

INITIAL STATEMENT OF REASONS

Section 1859.2. Definitions.

Specific Purpose of the Regulation

To make amendments to existing definitions and a form and set forth new definitions in the School Facility Program (SFP) Regulations, including the addition of a new Form SAB 57-75.

Need for the Regulation

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. It was necessary to define additional specific words, terms, and forms, as well as further define existing words and terms essential to these regulations for purposes of implementing Proposition 2 provisions in the SFP Regulations.

It was necessary to clarify the dollar per square foot in regulation for the calculation of the Current Replacement Cost used for permanent vs. portable construction. For consistency, the amounts have been updated to the amounts approved by the State Allocation Board (SAB) on January 22, 2025. At the January 2025 meeting, the SAB approved \$932.00 per square foot for permanent Toilet Facilities and \$517.00 per square foot for all other permanent spaces. The amounts for each of these facility types were originally established as \$346.60 and \$192.60 and have been adjusted annually since their establishment. In addition, OPSC added the replacement cost for portable facilities that was established in a prior regulatory package that was approved by the SAB at its May 27, 2020 meeting and subsequently approved by the Office of Administrative Law on August 31, 2020. The Portable Classroom Replacement Grant and Portable Toilet Replacement Grant were established in SFP Regulation Section 1859.2 at \$46.55 and \$118.62 per square foot, respectively. Therefore, the total replacement cost equated to each of those grants multiplied by two to account for the required school district matching shares of \$93.10 and \$237.24, respectively.

	Grant Amount	Replacement Cost (Grant Amount * 2)	Portable Replacement Costs				
	2020	2020	2021	2022	2023	2024	2025
Portable Classroom - Replacement - Other	\$ 46.55	\$ 93.10	\$ 94.00	\$ 109.00	\$ 119.00	\$ 117.00	\$ 118.00
Portable Replacement - Toilet	\$ 118.62	\$ 237.24	\$ 241.00	\$ 279.00	\$ 305.00	\$ 301.00	\$ 302.00

Since that time, all grants have been adjusted based on the changes in the Class B Construction Cost Index as reflected in the link below, with the most recent adoption by the SAB on January 22, 2025.

<https://www.dgs.ca.gov/OPSC/Resources/Page-Content/Office-of-Public-School-Construction-Resources-List-Folder/Annual-Adjustment-to-SFP-Grants-and-Developer-Fee-History>

Section 1859.32. Adjustments to Gross Classroom Inventory

Specific Purpose of the Regulation

To set forth an additional criterion that excludes classrooms from the district's gross classroom inventory.

Need for the Regulation

It was necessary to add this criterion to exclude the counting of classrooms that have been funded through the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program (Program) from the district's gross classroom inventory. This is consistent with Education Code Section 17375(a)(5).

Section 1859.51. Adjustments to the New Construction Baseline Eligibility.

Specific Purpose of the Regulation

To set forth an additional adjustment to New Construction eligibility as a result of the construction of new Transitional Kindergarten classrooms.

Need for the Regulation

The Program provided an exclusion for new classrooms constructed with Program funds so that the new capacity was not included in the New Construction eligibility baseline pursuant to Education Code Section 17375; however, an exclusion in Education Code Section 17073.16(c) does not exist. Thus, it was necessary to include an adjustment to the district's new construction eligibility baseline to reflect an increase in classroom capacity in the school district if new Transitional Kindergarten classrooms are constructed with funding from the new Transitional Kindergarten supplemental grant under the SFP Modernization program.

Section 1859.70.5. Points for Determining the Local Funding Adjustment Grant.

Specific Purpose of the Regulation

To establish a process and timing for the points-based determination and sliding scale for the required state and local contributions for SFP projects with approved applications submitted to OPSC on and after October 31, 2024.

Need for the Regulation

It was necessary to delineate the methodology as prescribed in statute (Education Code Sections 17070.59, 17072.30 and 17074.16) to determine the points used to compute the required matching funds from local sources. This is a new component as historically new construction and modernization projects have been funded based on a fixed state share percentage of the total approved project cost (50/50 for new construction and 60/40 for modernization), with the exception of school districts that qualify for financial hardship funding. It was also necessary to stipulate when required documentation must be submitted to OPSC for the determination of the Local Funding Adjustment Grant. For Approved Applications on the workload list or the Applications Received Beyond Bond Authority List, school districts must submit documentation for the total assessed valuation within 90 days of OPSC's notification of application processing, and that document submittal date serves at the point in time for the reporting year required for the total assessed valuation documentation. The documentation for purposes of the total assessed valuation is based in statute. In addition, it was necessary to specify that school districts that do not provide the supporting documentation will receive the lowest points allowed under each category used to determine the Local Funding Adjustment.

Section 1859.77.1. New Construction District Matching Share Requirement.

Specific Purpose of the Regulation

To set forth a school district's matching share requirement for new construction grants and make several minor edits that are considered non-substantive changes.

Need for the Regulation

It was necessary to differentiate a school district's matching share requirement based on two dates: 1) applications received before October 31, 2024, and 2) applications received on or after October 31, 2024. Applications received before October 31, 2024 require set matching share contributions for both state and local (50/50 for new construction and 60/40 for modernization projects); applications received after October 31, 2024 require a matching share contribution based on the methodology and calculation of the new Regulation Section 1859.70.5 (above) and will be known as the Local Funding Adjustment Grant. This is in alignment with Education Code Section 17070.59.

Section 1859.78.7.1. Modernization Additional Grant for 75 Years or Older Buildings.

Specific Purpose of the Regulation

To provide a modernization supplemental grant for projects with a scope of work that includes demolition and replacement of buildings at least 75 years of age or older.

Need for the Regulation

It was necessary to set forth the eligibility criteria and grant calculations for this supplemental grant. The grant amount is aligned with the new construction per pupil grant amount and will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the SAB each January. Recipients of this grant will receive an alternate per-pupil grant amount than provided under the current modernization program and must replace the building that generated the eligibility for this grant. This is in alignment with Education Code Sections 17074.25 and 17074.265.

Subsection (b) provides a new grant calculation for projects receiving this supplemental grant. Because the grant is a supplemental grant to modernization projects, the SAB approved a new grant based on the grants provided for new construction projects which are funded on a 50 percent state share and 50 percent local matching share basis. Modernization projects are funded on a 60 percent state share and 40 percent local matching share basis.

SFP Regulation Section 1859.78.7.1(b)		
New Construction Grant (at 50%)	2025	
Elementary	\$ 15,847.00	
Middle	\$ 16,761.00	
High	\$ 21,327.00	
SDC- Severe	\$ 44,531.00	
SDC- Non-Severe	\$ 29,782.00	
New Construction Grant x 2	2025	
Elementary	\$ 31,694.00	
Middle	\$ 33,522.00	
High	\$ 42,654.00	
SDC- Severe	\$ 89,062.00	
SDC- Non-Severe	\$ 59,564.00	
(New Construction Grant x 2) x 60%	2025	Rounded
Elementary	\$ 19,016.40	\$ 19,016.00
Middle	\$ 20,113.20	\$ 20,113.00
High	\$ 25,592.40	\$ 25,592.00
SDC- Severe	\$ 53,437.20	\$ 53,437.00
SDC- Non-Severe	\$ 35,738.40	\$ 35,738.00

Subsection (d) provides a new grant calculation for projects receiving this supplemental grant. Because the grant is a supplemental grant to modernization projects, the SAB approved a new grant based on the grants provided for new construction projects which are funded on a 50 percent state share and 50 percent local matching share. Modernization projects are funded on a 60 percent state share and 40 percent local matching share basis.

SFP Regulation Section 1859.78.7.1(d)		
New Construction Grant (at 50%)	2025	
Square Footage Replacement Grant - Other	\$ 260.00	
New Construction Grant x 2	2025	
Square Footage Replacement Grant - Other	\$ 520.00	
(New Construction Grant x 2) x 60%	2025	Rounded
Square Footage Replacement Grant - Other	\$ 312.00	\$ 312.00

Section 1859.78.9.1. Modernization Additional Grant for Minimum Essential Facilities.

Specific Purpose of the Regulation

To provide a modernization supplemental grant for projects that either expand an existing gymnasium, multipurpose room, library or school kitchen, or if the site is lacking one or more of these specific facilities.

Need for the Regulation

It was necessary to set forth the minimum essential facilities eligibility criteria and grant calculation. The grant will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the SAB each January. This is in alignment with Education Code Sections 17073.16 and 17074.25.

Subsections (b)(4) and (b)(5) provide the new grant calculation for projects receiving this supplemental grant. Because the grant is a supplemental grant to modernization projects, the SAB approved a new grant based on the grants provided for new construction projects which are funded on a 50 percent state share and 50 percent local matching share basis. Modernization projects are funded on a 60 percent state share and 40 percent local matching share basis.

SFP Regulation Section 1859.78.9.1(b)(4) and 1859.78.9.1(b)(5)		
New Construction Grant (at 50%)	2025	
Square Footage Replacement Grant - Other (Permanent)	\$ 260.00	
Square Footage Replacement Grant - Toilet (Permanent)	\$ 466.00	
Square Footage Replacement Grant - Other (Portable)	\$ 58.00	
Square Footage Replacement Grant - Toilet (Portable)	\$ 151.00	
New Construction Grant x 2	2025	
Square Footage Replacement Grant - Other (Permanent)	\$ 520.00	
Square Footage Replacement Grant - Toilet (Permanent)	\$ 932.00	
Square Footage Replacement Grant - Other (Portable)	\$ 116.00	
Square Footage Replacement Grant - Toilet (Portable)	\$ 302.00	
(New Construction Grant x 2) x 60%	2025	Rounded
Square Footage Replacement Grant - Other (Permanent)	\$ 312.00	\$ 312.00
Square Footage Replacement Grant - Toilet (Permanent)	\$ 559.20	\$ 559.00
Square Footage Replacement Grant - Other (Portable)	\$ 69.00	\$ 69.00
Square Footage Replacement Grant - Toilet (Portable)	\$ 181.20	\$ 181.00

Section 1859.78.9.2. Modernization Additional Grant for Transitional Kindergarten Classrooms.

Specific Purpose of the Regulation

To provide a modernization supplemental grant for projects that either retrofit an existing school facility to adequately house transitional kindergarten pupils or construction new transitional kindergarten classrooms if the site is lacking sufficient facilities to house these pupils.

Need for the Regulation

It was necessary to set forth the eligibility criteria and calculation for this supplemental grant to construct new or retrofit existing space into transitional kindergarten classrooms. The grant will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the SAB each January. This is in alignment with Education Code Sections 17073.16 and 17074.16.

Subsection (c) provides a new grant calculation for projects receiving this supplemental grant. Because the grant is a supplemental grant to modernization projects, the SAB approved a new grant based on the grants provided for new construction projects which are funded on a 50 percent state share and 50 percent local matching share basis. Modernization projects are funded on a 60 percent state share and 40 percent local matching share basis.

SFP Regulation Section 1859.78.9.2(c)		
New Construction Grant (at 50%)	2025	
Elementary	\$ 15,847.00	
Automatic Fire Alarm Detection / Alarm System	\$ 19.00	
Automatic Sprinkler System	\$ 265.00	
New Construction Grant x 2	2025	
Elementary	\$ 31,694.00	
Automatic Fire Alarm Detection / Alarm System	\$ 38.00	
Automatic Sprinkler System	\$ 530.00	
(New Construction Grant x 2) x 60%	2025	Rounded
Elementary	\$ 19,016.40	\$ 19,016.00
Automatic Fire Alarm Detection / Alarm System	\$ 22.80	\$ 23.00
Automatic Sprinkler System	\$ 318.00	\$ 318.00

Subsection (d) provides the grant calculation for this supplemental grant. Because the grant is a supplemental grant to modernization projects, the SAB approved the new grant based on the grants already provided for modernization projects that are funded on a 60 percent state share and 40 percent local matching share basis. The modernization grants are already approved in SFP regulations and these were most recently adopted by the SAB on January 22, 2025.

Section 1859.79. Modernization District Matching Share Requirement.

Specific Purpose of the Regulation

To set forth a school district's matching share requirement for modernization grants and make several minor edits that are considered non-substantive changes.

Need for the Regulation

It was necessary to differentiate a school district's matching share requirement based on two dates: 1) applications received before October 31, 2024, and 2) applications received on or after October 31, 2024. Applications received before October 31, 2024 require set matching share contributions for both state and local (50/50 for new construction and 60/40 for modernization projects); applications received after October 31, 2024 require a matching share contribution

based on the methodology and calculation of the new Regulation Section 1859.70.5 (on page 2 of this document) and will be known as the Local Funding Adjustment Grant. This is in alignment with Education Code Sections 17070.59 and 17074.16.

Section 1859.79.2. Use of Modernization Grant Funds.

Specific Purpose of the Regulation

To provide guidelines for eligible and ineligible expenditures related to the use of modernization grant funds and to make minor non-substantive changes.

Need for the Regulation

It was necessary to specify that modernization grant funds may now be used on additional square footage constructed with funding for 75-year old or older buildings, minimum essential facilities (gymnasium, multipurpose room, library, or school kitchen), and the retrofit of existing school facilities or the construction of new transitional kindergarten classrooms to house these pupils, as well as any additional square footage constructed to meet the minimum requirements of Title 5, California Code of Regulations. Prior to the passage of Assembly Bill 247 and Proposition 2, the construction of new building area was not allowable.

Section 1859.82.1. Facility Hardship Program.

Specific Purpose of the Regulation

To set forth the square footage per pupil as well as the minimum/maximum square footage for multipurpose room (excluding food service) and for school kitchen for elementary school pupils, middle school pupils and high school pupils.

Need for the Regulation

It was necessary to add the square footage amounts per pupil for these facilities (multipurpose room and for school kitchen) in order to determine the funding formula for providing the supplemental grants in new Regulation Section 1859.78.9.1 (on page 5 of this document). To determine the square footage amount for a multipurpose room only facility, calculate the difference between the recommended square footage for a combined multipurpose room and food service facility and the recommended square footage for only a school kitchen facility. The results are the following:

- Elementary Schools: 3.3 square feet per pupil with a minimum of 3,600 square feet.
- Middle Schools: 3.3 square feet per pupil with a minimum of 4,600 square feet.
- High Schools: 3.3 square feet per pupil with a minimum of 7,600 square feet.

To determine the square footage amount for a school kitchen, OPSC used the food service square footage amounts from the State School Building Lease-Purchase Program Handbook. The results are the following:

- Elementary Schools: 2 square feet per pupil with a minimum of 400 square feet and a maximum of 1,480 square feet.
- Middle Schools: 2 square feet per pupil with a minimum of 400 square feet and a maximum of 1,880 square feet.

- High Schools: 3 square feet per pupil with a minimum of 600 square feet and a maximum of 3,975 square feet.

OPSC performed a search on whether the proposed regulations were consistent and compatible with existing State laws and regulations and did not identify any inconsistent or incompatible existing State laws or regulations. The proposed regulatory amendments are consistent with and implement several provisions of statutory changes enacted with the passage of Proposition 2. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. School districts will also have the ability to take advantage of the new Proposition 2 provisions. The proposed regulations will maintain equity, consistency, and the integrity of the SFP.

SCHOOL FACILITY PROGRAM FORMS

Application for Funding, Form SAB 50-04 (Rev. 05/2008/25).

Specific Purpose of the Form

To incorporate the provisions of Proposition 2 related to the proposed regulations in this rulemaking. The revision dates for this Form change from "05/20" to "08/25."

Need for the Form

It was necessary to update this Form with Proposition 2 provisions that are related to the new matching share requirements for new construction and modernization projects, including the Local Funding Adjustment Grant, and the modernization supplemental grants for 75 year old or older buildings, minimum essential facilities (gymnasium, multipurpose room, library, and school kitchen), and the transitional kindergarten supplemental grant to retrofit existing school facilities or construct new transitional kindergarten classrooms to house these pupils. These amendments are necessary to collect the information needed to calculate the Local Funding Adjustment Grant and to request the new supplemental grants

75 Years or Older Building Cost Estimate and Cost/Benefit Analysis (CBA), (New 06/25).

Specific Purpose of the Form

To introduce a new form and to instruct school districts how to use the form.

Need for the Regulation

It was necessary to create and set forth the specificity of how to utilize this form for submittal to OPSC. This form will serve as the cost estimate for preparing the cost-benefit analysis required in the statute and is consistent with Education Code Section 17074.265.

Anticipated Benefits and Economic Impact of the Proposed Regulations

There are benefits associated with the proposed regulations. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts and to replenish the SFP with \$8.5 billion in bond authority. The proposed regulations provide school districts with a points-based methodology and sliding scale to calculate the required state and local matching share contribution for all SFP projects, and there are additional modernization supplemental funding opportunities for projects such as the demolition and replacement of buildings at least 75 years of age or older; for projects that expand an existing gymnasium, multipurpose room, library, or school kitchen; and for projects that retrofit an existing school facility to house TK pupils or construct new TK classrooms if the site is lacking sufficient school facilities to house TK pupils. In addition, there is a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations maintains the integrity of the SFP funding process, as well as equity amongst school district projects.

Technical Documents Relied Upon

- The SAB's Action item, dated June 25, 2025, REPORT OF THE EXECUTIVE OFFICER, entitled "Proposed Emergency Regulatory Amendments for the School Facility Program."
- The SAB's Action Item, dated August 19, 2025, REPORT OF THE EXECUTIVE OFFICER, entitled "Corrections to Emergency Regulatory Amendments for the School Facility Program."
- The State School Building Lease-Purchase Program Handbook, specifically pages Appendix 7-2 and 7-3 that relate to the specific square footages in Regulation Section 1859.82.1.

Alternatives to the Proposed Regulatory Action that would be as Effective and Less Burdensome to Private Persons

The SAB finds that no alternatives it has considered would be more effective in carrying out the purpose of the proposed regulations or would be as effective and less burdensome to affected private persons than the proposed regulations or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. The alternative to these proposed regulatory amendments would be the SAB take no action, thereby violating the provisions contained in AB 247 (Muratsuchi, Chapter 81, Statutes of 2024) wherein it states that these provisions would become effective upon the adoption by the voters of the Kindergarten Through Grade 12 Schools and Local Community College Public Education Facilities Modernization, Repair, and Safety Bond Act of 2024 (Proposition 2).

Alternatives to the Proposed Regulatory Action that would Lessen any Adverse Economic Impact on Small Business

The SAB has determined that the proposed regulations will not have a negative impact on small businesses.

Finding of Significant Adverse Economic Impact on Businesses

The SAB has determined that the adoption of the proposed regulations will not have a negative economic impact on businesses/small businesses because they are not required to directly comply with or enforce the regulations, nor will they be disadvantaged by the regulations. Proceeding with the implementation of the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California. Further, the proposed regulations maintain equity amongst school districts projects and the integrity of the SFP funding process.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

Office of Administrative Law Regulations, Title 1, Section 20(c)(1)

Because the State Allocation Board's SFP Forms are cumbersome documents, it would be unduly expensive and otherwise impractical to publish the Forms in the California Code of Regulations. Therefore, it is not necessary to publish the Forms in the California Code of Regulations.

Office of Administrative Law Regulations, Title 1, Section 20(c)(2)

The State Allocation Board's SFP Forms are made available upon request and through our website and continue to be made available upon request and through our website.

ECONOMIC IMPACT ASSESSMENT OF REGULATIONS

“Proposed Emergency Regulatory Amendments for the School Facility Program”

Proposed State Allocation Board Regulations

At its meeting on June 25, 2025, the SAB adopted proposed regulatory amendments, on an emergency basis, that align and implement provisions of Assembly Bill (AB) 247 (Muratsuchi, Chapter 81, Statutes of 2024) into the SFP regulations and include the following topics:

- 1) establishment of a points-based methodology and sliding scale to calculate the required state and local matching share for all SFP projects, regardless of whether the projects qualify for financial hardship assistance. AB 247 specifies the number of points awarded based on a school district’s gross bonding capacity per enrollment; a school district’s unduplicated pupil percentage as determined for purposes of the Local Control Funding Formula; whether a school district has an enrollment of 200 pupils or fewer; and whether the project includes the use of a project labor agreement. Based on the total number of points for a project, the required local matching share will be adjusted with no change to the total approved project cost. (Education Code Section 17070.59).
- 2) provides a modernization supplemental grant for projects with a scope of work that includes the demolition and replacement of building(s) at least 75 years of age or older. (Education Code Section 17074.265).
- 3) provides a modernization supplemental grant for projects that expand an existing gymnasium, multipurpose room, library, or school kitchen if the facility is 60 percent or less than the department’s recommended size needed to serve the enrollment of the school, or constructing a new gymnasium, multipurpose room, library, or school kitchen if the site is lacking one or more of the specified facilities. (Education Code Section 17073.16).
- 4) provides a modernization supplemental grant for projects that retrofit an existing school facility to adequately house Transitional Kindergarten (TK) pupils or construct new TK classrooms if the site is lacking sufficient school facilities to house TK pupils. (Education Code Section 17073.16).

Background and Problem Being Resolved

At its meeting on December 3, 2024, the SAB adopted recommendations implementing provisions of Proposition 2, which are contained in AB 247. In part, Proposition 2 provides \$8.5 billion in proceeds from the sale of bonds for the construction and modernization of Transitional Kindergarten (TK) through Grade 12 school facilities. Proposition 2 specifies that the \$8.5 billion will be allocated to the SFP as follows:

- New Construction = \$3.3 billion, of which up to ten percent (\$330 million) shall be available to small school districts.
- Modernization = \$4.0 billion, of which up to ten percent (\$400 million) shall be available to small school districts **and** up to \$115 million shall be available to address the remediation of lead in water.
- Charter School Facilities Program = \$600 million, and
- Career Technical Education Facilities Program = \$600 million.

Proposition 2 also makes numerous changes to the SFP as follows:

- Requires the submittal of a five-year school facilities master plan as a condition of participating in the SFP;
- Establishes a points-based methodology for calculating the local contribution a school district is required to make to be eligible to receive state funding;
- Requires school districts participating in the SFP New Construction or Modernization programs after November 5, 2024, to submit an updated report of the school district's existing school building capacity;
- Authorizes additional state funding for the replacement of school buildings that are at least 75 years old;
- Establishes several new supplemental grants (minimum essential facilities, energy efficiency, career technical education, and TK)
- Authorizes the SAB to provide interim housing assistance funding or any other assistance following specified natural disasters;
- Provides specified assistance to school districts with a school facility on a military installation, small school districts, and for the testing and remediation of specified lead levels in water fountains and faucets used for drinking or preparing food on school sites; and
- Increases the maximum level of total bonding capacity allowable for a school district to be automatically eligible for financial hardship assistance.

The problem being resolved is not necessarily a problem but an opportunity to replenish the SFP with \$8.5 billion in bond authority and to implement Proposition 2 provisions in the SFP. As indicated above, the proposed regulations set forth the new points-based methodology and sliding scale calculation and also provide school districts with unique funding opportunities to qualify for the 75-year old or older supplemental grant as well as the minimum essential facilities and TK supplemental grants. These additional funding opportunities provide enhancements to existing facilities, as well as the construction of new facilities, thereby increasing the life expectancy of these facilities. The additional funding also covers the expected increased costs of construction for the inclusion of these types of facilities in school districts projects.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations and did not identify any inconsistent or incompatible existing State laws or regulations. The proposed regulatory amendments are consistent with and implement several provisions of statutory changes enacted with the passage of Proposition 2. Proceeding with the implementation of the proposed regulations will provide a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries. School districts will also have the ability to take advantage of the new Proposition 2 provisions. The proposed regulations will maintain equity, consistency, and the integrity of the SFP.

Description of Regulations to Implement Law

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the SFP. The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law and filed with the Secretary of State on October 8, 1999.

At its meeting on June 25, 2025, the SAB adopted proposed regulatory amendments, on an emergency basis, that align and implement provisions of AB 247 (Muratsuchi, Chapter 81, Statutes of 2024) into the SFP regulations and include the following topics:

- 1) establishment of a points-based methodology and sliding scale to calculate the required state and local matching share for all SFP projects, regardless of whether the projects qualify for financial hardship assistance. AB 247 specifies the number of points awarded based on a school district's gross bonding capacity per enrollment; a school district's unduplicated pupil percentage as determined for purposes of the Local Control Funding Formula; whether a school district has an enrollment of 200 pupils or fewer; and whether the project includes the use of a project labor agreement. Based on the total number of points for a project, the required local matching share will be adjusted with no change to the total approved project cost. (Education Code Section 17070.59).
- 2) provides a modernization supplemental grant for projects with a scope of work that includes the demolition and replacement of building(s) at least 75 years of age or older. (Education Code Section 17074.265).
- 3) provides a modernization supplemental grant for projects that expand an existing gymnasium, multipurpose room, library, or school kitchen if the facility is 60 percent or less than the department's recommended size needed to serve the enrollment of the school, or constructing a new gymnasium, multipurpose room, library, or school kitchen if the site is lacking one or more of the specified facilities. (Education Code Section 17073.16).
- 4) provides a modernization supplemental grant for projects that retrofit an existing school facility to adequately house Transitional Kindergarten (TK) pupils or construct new TK classrooms if the site is lacking sufficient school facilities to house TK pupils. (Education Code Section 17073.16).

Anticipated Benefits of the Proposed Regulations

There are benefits associated with the proposed regulatory amendments. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts and to replenish the SFP with \$8.5 billion in bond authority. The proposed regulations provide school districts with a points-based methodology and sliding scale to calculate the required state and local matching share contribution for all SFP projects, and there are additional modernization supplemental funding opportunities for projects such as the demolition and replacement of buildings at least 75 years of age or older; for projects that expand an existing gymnasium, multipurpose room, library, or school kitchen; and for projects that retrofit an existing school facility to house TK pupils or construct new TK classrooms if the site is lacking sufficient school facilities to house TK pupils. In addition, there is a positive impact on the state's economy, as well as the creation of an unknown number of jobs in the school construction industry. Once school districts request the release of state funds, manufacturing and construction-related industries such as architecture, engineering, trades and municipalities may expand based on the demand on these industries.

The proposed regulations are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed regulations maintains the integrity of the SFP funding process, as well as equity amongst school district projects.

Summary of the Proposed Regulations

A summary of the proposed regulations are as follows:

Existing Regulation Section 1859.2 represents a set of defined words and terms used exclusively for these regulations. The proposed amendments define additional specific words, terms, and forms, as well as further define existing words and terms essential to these regulations for purposes of implementing Proposition 2 provisions in the SFP Regulations.

Existing Regulation Section 1859.32 sets forth the definitive criteria and guidelines for excluding specific permanent and portable classrooms from the district's gross classroom inventory. The proposed amendment provides an additional criterion that excludes the counting of classrooms funded through the California Preschool, Transitional Kindergarten and Full-Day Kindergarten Facilities Grant Program from the district's gross classroom inventory.

Existing Regulation 1859.51 outlines the criteria for adjusting a district's new construction baseline eligibility. The proposed amendment adds an additional adjustment to reduce the new construction baseline by the number of pupils housed in TK classrooms constructed from funding provided under the SFP modernization program.

Proposed adoption of Regulation Section 1859.70.5 establishes a points-based determination and sliding scale for the required state and local contributions for SFP projects. This will be known as the Local Funding Adjustment Grant. There are four criteria for determining the number of points awarded for a project: 1) a school district's gross bonding capacity per enrollment; 2) a school district's unduplicated pupil percentage as determined for purposes of the Local Control Funding Formula; 3) a school district that has an enrollment of 200 pupils or fewer; and 4) whether the project includes the use of project labor agreement. This is in alignment with Education Code Section 17070.59. This section establishes the submittal timing and deadlines for providing the information necessary to make the funding adjustment.

Existing Regulation Section 1859.77.1 sets forth a school district's matching share requirement for new construction grants. The proposed amendments differentiate a school district's matching share requirement based on two dates: applications received before October 31, 2024 and applications received on or after October 31, 2024. Applications received before October 31, 2024 require set matching share contributions for both state and local; applications received after October 31, 2024 will require a matching share contribution based on the methodology and calculation of the new regulation section above (Regulation Section 1859.70.5) and will be known as the Local Funding Adjustment Grant. This is in alignment with Education Code Section 17070.59. Additionally, there are several minor edits that are considered non-substantive changes.

Proposed adoption of Regulation Section 1859.78.7.1 provides a modernization supplemental grant for projects with a scope of work that includes the demolition and replacement of buildings at least 75 years of age or older. This section sets forth the eligibility criteria and grant calculations for this supplemental grant. The grant amount is aligned with the new construction per pupil grant amount and will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the SAB each January. Recipients of this grant will receive an alternate per-pupil grant amount than provided under the current modernization program and must replace the building that generated the eligibility for this grant. The regulation also requires the replacement of portable buildings with permanent buildings. This is in alignment with Education Code Sections 17074.25 and 17074.265.

Proposed adoption of Regulation Section 1859.78.9.1 provides a modernization supplemental grant for projects that either expand an existing gymnasium, multipurpose room, library, or school kitchen if the facility is 60 percent or less than the department's recommended size needed to serve the enrollment of the school, or construct a new gymnasium, multipurpose room, library, or school kitchen if the site is lacking one or more of the specified facilities. This section sets forth the minimum essential facilities eligibility criteria and grant calculation. The grant will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the SAB each January. This is in alignment with Education Code Sections 17073.16 and 17074.25.

Proposed adoption of Regulation Section 1859.78.9.2 provides a modernization supplemental grant for projects that either retrofit an existing school facility to adequately house TK pupils or construct new TK classrooms if the site is lacking sufficient school facilities to house TK pupils. This section sets forth the eligibility criteria and calculation for this supplemental grant to construct new or retrofit existing space into TK classrooms. The grant will be adjusted annually based on the change in the Class B Construction Cost Index as approved by the SAB each January. This is in alignment with Education Code Sections 17073.16 and 17074.16.

Existing Regulation Section 1859.79 sets forth a district's modernization matching share contribution for approved applications received on or before April 29, 2002 (20 percent district share/80 percent state share) and for approved applications received after April 29, 2002 and on or before October 30, 2024 (40 percent district share/60 percent state share). The proposed amendments stipulate that for approved applications received on or after October 31, 2024, a district's modernization matching share contribution will be determined based on Education Code Sections 17070.59 and 17074.16 and adjusted for the Local Funding Adjustment Grant using the methodology and calculation in Regulation Section 1859.70.5. Additionally, there are several minor edits that are considered non-substantive changes.

Existing Regulation Section 1859.79.2 sets forth guidelines for eligible and ineligible expenditures related to the use of modernization grant funds. The proposed amendments provide that modernization grant funds may now be used on additional square footage constructed with funding for 75 year old or older buildings, minimum essential facilities (gymnasium, multipurpose room, library, or school kitchen), and the retrofit of existing school facilities or the construction of new TK classrooms to house TK pupils, as well as any additional square footage constructed to meet the minimum requirements of Title 5, California Code of Regulations. Prior to AB 247 and Proposition 2, the construction of new building area was not typically allowable. Additionally, there are several minor edits that are considered non-substantive changes.

Existing Regulation Section 1859.82.1 sets forth the criteria as to general factors generating facility hardship program eligibility as well as placing limits on program eligibility including, but not limited to performance of routine maintenance or repair, issues resulting from the deferment of routine maintenance or repair, lack of current code compliance, or the addition of components that were not previously existing, and the required information that must be contained in the industry specialist's report/findings. The proposed amendments add the square footage per pupil as well as the minimum/maximum square footage for multipurpose room (excluding food service) and for school kitchen for elementary school pupils, middle school pupils and high school pupils. The addition of these facilities was also necessary for purposes of determining the funding formula for providing the supplemental grants in Regulation Section 1859.78.9.1.

Existing Form SAB 50-04, *Application for Funding*, (Rev. ~~05/20~~ 08/25), (incorporated by reference) is submitted by school districts to apply for State funding for new construction and

modernization projects. The proposed amendments incorporate the provisions of Proposition 2 outlined in this Finding of Emergency, such as the new matching share requirements for new construction and modernization projects, including the Local Funding Adjustment Grant, and the modernization supplemental grants for 75 year old or older buildings, minimum essential facilities (gymnasium, multipurpose room, library, and school kitchen), and the TK supplemental grant to retrofit existing school facilities or construct new TK classrooms to house TK pupils. These amendments are necessary to collect the information needed to calculate the Local Funding Adjustment Grant.

Proposed adoption of the Form SAB 57-75, *75 Years or Older Building Cost Estimate and Cost/Benefit Analysis (CBA)*, (New 06/25), and its instructions, (incorporated by reference) is submitted by school districts and sets forth the specificity of how to utilize the form for submittal. This form will serve as the cost estimate for preparing the cost-benefit analysis required in the statute.

Statutory Authority and Implementation

Education Code Section 17070.35. (a) In addition to all other powers and duties as are granted to the board by this chapter, other statutes, or the California Constitution, the board shall do all of the following: (1) Adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, for the administration of this chapter.

Government Code Section 15503. Whenever the board is required to make allocations or apportionments under this part, it shall prescribe rules and regulations for the administration of, and not inconsistent with, the act making the appropriation of funds to be allocated or apportioned. The board shall require the procedure, forms, and the submission of any information it may deem necessary or appropriate. Unless otherwise provided in the appropriation act, the board may require that applications for allocations or apportionments be submitted to it for approval.

Determination of Inconsistency or Incompatibility with Existing State Regulations

The SFP is replenished with \$8.5 billion in bond authority and Proposition 2 provisions are/will be implemented in the SFP. The proposed regulations set forth the new points-based methodology and sliding scale calculation and also provide school districts with unique funding opportunities to qualify for the 75-year- old or older supplemental grant as well as the minimum essential facilities and TK supplemental grants. These additional funding opportunities provide enhancements to existing facilities, as well as the construction of new facilities, thereby increasing the life expectancy of these facilities. The additional funding also covers the expected increased costs of construction for the inclusion of these types of facilities in school districts projects.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed regulations are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulations are within the SAB's authority to enact regulations for the SFP under Education Code Section 17070.35 and Government Code Section 15503.

Impact to California Businesses and Jobs

The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts and replenishes the SFP with \$8.5 billion in bond authority. The proposed regulations set forth the new points-based methodology and sliding scale calculation and also provide school districts with unique funding opportunities to qualify for the 75-year- old or older supplemental grant as well as the minimum essential facilities and TK supplemental grants. These additional funding opportunities provide enhancements to existing facilities, as well as the construction of new facilities, thereby increasing the life expectancy of these facilities. The additional funding also covers the expected increased costs of construction for the inclusion of these types of facilities in school districts projects. In addition, the proposed regulations will not negatively impact the creation of jobs, the creation of new businesses, and the expansion of businesses in California. It is not anticipated that the proposed regulations will result in the elimination of existing businesses or jobs within California. Additionally, the proposed regulations expand the SFP while aligning with the statute, as well as maintain program integrity and equity amongst school district projects.

Benefits to Public Health and Welfare, Worker's Safety, and the State's Environment

- The proposed regulations promote transparency because school districts and the school district community have been collaborating on the proposed regulations through a series of stakeholder meetings. The SAB has the opportunity to administer the SFP with new Proposition 2 provisions that make program modifications beneficial to school districts and replenishes the SFP with \$8.5 billion in bond authority.
- There are continued benefits to the health and welfare of California residents and worker safety. School districts, charter schools, and local educational agencies utilize construction and trades employees to work on school construction projects and although this proposed regulation does not directly impact worker's safety, existing law provides for the availability of a skilled labor force and encourages improved health and safety of construction and trades employees through proper apprenticeship and training. Further, public health and safety is enhanced because a properly paid and trained workforce will build school construction projects that are higher quality, structurally code-compliant and safer for use by pupils, staff, and other occupants on the site.
- There is no impact to the State's environment from the proposed regulations.

The SAB finds the proposed regulations fully consistent with the stated purposes and benefits.