

So what the regulations do is determine that time point at which you are going to be making that projection. So in 2017, we're processing the backlog of projects that have been submitted on the acknowledged list. So we're not going to get to applications that are submitted in 2017 -- we're in 2018. I apologize -- 2018 in the 2018 projection year.

So the concern seems to be that in a year or two years, whatever time frame, when we are actually processing the application that the projection will not show a need for additional capacity within the school district or that it will show a lower need for capacity than the school district was anticipating.

That was a conversation that also came up on the acknowledged list and that I think speaks to the appeals process which was mentioned by Lisa earlier that the Board made it very clear that if the requirement to update new construction eligibility resulted in districts experiencing some harm that the district could go to the Board and explain the specific circumstances during the appeal process.

CHAIRPERSON WONG-HERNANDEZ: About why their projection was not correct and why they think that they
should be an exception to the --

MS. KAMPMEINERT: Correct. To answer your add-on question about what happens if the regulations are voted down. So the Board's already taken a policy action on the acknowledged list projects -- the applications received beyond bond authority list projects.

So those projects could continue to be processed. I think staff would be unclear about next steps for the applications that were received on or after that June 5th date. We would not have clear direction on how to process it because we heard one thing with the policy action on June 5th, but we can't get the regulations in place that --

CHAIRPERSON WONG-HERNANDEZ: To implement that policy.

MS. KAMPMEINERT: -- we believe align with the policy which could lead to an underground reg if we don't adopt the regulations or just lack clarity on what we do with those applications moving forward because that's part of what we were seeking in that June 5th item was direction on not just the beyond authority list but also moving forward how do we run the program.

SENATOR ALLEN: How do you respond to the repeated assertions that have been made by various school district representatives that this is going to significantly jam up their work?
MS. KAMPMEINERT: We haven't seen -- in the applications that we've processed so far which have been subject to updating new construction eligibility, we haven't seen any appeals or circumstances where a project could not move forward because the eligibility changed.

We have had a few cases where it's come out a little bit differently, but because the applications are being processed in years later, they have actually worked out where the funding was sufficient where districts didn't even need the additional eligibility that they originally thought they needed for the application.

So we've yet to see an appeal or a problem in the applications that we've been processing so far. So I don't know that we have -- I don't know that we know the answer to that because we haven't seen an issue with it yet.

SENATOR ALLEN: So I guess with that in mind, I ask you, the Superintendent, you're making such strong assertions on this dais. Why can't you see how the process plays out and what is it about the regulations that make you so -- make you come to make such strong assertions about how this is going to impact your construction.

MR. McGUIRE: Well, I think the first strong assertion is this -- this is completely opposite to the current statute that we have and regulations shouldn't change statute. Give to us -- the very specific example of
Greenbriar.

We have a great relationship with the developer moving forward. We have a development agreement that says they're going to pay for 55 percent of the project. We have no local funds. We don't have another bond. Our only source of funds is for -- from the state program because you've just heard of all the other issues that we have.

With that, we have one area of growth, and if you know the rest of Twin Rivers, we don't have a lot of growth. We're a declining enrollment school district. There's lots of problems. There's lots transiency, lots of issues going on.

And so when we're looking to build a school for $45 million and we are going to invest millions and we're investing hundreds of thousands right now to get prepared for the drawings to make it all through at, you know, DSA, all of that to build this school, right, based upon the enrollment projections that we have -- now, it's not just on that one area. It's for the entire district or for the high school area.

So within that, if I lose students in the other side of the district, right, in the high school area and not in this area, I'm now jeopardizing that school. I don't have enough money to build that school. I don't have what I need for that community to provide a school for a thousand
SENATOR ALLEN: But arguably at that point, it's because you've lost students --

MR. McGUIRE: I could have. I may or may not have lost students and then how far is that school outside of the boundary of the rest of our district. So the regulations were made to give districts certainty when we're out building a new school in a new community that is far away from the rest of our district.

This community is landlocked from our district by two freeways. It's not like, oh, we can just say, oh, you're going to go over here. We're going to bus you down four miles, five miles to another thing across two freeways. It's not realistic for us to do that.

That's why I am so adamant about this is a big deal for us. Because of the very specific situation of Greenbriar, its location, and the rest of the 28,000 students of Twin Rivers.

CHAIRPERSON WONG-HERNANDEZ: Senator Pan.

SENATOR PAN: So -- actually I wanted to ask the Board. So, you know, obviously there are some unique circumstances here because knowing -- we probably know the geography better than anyone else in the room.

But -- so essentially, this is a development property that's almost like a panhandle away from the main
part of the school district. So physically, it would be
very difficult for students who are in this future
development. There's nobody there right now, but when they
build houses and so forth to actually -- they'd have to
travel quite a distance to get to the next school which I
think is Regency Park actually.

MR. McGUIRE: Yes.

SENATOR PAN: Cutting across -- I even know my
geography in my district. So I mean wouldn't that -- and I
realize that -- you know, you said there's some uncertainty,
but wouldn't that then impact the -- I mean in terms of the
appeals process? I mean do you look at things like that. I
mean --

MS. BANZON: I would just like to remind the Board
to stick to the agenda. I think this discussion is going
outside of the agenda item. Thank you.

SENATOR PAN: Well, I think it is relevant to what
we're trying to address which is -- so anyway, I guess in
terms of factors that are going to be considered for
appeals, right, by -- is that -- would that -- so you have a
school district and you have portions -- you know, given the
geography -- the declining enrollment because one chunk of
the school district was going down and there's another chunk
of the school district that needs a school, would you say,
well, what you have to do is ship everybody over to the
other part of the school district. Geographically, it would be very difficult to do so.

MS. SILVERMAN: There's lots of calculations and flexibility in how to calculate that and that's what we do is when we get to that point, to review the enrollment changes. There is a lot of flexibility on how you could shift the high school attendance area.

So there is flexibility in how the calculation is worked and again, we'd be working with the district. Actually, we have a handful of districts that have those calculation shifts and we were able to work that out without -- and those applications are actually processed in the August Board and in the December Board without any hiccups. So --

SENATOR PAN: So when it comes to appeals in terms of restrictions on what you're able to do appeals for -- or reasons you're allowed to do appeals that the geography of the district could be a factor in deciding whether you'd think an appeal would be appropriate or not.

CHAIRPERSON WONG-HERNANDEZ: And the appeal would happen at the point at which you had not worked that out, right?

MS. SILVERMAN: That's correct. That's correct.

CHAIRPERSON WONG-HERNANDEZ: If you had not been able to work those things out, then it would come to us and
ASSEMBLYMEMBER O'DONNELL: Could I ask a question?
CHAIRPERSON WONG-HERNANDEZ: Um-hmm.
ASSEMBLYMEMBER O'DONNELL: You need to build an
new elementary school; is that a fact?
MR. McGUIRE: Yes.
ASSEMBLYMEMBER O'DONNELL: This year, you build
it, it's built. You have 875 students in an elementary
school. Your application is sitting in Sacramento. They
don't take it up for about four years down the line. That
elementary school now has 800 students and you might be
deemed ineligible for your state funds, correct, because
your enrollment has declined.
MR. McGUIRE: Yes.
ASSEMBLYMEMBER O'DONNELL: Correct?
MR. McGUIRE: Yes.
ASSEMBLYMEMBER O'DONNELL: And that's your fear.
MR. McGUIRE: Yep.
ASSEMBLYMEMBER O'DONNELL: That's your fear.
You're going to build it today and then within the next
couple years, his enrollment might fall a bit and then he
won't be deemed eligible for his state dollars because we're
not working on his application today at the Sacramento level
if you will.
MR. McGUIRE: Correct.
ASSEMBLYMEMBER O'DONNELL: The school construction -- it's that simple, quite frankly, because what we've done -- and I've made this argument before -- is we've expanded the projects we're talking about. No longer are we talking about the beyond authority list, but we're saying new projects going forward too, this new rule is going to apply.

That's my dispute is the new projects going forward and I think that's the fear he's presenting is he's not on the beyond authority list.

MR. McGUIRE: New project.

ASSEMBLYMEMBER O'DONNELL: He's got a new project and that's his concern that he's going to build this new project. He wants the state dollars. He's going to use current dollars. He's going to take money from students that are there today, right, to fund this project, hoping -- now it's just a bet.

With new policy, it's a hope that he's going to get those dollars back to him several years down the line when Sacramento might sell the bonds. Might -- doing it very slow right now, right? When Sacramento might get to the application. That's your fear.

MR. McGUIRE: Yep.

ASSEMBLYMEMBER O'DONNELL: When -- if you confirm that, please comment on it.
MR. McGUIRE: Yes, absolutely. Correct. Because we don't --

ASSEMBLYMEMBER O'DONNELL: -- doing two lists and a new project list. Now we're going forward, guys, we're going to new projects and now they're not -- there's no guarantee they're going to get their money.

MR. McGUIRE: Right. And we're very specific. This is -- we are a new project and we're talking about how this is going to affect new projects. Understand all the rest. I'm just talking about Twin Rivers -- Twin Rivers Unified and how it's affecting us and, Assemblymember O'Donnell, you got it right. Perfect.

CHAIRPERSON WONG-HERNANDEZ: Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: To the staff, is that a valid fear? I hear what he said. The outline didn't say 850 down to 800 four years later, we're going to not give them the money. Is that a valid fear?

MS. KAMPMEINERT: I think it's the same concern that was raised with the applications received beyond bond authority list which is why the Board opened the door to appeals on a fast track basis in case individual circumstances did change.

With the particular situation, I would be interested to run the district's eligibility on a high
school attendance area basis to see what it looks like, to see if there was a huge problem there.

ASSEMBLYMEMBER CHAVEZ: You're really getting into much detail. This is an easy answer. Yes or no.

MS. KAMPMEINERT: It -- yeah. We'd be guessing. We don't -- if a district is showing enrollment growth and that is the trend, then there should be no concern that there would be any loss --

ASSEMBLYMEMBER CHAVEZ: But if the district is not showing enrollment growth --

MS. KAMPMEINERT: Then it could have an impact and they could show that they did not qualify for the same number of classrooms that they built the school for or that they anticipated building a school for.

ASSEMBLYMEMBER CHAVEZ: Would you disallow the entire requested money or a percentage of it? So use the example here, you know, 850 to 800 or so.

MS. KAMPMEINERT: It would take a big change in enrollment to not justify the entire project. Would some of the classrooms not be eligible, that is a possibility.

Again, we have not really seen this yet. We've seen a handful pupil grants on certain applications that have not been eligible based on the current enrollment projections, but I would not expect to see an entire project that did not get funded because of an updated enrollment
projection, but again that is speculating.

ASSEMBLYMEMBER CHAVEZ: And if I remember back in June when we had this whole conversation, the issue was that we have more requests than we have money for. The idea in June was how can we best use our money to help the most schools, and so the money that may not be going fully funded, this example we're using here, would then be used for other schools or other opportunities for other facilities that do have -- because they have growing enrollment.

MS. KAMPMEINERT: And that's correct. It would go onto --

ASSEMBLYMEMBER CHAVEZ: That was the discussion we had back there then.

MS. KAMPMEINERT: -- next eligible application, yes.

ASSEMBLYMEMBER CHAVEZ: Yeah. Right.

CHAIRPERSON WONG-HERNANDEZ: Mr. Diaz.

MR. DIAZ: I just have to -- once again, I'll follow the Assemblymember on that. In the appropriations committee room, there is a sign that says the most amount of good for the most amount of people and I think kind of well, your comment basically summarized it.

So we're not really looking forward to just looking at one specific area. We're running a program here
that could be on adjustment affecting -- perhaps benefiting more school districts, and sure, you may have some risks of having an adjustment that might give you less money or you may stay the same, but I think that for the greater good, this policy is sound because it still provides you a process to receive assistance from staff who, as you stated earlier in your commentary, has been very helpful to you as well and knows your district very well.

And I also believe that the history of this Board granting your appeals has been good as well. So I think -- for those reasons, I think this is a healthy discussion, but I would also like to just move on and move the item for approval.

CHAIRPERSON WONG-HERNANDEZ: Okay. We have one more public comment and then we can redo that motion. So Darren Waters.

MR. WATERS: Good evening, Darren Waters, Deputy Superintendent, Val Verde Unified School District in Riverside County.

I'm going to kind of just try to hit the points that haven't already been hit, but I certainly would agree the action in June was not clear -- the discussion. I certainly agree with you on that, sir.

It's a little early for appeals I think. I mean we've just had the first flow of funds go out. It's a
little bit early and there's also going to be costs associated with that. If I'm going to be appealing to this Board, I'm going to make sure I'm doing it right.

So we're going to have additional costs for consultants so we can work through the system and work through with you. So that -- I understand we've got an appeal process and that could help, but it's also adding costs and fighting for dollars we may or may not have.

And too, my colleague's point -- the last speaker, how do I budget for a project? I've been doing this for 15 years. I'm not sure how I'm going to budget for a project and tell my community that your portion -- and I'm not hardship. I've got a GO bond.

So now I'm going to have to go to my voters in my community, the people that obviously you're very familiar with, and tell them that the state has reduced the amount of money that they had promised us and now you're going to need to step forward, community, and make the difference up.

That's a difficult conversation to have, I think. The program feels like a gotcha', and the gotcha' is we do everything we can and we get Monday morning quarterbacked at the end and then we're going to get our apportionment reduced, and that's very difficult to stomach.

So the local bond, talked about that. And I think the question -- and maybe a question to staff might be
something to the effect of what is the impact to the projects that are on the agenda tonight.

Another speaker spoke about maybe moving forward with some sort of tentative approval or just wait until we can come back next month, bifurcate the item, and then vote at that point so we can kind of look at this on a go-forward basis on how this is going to play out. Thank you.

CHAIRPERSON WONG-HERNANDEZ: Thank you. Is there any additional public comment? Okay. So Mr. Diaz moved the item.

ASSEMBLYMEMBER CHAVEZ: Second.

CHAIRPERSON WONG-HERNANDEZ: Okay. Mr. Chavez.

MS. JONES: Senator Allen.

Senator Nguyen.

SENATOR NGUYEN: Aye.

MS. JONES: Senator Pan.

SENATOR PAN: Aye.

MS. JONES: Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: Aye.

MS. JONES: Assemblymember O'Donnell.

ASSEMBLYMEMBER O'DONNELL: No.

MS. JONES: Juan Mireles.

MR. MIRELES: Aye.

MS. JONES: Cesar Diaz.

MR. DIAZ: Aye.
MS. JONES: Daniel Kim.

MR. KIM: Aye.

MS. JONES: Jacqueline Wong-Hernandez.

CHAIRPERSON WONG-HERNANDEZ: Aye.

MS. JONES: That motion carries.

CHAIRPERSON WONG-HERNANDEZ: Thank you. I'm sure we'll continue to have discussions on this and try and make sure that the program is working to the best of its ability and doing the most for all those people.

We're going to move onto the next item.

MS. SILVERMAN: Consent Agenda.

CHAIRPERSON WONG-HERNANDEZ: Which is -- right.

MS. SILVERMAN: Yeah.

CHAIRPERSON WONG-HERNANDEZ: Which is the Consent Agenda in Tab 4.

ASSEMBLYMEMBER CHAVEZ: Move the Consent Calendar.

SENATOR PAN: Second.

CHAIRPERSON WONG-HERNANDEZ: We have a motion and second.


Senator Nguyen.

Senator Pan.

SENATOR PAN: Aye.

MS. JONES: Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: Aye.
MS. JONES: Assemblymember O'Donnell.

ASSEMBLYMEMBER O'DONNELL: Aye.

MS. JONES: Juan Mireles.

SENATOR ALLEN: Allen, aye.

MR. MIRELES: Aye.

MS. JONES: Cesar Diaz.

MR. DIAZ: Aye.

MS. JONES: Daniel Kim.

MR. KIM: Aye.

MS. JONES: Jacqueline Wong-Hernandez.

CHAIRPERSON WONG-HERNANDEZ: Aye.

MS. JONES: And Senator Allen, you said aye?

SENATOR ALLEN: Yes.

MS. JONES: Okay. Thank you.

CHAIRPERSON WONG-HERNANDEZ: Thank you. Okay.

Moving onto the next item --

MS. JONES: Excuse me, Chair? Motion carries.

CHAIRPERSON WONG-HERNANDEZ: Okay. Thank you.

And moving onto the next item which is the Minutes in Tab 2.

Is there any public comment or Board comment on the Minutes?

Okay. Is there a motion?

MR. DIAZ: Motion to approve.

SENATOR PAN: Move.

CHAIRPERSON WONG-HERNANDEZ: Okay. We have a

motion and a second.
MS. JONES: Okay.

CHAIRPERSON WONG-HERNANDEZ: Second Senator Pan. And go ahead and take roll.


SENATOR ALLEN: Aye. Well, should I abstain because I wasn't present? What's the practice of the Board?

CHAIRPERSON WONG-HERNANDEZ: You may vote on the Minutes.

SENATOR ALLEN: Aye.

MS. JONES: Thank you. Senator Nguyen.

Senator Pan.

SENATOR PAN: Aye.

MS. JONES: Assemblymember Chavez. Okay.

Assemblymember O'Donnell.

ASSEMBLYMEMBER O'DONNELL: Aye.

MS. JONES: Oh, thank you. Juan Mireles.

MR. MIRELES: Aye.

MS. JONES: Cesar Diaz.

MR. DIAZ: Aye.

MS. JONES: Daniel Kim.

MR. KIM: Aye.

MS. JONES: Jacqueline Wong-Hernandez.

CHAIRPERSON WONG-HERNANDEZ: Aye.

MS. JONES: Motion carries for the Minutes.

CHAIRPERSON WONG-HERNANDEZ: Thank you. And then
our last -- our next item rather is not an action item. It's the Executive Officer's Report. And again, for those of you who weren't here at the very beginning, we moved the action items to the beginning to accommodate members.

MS. SILVERMAN: And before I get started, I know we were supposed to present a resolution and that won't happen tonight, so --

CHAIRPERSON WONG-HERNANDEZ: Okay.

MS. SILVERMAN: Yeah. And the rest of the items we have today is obviously nonaction items.

So I want to share with the Board the Executive Officer's Statement. We wanted to share that there was a filing round that closed for the certification, so any projects that were approved during the window of July 1st through December 6th, they actually had the ability to submit a certification.

So we wanted to highlight to the Board that we received 81 certifications for a value of 185 million and those certifications are valid from January 1st through June 30th, 2018, and with that, those projects will be eligible for the spring bond sale. So we wanted to highlight that as well.

The second item is we've been working rather closely with the Department of Education. So the Board announced in August they had a Career Tech Education filing
round that opened, and the Department of Education had received over 300 applications and we did highlight that at the last Board meeting in December.

And with that, they're finalizing the scoring of those projects and the districts with the highest project eligibility scores will have the ability to submit a funding application for our office for Career Tech Education.

And so we're looking forward to that happening in the next few weeks. And those districts will have the ability to file an online application as well. So we'll be introducing an online feature for districts to submit electronic processing with our office. So we're excited about that to roll out.

And also we wanted to announce that we worked together with the Department of Education for the second filing round. So right now the Department of Education will be accepting grant applications through October 31st, 2018, and the timeline will mirror the same timelines we highlighted in the first round with the Department of Education publishing the scores in February and presenting the highest scores to our office and those projects will be eligible to submit a funding application in February 2019 and again presenting those items to the June 2019 Board.

The process right now, the Department of Education is updating the grant applications right now. And so once
those applications have been updated, we will definitely share those updates and email blast to the constituents the ability to file with those new forms.

    And I mentioned the online application feature that's available and we're highlighting the following item is the joint agency workshops. We've been working closely with the Department of Education, the Division of State Architect throughout the state. We actually have at least 10 to 12 outreach opportunities focused on Career Tech Education workshops and small school district outreach.

    And we're announcing that we have two more that we have scheduled next week. One is in Modesto in Stanislaus County and one February 9th in the Contra Costa area in Brentwood.

    And with that, we'll have a meeting on February 28th.

CHAIRPERSON WONG-HERNANDEZ: Thank you. Does the Board have any questions?

MR. KIM: I just want to make a comment. I want to thank the OPSC staff for their high level of engagement in outreach. I think it's been incredible, especially given the number of staff within school districts that are new to these processes. I think it's just well worth the effort. Thank you.

MS. SILVERMAN: Thank you.
CHAIRPERSON WONG-HERNANDEZ: And is there any public comment on the Executive Officer's Report? Okay. Then we're going to move on to the next item which is the Status of Fund Releases and that's in Tab 5.

MS. SILVERMAN: Yeah. And I'll make that quick for folks.

We just wanted to highlight real quickly in Tab 5 that we had a flurry of disbursements as a result of our consent item agenda when we had the fall bond sale. And so with that, there was -- most of the money that was committed in that fall bond sale has been released. So we had a huge push to get the cash out over the last three months. So that was something that we didn't share in the quick December meeting that we had.

I also wanted to highlight in the financials that we actually had four increases in some grants as a result of closeout. So districts that were eligible for additional grant increases, that actually did provide them that additional opportunity because they showed additional expenditures.

And -- so that related to $7.5 million in grant increases for seven projects. And we also wanted to highlight there was $3.2 million in fund recoveries over the last several months and we wanted to highlight that as well.

And page -- Emergency Repair Program, we did have
some recoveries of funds, nearly $340,000 in savings that came back to the program. And we were able to disburse six more projects for close to a million dollars. So that provided other opportunities for those districts in the Williams Settlement Act.

And with that, answer any questions?

CHAIRPERSON WONG-HERNANDEZ: Any questions from Board members? And is there any public comment on this item? Okay. Then seeing and hearing none, our last item is the Status of Funds which is also in Tab 5.

MS. SILVERMAN: Yeah, we covered that.

CHAIRPERSON WONG-HERNANDEZ: We covered all of that. Okay.

MS. SILVERMAN: So we have --

CHAIRPERSON WONG-HERNANDEZ: Okay. Then -- oh. Then I think we have -- our last -- I keep saying our last, but there actually are a couple more. So our 2017 Annual Legislative Update is the next item.

MS. KAMPMEINERT: And I can make that brief. This is an information item for the Board and for our stakeholders. We bring this item each year to highlight any legislation that was passed in the prior year that may have an impact to the School Facility Program or just information that might be relevant to school districts that are participating in school construction.
So we have that listing of bills with a high-level summary of what each of the bills does or changes and preliminary staff comments about whether or not there will be any Board action.

If we need to come back to the Board with any sort of updates, changes, or decisions based on the legislation, you'll see that in future agendas as an actual agenda item.

CHAIRPERSON WONG-HERNANDEZ: Great. Thank you. Does anyone have any questions? And is there public comment? Okay. Then our actual last agenda item is the State Allocation Board's Three-Month Projected Workload.

MS. SILVERMAN: Open for any questions or concerns about the workload.

CHAIRPERSON WONG-HERNANDEZ: Okay. I'm sorry. Can you say that --

MS. SILVERMAN: Yeah. We were just -- we usually open that to see if they have any questions or concerns about the 90-day workload and the appeals log as well.

CHAIRPERSON WONG-HERNANDEZ: No. And no appeals. Okay. Is there any public comment about anything we've discussed up to now or things that weren't on the agenda? Seeing and hearing none, we're adjourned.

(Whereupon, at 5:22 p.m. the proceedings were adjourned.)
REPORTER'S CERTIFICATE

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