INITIAL STATEMENT OF REASONS

<u>Section 1859.106.1.</u> Repayment of State Funds.

Specific Purpose of the Regulation

To align this Regulation Section with statute (Assembly Bill 130, Chapter 44, Statutes of 2021).

Need for the Regulation

SFP Regulation Section 1859.106.1 was in effect in 1998 and stipulated that school districts were required to pay any funds owed the State within 60 days. It was then amended to allow school districts, county offices of education and charter schools that would be placed in severe financial hardship the ability to repay funds owed over a five-year period to help alleviate the financial burden if certain criteria were met.

It was necessary to make changes to provide flexibility for school districts when there are moneys due back to the State as a result of an audit finding. Amounts owed by a school district, county office of education or charter school could still create a severe financial hardship with the current five-year repayment plan. The statutory changes resolve this issue by increasing the maximum timeline for repayment plans from five years to 20 years.

Paragraph under subsection (c): It was necessary to delete this language as the wording in the statute supersedes this language, which is what the new language represents.

Anticipated Benefits and Economic Impact of the Proposed Regulations

The proposed amendments promote transparency and consistency. This benefits school districts, county offices of education, and charter schools by providing the maximum timeline for repayment plans from five years to 20 years. The State of California benefits because the State's investment will be maintained, albeit over a longer period of time, but nonetheless, the funds will be repaid. The proposed amendments do not have a direct impact on the State's economy or job creation because the State funds owed will be repaid over a period of time.

Although the proposed amendments do not have a direct impact on the State's economy, creation of jobs, creation of new businesses, or expansion of businesses, it will not eliminate jobs or eliminate existing businesses within California.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments align with the statute and helps school districts, county offices of education and charter schools better manage the repayment of moneys owed the State. It also alleviates the risk of being placed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education as a direct result of repaying monies due to the State.

Technical Documents Relied Upon

The State Allocation Board's Action item, dated October 27, 2021, entitled "Proposed Amendments to the School Facility Program for Repayment of Funds Due to Severe Financial Hardship."

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 amendments would be to take no action, which would leave the SAB in violation of the statute as well as the Administrative Procedure Act.

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

The SAB has determined that the proposed regulatory amendments 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 regulatory amendments 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 regulatory amendments aligns with the statute. Although the proposed amendments do not have a direct impact on the State's economy, creation of jobs, creation of new businesses, or expansion of businesses it will not eliminate jobs or eliminate existing businesses within California.

Impact on Local Agencies or School Districts

The SAB has determined that the proposed regulatory amendments 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, school districts, county offices of education or charter schools to incur additional costs in order to comply with the proposed regulatory amendments.

ECONOMIC IMPACT ASSESSMENT OF REGULATIONS

"Proposed Amendments to the School Facility Program for Repayment of Funds Due to Severe Financial Hardship"

Proposed State Allocation Board Regulations

At its October 27, 2021 meeting, the SAB adopted proposed regulatory amendments that allow school districts, county offices of education and charter schools to repay State funds over a 20-year period as a result of an audit finding. This is in alignment with Assembly Bill 130, Chapter 44, Statutes of 2021 [Education Finance: Education Omnibus Budget Trailer Bill]. The provision in the statute extends the maximum timeline for repayment plans from five years to 20 years.

Background and Problem Being Resolved

SFP Regulation Section 1859.106.1 was in effect in 1998 and stipulated that school districts were required to pay any funds owed the State within 60 days. It was then amended to allow school districts, county offices of education and charter schools that would be placed in severe financial hardship the ability to repay funds owed over a five-year period to help alleviate the financial burden if certain criteria were met.

Without the proposed amendments, statute and regulation limited the flexibility for school districts when there are moneys due back to the State as a result of an audit finding. Amounts owed by a school district, county office of education or charter school could still create a severe financial hardship with the current five-year repayment plan. The statutory changes resolve this issue by increasing the maximum timeline for repayment plans from five years to 20 years.

OPSC performed a search on whether the proposed regulatory amendments were consistent and compatible with existing State laws and regulations. After performing the search, OPSC, on behalf of the SAB, has determined that the proposed regulatory amendments are consistent and compatible with existing State laws and regulations. Proceeding with the proposed regulatory amendments aligns with the statute and helps school districts, county offices of education and charter schools better manage the repayment of moneys owed the State. It also alleviates the risk of being placed on the current California Department of Education's (CDE) List of Negative and Qualified Certifications of School Districts and County Offices of Education as a direct result of repaying monies due to the State.

Description of Regulations to Implement Law

The following State school bonds were authorized by the Legislature and approved by the State's electorate for purposes of school facility construction for the School Facility Program:

- Class Size Reduction Kindergarten-University Public Education Facilities Bond Act of 1998 (Proposition 1A)
- Kindergarten-University Public Education Facilities Bond Act of 2002 (Proposition 47)
- Kindergarten-University Public Education Facilities Bond Act of 2004 (Proposition 55)
- Kindergarten-University Public Education Facilities Bond Act of 2006 (Proposition 1D)
- Kindergarten through Community College Public Education Facilities Bond Act of 2016 (Proposition 51)

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 October 27, 2021 meeting, the SAB adopted proposed regulatory amendments that allow school districts, county offices of education and charter schools to repay State funds over a 20-year period as a result of an audit finding. This is in alignment with Assembly Bill 130, Chapter 44, Statutes of 2021 [Education Finance: Education Omnibus Budget Trailer Bill]. The provision in the statute extends the maximum timeline for repayment plans from five years to 20 years.

Anticipated Benefits of the Proposed Regulations

The proposed amendments promote transparency and consistency. This benefits school districts, county offices of education, and charter schools by providing the maximum timeline for repayment plans from five years to 20 years. The State of California benefits because the State's investment will be maintained, albeit over a longer period of time, but nonetheless, the funds will be repaid. The proposed amendments do not have a direct impact on the State's economy or job creation because the State funds owed will be repaid over a period of time.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments align with the statute and helps school districts, county offices of education and charter schools better manage the repayment of moneys owed the State. It also alleviates the risk of being placed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education as a direct result or repaying monies due to the State.

Summary of the Proposed Regulatory Amendments

Existing Regulation Section 1859.106.1 implements an alternative action upon a school district's failure to repay SFP funds due to the State within 60 days. The alternative action is the school district requesting a repayment schedule of up to five years upon showing that a lump sum repayment would cause the school district severe financial hardship. The proposed regulatory amendments provide the maximum timeline for repayment plans from five years to 20 years.

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

SFP Regulation Section 1859.106.1 currently allows for school districts to request a repayment for up to five years. The statute and regulation limited the flexibility for school districts when there are moneys due back to the State as a result of an audit finding. The amounts owed by a school district, county office of education or charter school could still create a severe financial hardship with the current five-year repayment plan. The statutory changes resolve this issue by increasing the maximum repayment timeline from five years to 20 years.

After conducting a review, the SAB has concluded that these are the only regulations on this subject area, and therefore, the proposed amendments are neither inconsistent nor incompatible with existing State laws and regulations. The proposed regulatory amendments 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 amendments promote transparency and consistency. This benefits school districts, county offices of education, and charter schools by providing the maximum timeline for repayment plans from five years to 20 years. The State of California benefits because the State's investment will be maintained, albeit over a longer period of time, but nonetheless, the funds will be repaid. The proposed amendments do not have a direct impact on the State's economy or job creation because the State funds owed will be repaid over a period of time.

The proposed amendments are therefore determined to be consistent and compatible with existing State laws and regulations. Proceeding with the implementation of the proposed amendments align with the statute and helps school districts, county offices of education and charter schools better manage the repayment of moneys owed the State. It also alleviates the risk of being placed on the current CDE List of Negative and Qualified Certifications of School Districts and County Offices of Education as a direct result of repaying monies due to the State.

Although the proposed amendments do not have a direct impact on the State's economy, creation of jobs, creation of new businesses, or expansion of businesses, it will not eliminate jobs or eliminate existing businesses within California.

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

- The proposed amendments promote transparency and consistency. This benefits school districts, county offices of education, and charter schools by providing the maximum timeline for repayment plans from five years to 20 years. The State of California benefits because the State's investment will be maintained, albeit over a longer period of time, but nonetheless, the funds will be repaid. The proposed amendments do not have a direct impact on the State's economy or job creation because the State funds owed will be repaid over a period of time.
- 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 the proposed regulation amendments do 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 regulatory amendments.

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