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CALIFORNIA STATE ALLOCATION BOARD  
PUBLIC MEETING

STATE CAPITOL  
ROOM 3191  
SACRAMENTO, CALIFORNIA 95814

DATE: WEDNESDAY, MAY 25, 2016  
TIME: 4:00 P.M.

Reported By: Mary Clark Transcribing  
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APPEARANCES

MEMBERS OF THE BOARD PRESENT:

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

JEFFREY McGUIRE, Chief Deputy Director, Department of General Services, designated representative for Daniel Kim, Director, Department of General Services

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

NICK SCHWEIZER, Deputy Superintendent of Public Instruction, Services for Administration, Finance, Technology & Infrastructure Branch, California Department of Education (CDE), designated representative for Tom Torlakson, Superintendent of Public Instruction

SENATOR LONI HANCOCK

SENATOR CAROL LIU

SENATOR BOB HUFF

ASSEMBLYMEMBER ADRIN NAZARIAN

ASSEMBLYMEMBER SUSAN BONILLA

ASSEMBLYMEMBER ROCKY CHAVEZ

REPRESENTATIVES OF THE STATE ALLOCATION BOARD PRESENT:

LISA SILVERMAN, Executive Officer

REPRESENTATIVES OF THE DEPARTMENT OF GENERAL SERVICES, OFFICE OF PUBLIC SCHOOL CONSTRUCTION (OPSC) PRESENT:

LISA SILVERMAN, Executive Officer  
BARBARA KAMPMEINERT, Deputy Executive Officer

REPRESENTATIVE OF THE DEPARTMENT OF GENERAL SERVICES, OFFICE OF LEGAL SERVICES PRESENT:

JONETTE BANZON, Staff Counsel

P R O C E E D I N G S

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CHAIRPERSON ORTEGA: Good afternoon, everyone. We appear to have enough members here to get started, so I will call to order the May 25th meeting of the State Allocation Board. Please call the roll.

MS. JONES: Certainly. Senator Hancock.

Senator Liu.

SENATOR LIU: Here.

MS. JONES: Senator Huff.

SENATOR HUFF: Here.

MS. JONES: Assemblymember Nazarian.

Assemblymember Bonilla.

Assemblymember Chavez.

ASSEMBLYMEMBER CHAVEZ: Here.

MS. JONES: Nick Schweizer.

MR. SCHWEIZER: Here.

MS. JONES: Cesar Diaz.

MR. DIAZ: Here.

MS. JONES: Jeffrey McGuire.

MR. MCGUIRE: Here.

MS. JONES: Eraina Ortega.

CHAIRPERSON ORTEGA: Here.

MS. JONES: We have a quorum.

CHAIRPERSON ORTEGA: Thank you. Let's start with

1 the **Minutes** from the April 20th meeting. Any comments from  
2 anyone on the Minutes? Okay. Is there a motion?

3 MR. DIAZ: So move.

4 CHAIRPERSON ORTEGA: Moved by Mr. Diaz.

5 MR. MCGUIRE: Second.

6 CHAIRPERSON ORTEGA: Second by Mr. McGuire. All  
7 in favor of approval of the Minutes say aye.

8 (Ayes)

9 CHAIRPERSON ORTEGA: Any abstentions? I don't see  
10 any. So that passes. And we'll move to Lisa.

11 MS. SILVERMAN: So we just want to highlight a few  
12 items in the **Executive Officer's Statement**. We currently  
13 have a priority funding round that's open. It opened on  
14 May 11th and it closes June 9th.

15 There is currently close to \$55 million in  
16 projects that are eligible to submit for the certification  
17 round, and the deadline is June 9th. So once those valid  
18 certifications come in, they'll be valid from July 1st to  
19 December 31st. So if there's cash induced into the program,  
20 those projects will be eligible for the cash.

21 CHAIRPERSON ORTEGA: Okay.

22 MS. SILVERMAN: And then we also wanted to provide  
23 the Board an update on the Seismic Mitigation Program.  
24 There is an item in the Consent Agenda that is going to  
25 receive the unfunded approval. It's for Brawley High School

1 for the auditorium project.

2           And we also wanted to share the priority funding  
3 release fund releases that the Board had apportioned back in  
4 February. Quite a bit of projects have gone out for  
5 funding. Over \$71 million in fund release requests have  
6 been received out of the 81 million, and the deadline was  
7 yesterday. So I'm sure we'll have almost all of those trued  
8 up and we'll report out at the next meeting.

9           And we also wanted to give the Board an update  
10 about the fund releases for the Career Tech Education  
11 projects. There were a couple batches of apportionments.  
12 They had extended timelines, and there was a timeline that  
13 lapsed just recently and only one project didn't make it.  
14 So we wanted to report that to the Board.

15           And then we'll be monitoring the next batch of  
16 projects that have due dates of September 7th of this year  
17 and we'll provide updates as we get closer to the deadline  
18 of whether those projects receive funding.

19           And then the last item we wanted to share is we  
20 anticipate a meeting for June 22nd.

21           CHAIRPERSON ORTEGA: All right. Any questions for  
22 Lisa? Any public comment on any of those items? All right.  
23 Seeing none, we'll move onto the **Consent Calendar**.

24           MS. SILVERMAN: Consent's ready for your approval.

25           CHAIRPERSON ORTEGA: Okay. Any questions or

1 comments on the Consent? Any public comment on any of the  
2 Consent items? Okay. Seeing none, is there a motion?

3 MR. DIAZ: Moved.

4 CHAIRPERSON ORTEGA: So moved by Mr. Diaz.

5 ASSEMBLYMEMBER CHAVEZ: Second.

6 CHAIRPERSON ORTEGA: Second by Mr. Chavez. And  
7 we'll note that Assemblymember Bonilla has also joined us.  
8 So all in favor of approval of the Consent Calendar say aye.

9 (Ayes)

10 CHAIRPERSON ORTEGA: Any abstentions/objections?

11 I'm going to hold that open. I know we have two members not  
12 here yet and they might want to add their vote on when they  
13 join us. So we'll move to **Status of Fund Releases**.

14 MS. SILVERMAN: So on stamped 82, I know we've  
15 been sharing with the Board the activity of the fund  
16 releases related to the apportionments that went out in  
17 February.

18 And so we wanted to share that there's a marginal  
19 amount of money that did go out, close to \$7 million. And  
20 that's it as far as reporting that activity.

21 As far as the financials updates on the approvals,  
22 there's ten projects being presented in the Consent Agenda  
23 that are worth close to \$9 million. Some of those are  
24 facility hardship projects and seismic projects. So wanted  
25 to update -- and a few conversations for charter schools.

1 Wanted to update on that activity.

2 And there's also funds reverting back into the  
3 program as a result of conversions and closeouts and that  
4 represents \$3.6 million.

5 And that's all we have to share.

6 CHAIRPERSON ORTEGA: Okay. Welcome, Senator  
7 Hancock.

8 All right. Any questions for Lisa? Any public  
9 comment on any of the financial information? Okay. Seeing  
10 none, we'll move to Item 6 which is an appeal. This is on  
11 **Montague Elementary School.**

12 MR. LaPASK: Brian LaPask for the Office of Public  
13 School Construction. This appeal is for the Montague  
14 Elementary School District in Siskiyou County. It's a small  
15 rural district of just 200 pupils, and this particular  
16 project is an Emergency Repair Program portable replacement  
17 project.

18 ERP projects that require DSA approval have 21  
19 months from the apportionment to complete the project and  
20 submit final expenditures. The deadline for this particular  
21 project was May the 20th of this year.

22 The district notified us that they would not be  
23 able to meet that timeline. Due to inclement weather and a  
24 few other circumstances within the district, they were  
25 unable to meet that deadline, so they're requesting an

1 extension to July 19th.

2 We've done our research on this project and we  
3 believe that the project will be complete by July 19th.  
4 However, we're unable to administratively approve any kind  
5 of an extension for these projects. So we are seeking Board  
6 direction on their request.

7 CHAIRPERSON ORTEGA: Okay. Before I take any  
8 questions, I do have a speaker card from -- let's see. I  
9 don't know how to pronounce the last name, but it's Marni  
10 Posl. Please come on up. Did you have any comments? Yeah,  
11 oh, please join us here.

12 MS. POSL: I want to thank you all for allowing us  
13 to be here today and I am representing Montague Elementary  
14 School. I'm the new Superintendent.

15 We have 200 students who are high poverty  
16 students. We have over 75 percent free and reduced lunch at  
17 our school.

18 This project was begun far before my time, about  
19 eight years ago, and this summer I came onboard -- I'm  
20 sorry, I'm a little nervous -- came onboard and I thought  
21 everything was going as expected, but as Brian said,  
22 inclement weather, also not being able to get the portable  
23 that we needed because we needed to have a 40-pound snow  
24 load, yadda, yadda -- lots of things going on.

25 However, when I found out that there was a

1 deadline, which I was not aware of, I contacted OPSC as soon  
2 as I knew and talked to our architect who is also here and  
3 we are onboard or on the timeline to have this finished --  
4 actually by next week, they're going to bring in the  
5 portable building.

6 I brought some pictures to show you that we have  
7 excavated. We've put gravel in. We have all the way to the  
8 point where there's the concrete piers for the project.

9 So we are utilizing those funds and it would be a  
10 financial hardship if right now you denied our request for  
11 an extension and it would really impact our children.

12 CHAIRPERSON ORTEGA: Great. Thank you. Any other  
13 public comment on this item? Okay. I don't think we have  
14 any objection to this item, so --

15 ASSEMBLYMEMBER CHAVEZ: I'd like to move to grant  
16 the district's appeal.

17 CHAIRPERSON ORTEGA: Great. Moved by Mr. Chavez.

18 SENATOR LIU: I have a question of staff.

19 CHAIRPERSON ORTEGA: Sure.

20 SENATOR LIU: Is it typical that it takes five and  
21 a half years to get approval for these kinds of projects? I  
22 mean they submitted the emergency -- in April of 2008 and  
23 the district received its apportionment in August 2014.

24 MS. SILVERMAN: We had to wait for budget  
25 appropriation for those funds to come in, in order to fund

1 those projects. So the projects are already processed. It  
2 was just we didn't have the cash from the Williams  
3 Settlement to come in, and that had to be via the Budget  
4 Act.

5 SENATOR LIU: Okay. All right. So there's a  
6 discussion with -- among all of us in the budget process.

7 MS. SILVERMAN: Right. And so we received the  
8 funds last year.

9 SENATOR LIU: Oh, okay. All right.

10 MS. SILVERMAN: Yeah. And so they were disbursed  
11 with it.

12 SENATOR LIU: Right. And I know the Governor has  
13 put in another amount of dollars in this year's budget for  
14 emergency repairs. Is it typical -- I mean, you know, so  
15 the money is in there, so it wouldn't take so long to  
16 approve projects.

17 MS. KAMPMEINERT: The funding for the project for  
18 Montague came out of the \$800 million settlement as a result  
19 of a lawsuit.

20 SENATOR LIU: The Williams Settlement?

21 MS. KAMPMEINERT: The Williams' Settlement.

22 SENATOR LIU: Okay.

23 MS. KAMPMEINERT: It's my understanding that the  
24 funding this year is for something slightly different and  
25 wouldn't be related to these kinds of projects.

1           SENATOR LIU: Okay.

2           CHAIRPERSON ORTEGA: But I do think the reason why  
3 the funds were proposed in the budget were to address things  
4 in a more timely manner to be able to not wait for -- and  
5 this one seems like a special case because it was related to  
6 a settlement.

7           SENATOR LIU: All right. Okay. Thank you.

8           CHAIRPERSON ORTEGA: Okay. So we had a motion by  
9 Mr. Chavez, I think a second by Ms. Bonilla. So all in  
10 favor of approving the appeal say aye.

11           (Ayes)

12           CHAIRPERSON ORTEGA: Any objection? Okay. That  
13 passes. I'll hold that open as well in case Mr. Nazarian  
14 joins us.

15           MS. JONES: Okay.

16           CHAIRPERSON ORTEGA: So we will move onto Item 7.  
17 I do want to say before we start Item 7, I have -- we have  
18 asked that anyone who wishes to speak on the topic to fill  
19 out a speaker card. It just makes it a lot easier for us to  
20 manage the number of folks who want to speak on the item.

21           So we will start with the staff presentation on  
22 Item No. 7 **(Developer Fees)**.

23           MS. SILVERMAN: Yeah. Direct your attention of  
24 page 151. At the April State Allocation Board meeting, the  
25 Board directed staff to develop an action item with options

1 to trigger Level 3 developer fees.

2 In April, it was an information item provided to  
3 the Board with the statutory framework on developer fees and  
4 if the school district meets requirements to charge Level 2  
5 and if state funds for new construction are not available,  
6 then a district can start charging Level 3.

7 But the state funds are not available must be a  
8 determination by the State Allocation Board that it's no  
9 longer making new construction apportionments pursuant to  
10 Article 5 under School Facilities Program due to the lack of  
11 funds.

12 And to the background for Level 3, there was never  
13 a trigger, but it was considered back by the Board in 2001  
14 and at that time, there were more requests for funding in  
15 new construction than there was bond authority.

16 But the board had established quarterly rounds to  
17 apportion funds and it was still making apportionments. And  
18 at the time, the Board had requested that the Attorney  
19 General weigh in on the matter and the Attorney General had  
20 made a determination that the Board could not trigger  
21 Level 3 as long as the Board continues to approve  
22 apportionments.

23 So in our staff analysis, there's two  
24 considerations. One is, is the Board approving new  
25 construction apportionments under Article 5, and the second

1 is, is there a lack of funds available in new construction.

2           So we have outlined on page 152 a number of  
3 different items as far as Article 5. Article 5 really  
4 addresses new construction projects, additions in classroom  
5 space.

6           Article 8 specifically deals with facility  
7 hardship and Seismic Mitigation Program funds.

8           So the Board is not approving and hasn't approved  
9 Article 5 new construction apportionments since September  
10 2015. So several months have lapsed since that action --  
11 additional actions have occurred.

12           We currently don't have any projects on the  
13 unfunded list, meaning the Board has processed applications  
14 that's currently not waiting for cash. And the Board is  
15 still apportioning funds, but those funds are being directed  
16 to facility hardship under Article 8.

17           And the Board actually did take action as far as a  
18 policy to elevate those health and safety projects when we  
19 had bond authority and made that policy a regulation back in  
20 April 2015.

21           So, yes, there's a lack of funds in new  
22 construction. There is over 17 projects that when we did  
23 accept applications did get processed to the Board, but  
24 there's still 26 projects that are on the true unfunded list  
25 worth over \$181 million.

1           So the chart we have listed on page 153 -- excuse  
2 me. It's on page 154. It does show the history of the  
3 blue, meaning the designation of projects being moved  
4 through by the Board that are new construction, under  
5 Article 5 and the orange depicting the activity for those  
6 health and safety projects.

7           So you can see that there is a downturn of  
8 projects being moved through the Board and also then an  
9 increase in projects be approved by the Board for facility  
10 hardship under Article 8.

11           We also wanted to share with the Board that, yes,  
12 we understand there is Seismic Mitigation Program funds and  
13 there was a carve-out under Proposition 1D in which at that  
14 time the Board did designate those funds for Seismic  
15 Mitigation Program.

16           As of past efforts -- there have been efforts in  
17 the past to move over those funds back to new construction  
18 because there was limited activity. Since then, there  
19 obviously has been quite a bit of activity and changes in  
20 the program to make that process much easier for districts  
21 to access the program funds.

22           So those past efforts have not moved anywhere as  
23 far as trying to transfer those funds. So what we wanted to  
24 share is -- with the Board that it does appear that it's  
25 within its authority to determine the new construction funds

1 are not available and, therefore, they do have the ability  
2 to trigger Level 3.

3 CHAIRPERSON ORTEGA: Okay. Thank you. Senator  
4 Liu.

5 SENATOR LIU: I want to thank the staff for their  
6 report and for our discussions in the past couple of months  
7 on this issue.

8 And I'd like to make a motion that this Board make  
9 a finding that, pursuant to Government Code Section 65995.7,  
10 state funds for new construction are no longer available  
11 and, two, this Board is no longer approving apportionments  
12 for new construction pursuant to Article 5, Chapter 12.5 of  
13 Part 10 of the Education Code, due to the lack of funds for  
14 this purpose thereby authorizing school districts to begin  
15 to impose Level 3 developer fees if they so choose.

16 And I also move that the Secretary of the Senate  
17 and the Chief Clerk of the Assembly be notified that this  
18 determination was made as of today, May 25th, 2016.

19 CHAIRPERSON ORTEGA: Okay. Thank you.

20 SENATOR LIU: That's my motion.

21 CHAIRPERSON ORTEGA: Okay. We have a motion and  
22 shall we open it up for discussion.

23 ASSEMBLYMEMBER BONILLA: I have a question.

24 CHAIRPERSON ORTEGA: Assemblymember Bonilla.

25 ASSEMBLYMEMBER BONILLA: The question I have if

1 the bond does pass this November, do the Level 3 fees remain  
2 or do they automatically revert back. What would be the  
3 process for, you know, returning back to the fact that now  
4 there is funding?

5 MS. SILVERMAN: The Board has the ability to make  
6 a determination there's no funds available. The step as far  
7 as -- the locals have the ability to trigger Level 3. They  
8 also have the ability to renegotiate or rescind, but that's  
9 also done at the local level.

10 ASSEMBLYMEMBER BONILLA: Um-hmm.

11 MS. SILVERMAN: So it has no action by the Board.  
12 They don't have to make an additional action.

13 ASSEMBLYMEMBER BONILLA: I guess then to refine  
14 the question, is it possible that the bond passes and the  
15 money is now there and it starts to flow somehow eventually  
16 and that Level 3 would remain in effect at some -- at local  
17 levels?

18 MS. BANZON: There is no automatic reversal.

19 Once --

20 CHAIRPERSON ORTEGA: Jonette, can you identify  
21 yourself for the record.

22 MS. BANZON: I'm sorry. This is Jonette Banzon,  
23 counsel to the SAB.

24 There is no automatic reversal of the Level 3 fees  
25 once this is triggered.

1           What happens is unless the Legislature writes it  
2 into Government Code 65995.7 that it will terminate effect  
3 at a certain period, then it does not automatically.

4           However, if there's no such language, then it will  
5 have to remain with the district to, once they did a one  
6 year and then they need to go back for their needs analysis,  
7 then at that time, if there's a bond that passed, they won't  
8 be able to meet the elements of 65995.7.

9           So they cannot then -- that's when Level 3 -- they  
10 cannot charge Level 3 at that time. But there is no  
11 automatic reversal unless we have statutory authority from  
12 the Legislature.

13           ASSEMBLYMEMBER BONILLA: Thank you.

14           CHAIRPERSON ORTEGA: Okay. Senator Huff.

15           SENATOR HUFF: Yes. Thank you. So by this  
16 motion, we would just declare we don't have money. Let me  
17 ask this question.

18           So we talked about the seismic funds and we have  
19 some discretion to move them into new construction funds,  
20 but if we don't do that, they're still considered the same  
21 class of funds, are they not? Let me ask the attorney that.

22           MS. BANZON: The seismic funds are under  
23 Article 8, and the 65995.7 is very specific to say funds  
24 under Article 5.

25           So the rationale for that is Article 8 are -- like

1 for hardship, they're critical schools. There is an intent  
2 to continue apportioning -- appropriating those monies.  
3 However, for -- to trigger Level 3, we have the new  
4 construction -- the Article 5 which is based on new  
5 construction only.

6 So the reason is that -- I would say that  
7 Article 5 for new construction is necessary -- I'm sorry.  
8 I'm trying to think through this.

9 But what I'm trying to say is Article 8 is for  
10 critical schools. So the Legislature does not intend for  
11 the SAB to stop appropriating that. They have up to 10.5 of  
12 funding in the bond funds for seismic -- up to 10.5 -- 10  
13 and a half percent because of the criticality and the  
14 necessity to get funding, and that's the rationale for this.

15 And that's why they've limited -- the statute is  
16 limited to Article 5 which does not include Article 8 which  
17 is where hardship and seismic are.

18 CHAIRPERSON ORTEGA: I think the other point to  
19 clarify is that the Board does not have authority to move  
20 the seismic funding to the new construction; correct? That  
21 has to be done statutorily.

22 That issue's been proposed before, and it's been  
23 proposed to be done statutorily. The Board does not have  
24 discretion over that.

25 MS. BANZON: That is true because the bond funds

1 language says you have up to 10.5 of the new construction  
2 funding going to seismic.

3           SENATOR HUFF: Okay. Well, I'm not -- if it's up  
4 to 10 point whatever percent, then that could be down to  
5 zero percent; is that correct?

6           MS. BANZON: That is at the discretion of the  
7 Board, but the Board has up to 10.5 of this funding -- of  
8 this new construction bond funds going into seismic. That's  
9 what the Legislature authorized.

10           SENATOR HUFF: Okay. So if they authorize us to  
11 put money in, then -- I'm not an attorney, but it seems like  
12 we have authority to put it back since it was all designated  
13 with authority from this Board.

14           So it seems that if we're taking action to declare  
15 that it's not there when in fact it's possible it could be  
16 moved back, I guess my question is are you confident that  
17 this will stand a legal challenge?

18           MS. BANZON: Well, let me state what the staff has  
19 stated, that this has been reviewed a while back and there  
20 seems to be we could not get into an agreement as to what to  
21 do with the seismic funds is what staff just stated earlier.

22           So based on that, the seismic will likely stay  
23 where it is and will get funded to seismic applicants.

24           SENATOR HUFF: Indecision by this body would not  
25 designate whether that money is available or not. It just

1 means this body's indecisive.

2           If in fact an action of ours could put it back  
3 into new funding and we don't take that, that doesn't mean  
4 it's not available. It means we're not willing to take that  
5 action. I mean that's how I see it.

6           CHAIRPERSON ORTEGA: Well, I think on the question  
7 of moving the seismic funds into new construction, the Board  
8 and the Legislature have determined that that is not under  
9 the discretion of the Board because -- and I say that  
10 because it's been proposed in the budget several years in a  
11 row and not approved by the Legislature, and so the funds  
12 have remained as part of the seismic pot.

13           So I think the question of whether the Board has  
14 discretion over the seismic funds, we have decided -- now,  
15 there has not been a court case. Neither party of interest  
16 in there has litigated that question. But the Board and the  
17 Legislature up to now have decided the Board did not have  
18 that discretion.

19           On the question of whether new funds are being  
20 apportioned, the analysis from the staff is that the only  
21 funds that are being apportioned are those related to  
22 Article 8.

23           And the question on the authority to authorize  
24 districts to increase the developer fees is on whether there  
25 are apportionments occurring under Article 5, and that's the

1 question before us today.

2           So I think there are -- I will acknowledge that  
3 there are real complexities in the structure that could  
4 result in certainly folks with interest litigating those  
5 questions, but at this point, we're working under what have  
6 been the assumptions of the Board and the Legislature until  
7 now.

8           Any other -- we have several speakers. So with  
9 members' continuing questions, we will move on.

10           Mr. Chavez.

11           ASSEMBLYMEMBER CHAVEZ: Just understanding the  
12 timeline. If we were to make that decision today that was  
13 presented by Senator Liu, I would imagine within the first  
14 meeting in June for the school board, they'd probably  
15 trigger this.

16           And then if they triggered it, I'd imagine if you  
17 are a developer looking at this and you knew a bond was  
18 coming through five months later that essentially they would  
19 probably not build. They'd say why should I do this and  
20 wait five months and see what happens with the bond. Then  
21 the bond will go through and I then could build the house at  
22 the lower rate because they wouldn't have -- according to  
23 the lawyer, they wouldn't have the situation to have  
24 Level 3.

25           So essentially we'd stop building across the

1 school district that chose to trigger this. And that would  
2 only be for the five or six months because we're going to  
3 have the election in November.

4 Bonds have always passed for education and so  
5 that's all we're going to do is stop building for a period  
6 of time until the bond goes.

7 So if the bond failed, I'd be one of the first  
8 ones to support Level 3 because I know we need it in the  
9 school districts.

10 But -- a number of us up here actually signed on  
11 to support the bond. I know I have because I know it's so  
12 critical for our schools. So -- but I'm not interested in  
13 people being put out of work and stopping development  
14 either.

15 So I'll wait to hear discussions from everybody  
16 else up here, but to me it seems shortsighted to do this. I  
17 know people want to do it, but you're not going to  
18 accomplish anything except stop building and lose jobs.

19 So that's kind of my -- I've been looking at this  
20 pretty heavily because I support schools heavily and I think  
21 also being in local government, having been there for two  
22 terms, and worked with developers, I know exactly what  
23 they'll do. They just won't build.

24 So if somebody can argue against, I'd really  
25 appreciate to hear about that. Otherwise, I think that's a

1 critical issue because this is not going to do a thing  
2 except lose jobs.

3 CHAIRPERSON ORTEGA: Thank you, Mr. Chavez. Any  
4 other members of the Board wishing to speak on this point?  
5 Mr. Nazarian.

6 ASSEMBLYMEMBER NAZARIAN: I'm stuck at the same  
7 point and, if I understand you correctly then -- what's the  
8 actual percentage of districts that do qualify for the  
9 trigger will also go ahead and make that decision to go  
10 forward?

11 Because I don't know what that number is and I  
12 don't know who can speak to that. But I suspect it's very  
13 small.

14 CHAIRPERSON ORTEGA: Well, I would only say that  
15 based on the letters and the folks who've appeared before  
16 the Board to date, it is a small group of districts who are  
17 prepared to do that quickly. I think that is true.

18 We do not have information about where other  
19 districts might be on this question. We can certainly ask  
20 some of the folks who are going to come before us today if  
21 they have any comment on that point.

22 Okay. Are we ready to move to the public comments  
23 at this point? Okay. So I will just go in order of the  
24 slips as they've been filled out. So we'll start with Dan  
25 Cunningham from Dublin Unified.

1           And let me go ahead and call up Megan Rouse also.  
2 I'll try to call everyone two at a time so we proceed  
3 efficiently.

4           MR. CUNNINGHAM: Good afternoon. Thank you for  
5 having us here today, and I hope you remember us from back  
6 in January when we came and brought this issue up  
7 originally.

8           And I want to thank the Board for having the  
9 courage to have the conversation. This is -- you know, we  
10 were told when we first came up here you're crazy, it's  
11 never going to happen, no one will even consider it.

12           And it's taken a lot of guts to have this  
13 conversation and we appreciate it.

14           And the thing that's important -- and to  
15 Assemblymember Chavez's comment. You know, there might be  
16 some developers that stop developing, but then again there  
17 might not and -- depending on what the bottom line needs to  
18 look like.

19           And so I think we need to look at the important  
20 thing which our communities need this. Our schools are  
21 definitely underfunded for construction and we have students  
22 that are going to be impacted by this.

23           And this will help provide some balance to the  
24 funding mechanism because right now, it is overly dependent  
25 on local schools. And so this is just one step to bringing

1 some balance back in to funding the school construction.

2 Thank you.

3 MS. ROUSE: Hi. Thank you so much. My name is  
4 Megan Rouse and I'm Vice President of the Dublin School  
5 Board and I'm here to speak in support of Level 3 fees.

6 Level 3 is actually complementary to our proposed  
7 regulation as we'll talk about later, but Level 3 is about  
8 the future. It's about the houses that will be built  
9 tomorrow and the next day and the day after that and for all  
10 of the students that will be coming to us from those homes.

11 In the next seven years, we expect 5,000 students  
12 coming from 7,000 homes.

13 It costs us about 120,000 to \$175,000 per student  
14 to build them a school based on our most recent school  
15 facility needs analysis.

16 At the moment, we collect about \$17,500 per home  
17 in developer fees. We need relief.

18 Absent state money, we need Level 3 to begin to  
19 provide that relief. We need the Level 3 fees for our  
20 students. We need it for our community and, frankly, it's  
21 the right thing to do. Thank you.

22 CHAIRPERSON ORTEGA: Thank you, Ms. Rouse. All  
23 right. Amy Miller.

24 MS. MILLER: Hi. I'm Amy Miller, a trustee from  
25 Dublin Unified School District also.

1 SB50 needs reform. I think that's really one of  
2 the issues here.

3 This law -- this system -- it's set up as a one  
4 size fits all and, while I understand Assemblymember  
5 Chavez's point, none of us is out to get developers. That  
6 is not why we're here.

7 But truthfully, the developer fees are supposed to  
8 cover 50 percent of construction costs. In our school  
9 district right now, even with our new school facilities  
10 needs analysis which would bring our Level 2 fees up to  
11 10.66, it doesn't even come close.

12 And without state money, we are overburdening our  
13 community. And so maybe you're right. Maybe Level 3 fees  
14 is enough to make builders stop building, but if anything,  
15 it at least gives the school district some leverage to  
16 negotiate with developers.

17 I mean at this point we really have none. And  
18 what's happening in Dublin is we are going out for a local  
19 bond measure and we have never had a problem passing a bond  
20 measure in our school district. We've never had a problem  
21 passing a parcel tax.

22 We have very severe opposition this time and one  
23 of the reasons that they are upset with the school board is  
24 they don't feel that we are collecting high enough Level 2  
25 fees, no matter how much we explain it.

1           We have put out in every way you can imagine the  
2 language of SB50 to explain there's a formula that you have  
3 to follow. It's really not up to us and we actually have  
4 negotiated with developers and they have given us more, but  
5 we still have never come close to covering 50 percent of the  
6 cost of a school.

7           So even when the state bond measure passes -- and  
8 we all hope that it will -- this is a discussion that has to  
9 continue. Everyone needs to be at the table: the state, the  
10 developers, and the school districts.

11           This is about educating students and the system  
12 today does not support the school. So, please, I ask you to  
13 support Senator Liu's proposal to put Level 3 fees through.  
14 Thank you.

15           CHAIRPERSON ORTEGA: Thank you, Ms. Miller. Okay.  
16 Next I'll call Ms. Westra and James Morris. Ms. Westra and  
17 Mr. Morris.

18           MS. WESTRA: Good afternoon. My name is Sherea  
19 Westra and I am the Teacher Association President in  
20 Fremont.

21           Fremont is a wonderful community. My parents grew  
22 up there. I grew up there and graduated from there and  
23 many, many people are coming to Fremont for many reasons,  
24 for 880, for 680, for BART, and for our schools.

25           We have 13 Gold Ribbon schools this year and we're

1 very, very proud of what we do there.

2           The members I represent have seen the impact of  
3 the housing growth in Fremont, and we have that enrollment  
4 growth that we've been talking about because of that and our  
5 facilities can't keep up.

6           As a classroom teacher, we see space for 800  
7 becoming spaces now for 1,200. Portables upon portables are  
8 being put down. Play space, PE space are being taken up,  
9 and our teachers -- the impact on their learning -- or their  
10 teaching and the learning is happening.

11           We have teachers who do not have classrooms.  
12 Every 45 minutes, they go to a new classroom. They can't  
13 meet with students in between periods, and that's impacting  
14 what they can do for our students.

15           We have students being overloaded from school to  
16 school which you're in this school and when a seat opens up,  
17 you get called back and you leave that great classroom where  
18 you built your community and now you start over at your  
19 school that's right across the street from that million  
20 dollar plus home you bought.

21           Last fall, the members I represent passed a  
22 position statement after this -- about this and I just  
23 wanted to share it with you.

24           Additional new housing in Fremont is contributing  
25 to the overcrowding of Fremont Unified School District

1 schools. FUDTA is pleased to work with the school district  
2 on this and we are pleased to see the work being partnership  
3 with the city council, the district, and the developers of  
4 the Warm Springs development to building new schools and  
5 provide funding for the feeder junior high and high school.

6 FUDTA believes that the developers of other  
7 approved housing developments should work with the city  
8 council and the school district to provide neighborhood  
9 classrooms.

10 Any future proposed developments should do the  
11 same. Fremont is a desirable city for so many because of  
12 our schools which only adds to the overcrowding problems in  
13 FUSD.

14 The developers need to be ethically responsible to  
15 contributing sufficient funds to prevent an overcrowding  
16 problem that we keep seeing in Fremont.

17 Warm Springs which is part of our town, they did  
18 the right thing and they helped and worked with us, but we  
19 have others that are not.

20 We believe in collaboration between our union and  
21 our district and we need the developers to do that too and  
22 this unfortunately has not been happening.

23 We need five elementary schools, a high school, a  
24 junior high. We are hurting and we need your help and  
25 that's why we're here.

1           That hallway is lined up with a busload of Fremont  
2 people you can't see unfortunately, but they're out there.  
3 Believe me, they're there, and we're hoping today that you  
4 will support Senator Liu's motion and that you will do the  
5 right thing for the students across the state and  
6 specifically in Dublin, right across 680 from us, and in  
7 Fremont especially and we hope you'll help us out because we  
8 just need help. Thank you.

9           CHAIRPERSON ORTEGA: Thank you. Mr. Morris. I am  
10 going to ask for folks in the back to not clap. It's just  
11 going to slow us down a bit and we appreciate you being  
12 here, but, please, do not clap. Thank you.

13           ASSEMBLYMEMBER BONILLA: You can clap like this  
14 (indicating).

15           CHAIRPERSON ORTEGA: Yes. Yes. Silent clapping  
16 is fine.

17           MR. MORRIS: Thank you very much. My name is Jim  
18 Morris. I'm the Superintendent of the Fremont Unified  
19 School District and we tried to have a small number of  
20 people coming to speak to you today because we think -- and  
21 we appreciate your thoughtful deliberation and discussion of  
22 this item.

23           In addition to Mrs. Westra's opening comments, I  
24 just want to point out we really are a model school  
25 district. We're a school district in every way that has

1 done everything that this state could ask for a school  
2 district.

3           We have incredible teachers. We have incredible  
4 staff. We have the highest performing schools in the Bay  
5 Area, kind of tied with Dublin.

6           But we really are in so many ways a model school  
7 district, what you want. Our local community has passed  
8 local bonds in order to fix and repair our schools that were  
9 built in the '50s.

10           We've worked collaboratively with developers in  
11 South Fremont and had very good success in one instance.  
12 But we really need the help and the leverage of having  
13 Level 3 fees. It doesn't mean we won't continue to work  
14 with developers because we know every one of us lives in a  
15 house that was built by a developer.

16           We will continue to have conversation with  
17 developers and continue to enter into mitigation agreements.

18           Our local board -- it's important for you to know  
19 before Level 3 fee is implemented at the local level, it  
20 takes an action of the local school board. It has to be  
21 posted. There has to be 30-day notice. There has to be a  
22 public comment period, and it has to be an open process in  
23 collaboration with the community.

24           Our board is probably the most transparent,  
25 collaborative board of education you'll find anywhere, and

1 we want to continue to work with folks in our community, but  
2 the challenge is I have today, if a first grader moves into  
3 the City of Fremont, I don't have a seat for them anywhere.

4 I have 2,400 kindergarten seats for August and I  
5 already have over 2,600 students enrolled. We have a very,  
6 very serious problem.

7 Because our schools are so good and folks are  
8 moving into the community, we respectfully ask for your help  
9 and support. Thank you so much.

10 CHAIRPERSON ORTEGA: Thank you. Okay. I have Liz  
11 Fischer and Zainab Khan, if you could come on up.

12 MS. FISCHER: Thank you. My name's Liz Fischer.  
13 I'm a concerned parent from Fremont and helped to organize  
14 some of this.

15 We just respectfully ask the Board to support this  
16 motion for all the reasons already stated. We need the  
17 leverage to be able to get together on the table with  
18 building schools for our students.

19 It's been a long time and the time is now.  
20 Developers are already coming and paying their fees as we  
21 speak because of the pending decision here, and we hope that  
22 you will support it so that we will have an opportunity to  
23 get the funding that we need. Thank you.

24 CHAIRPERSON ORTEGA: Thank you, Ms. Fischer.  
25 Ms. Khan.

1 MS. KHAN: Hi. Good afternoon. My name is Zainab  
2 Khan and I'm a senior at Irvington High School which is  
3 located in Fremont Unified School District which is a part  
4 of Alameda County.

5 My high school is currently home to over 2,600  
6 students, which means that we're severely overcrowded. Our  
7 town needs at least one more high school, but my school  
8 district doesn't have the funds to build one, and that means  
9 that some of my friends, including myself -- sometimes I'm  
10 on the road for over an hour before I actually get to  
11 school.

12 I have to leave home at 7:00 o'clock in the  
13 morning just to get to school by 8:05 which is when our  
14 tardy bell rings, and that means that I'm sleep deprived  
15 because I'm constantly on the road driving to and from  
16 school because school is so far away from where I live,  
17 which is why -- well, my school district is a wonderful one.

18 And I understand that a lot of parents do want  
19 their students to go to schools like mine and I do  
20 understand that developers want to build homes there, but we  
21 don't have the funds to accommodate this many students.

22 Last year, our freshman class was over 800  
23 students, which means that our school day has to break up to  
24 accommodate them.

25 So what I'd really ask the Board here today would

1 be if you guys would please just follow the law that's been  
2 written in cases like this when the Board can't pay for our  
3 school facilities and just charge developers a higher fee so  
4 that I can get the education that I deserve, that my younger  
5 brother who's going to be a junior at Irvington High School  
6 gets the education he deserves, and other students like us  
7 get the education that we deserve. Thank you.

8 CHAIRPERSON ORTEGA: Thank you, Ms. Khan. Next we  
9 have Dr. Yang Shoo and Susie Lara.

10 DR. SHOO: Good afternoon, Board members. Thank  
11 you for giving me a chance to talk with you about Level 3  
12 fees.

13 My name is Yang Shoo and I'm on the Fremont  
14 Unified School District board and the clerk of the board.

15 As the representative of the public and my  
16 community, I'm glad that I'm joined by a lot of community  
17 members led by our Vice Mayor Lily Mei and Planning  
18 Commissioner, Raj Salwan, who will respectfully speak to you  
19 later.

20 I will not repeat the serious that our  
21 superintendent and other speakers before me have already  
22 spoken to you. I just want to share some personal  
23 experience.

24 As a board member, I often visit schools. One  
25 day, I visited an elementary called Glankler and I walked

1 into a small room barely as big as the space around this  
2 table, and it was shared by four school psychologists. When  
3 I saw that, my -- tears just rolled down.

4           And we are in desperate need of space, not only  
5 for students but also for the teachers and all the staff.

6           Since this month is the Asian heritage month, I'd  
7 like to share with you a story. In ancient China, one day a  
8 group of monkeys saw the reflection of the moon in the  
9 river. They thought the moon was drowning, so they all  
10 jumped into the river, tried to save the moon.

11           They tried and tried, but nobody could get the  
12 moon out of the water.

13           School facility bond to me is like that moon in  
14 the river. However, Level 3 fees is an immediate and  
15 effective way to mitigate our problem.

16           So our need is clear and present and I urge you to  
17 all support the motion made by Senator Carol Liu and support  
18 the motion to let us impose Level 3 fees to developers.

19 Thank you.

20           CHAIRPERSON ORTEGA: Thank you. Ms. Lara.

21           MS. LARA: Hi. I'm Susie Lara. I'm with the  
22 Beaumont Unified School District in County of Riverside, and  
23 we are a district that's also growing, not as much as they  
24 are, but we are anticipating an additional 1,500 homes by  
25 the year 2020 or 2021.

1           We've had a 57 percent growth in ten years, and so  
2 we've passed a bond in our district also. We are not able  
3 to get all those funds at this time because of the bond  
4 capacity.

5           So we are in need of two new elementary schools  
6 very soon. We are just getting ready to start going through  
7 the process to do an elementary school. We need another one  
8 and then we only have one high school in our district, which  
9 has 2,500 students in it, and so we're going to be needing a  
10 high school.

11           So I know the list goes on for everybody and I  
12 understand that. So I appreciate this conversation about  
13 the Level 3 fees. I know it's a very difficult decision to  
14 make because it does have such a far-reaching impact on  
15 everybody.

16           It has impact on developers, has impact on  
17 families if we don't do it, and students and so I just -- I  
18 would support the Level 3 and -- because I think that our  
19 kids deserve that.

20           And that's what we're here for as school board  
21 members and educators. We're here to serve our students,  
22 and the best way we can do that is to speak up and let you  
23 know how important those kind of issues are to us.

24           CHAIRPERSON ORTEGA: Thank you, Ms. Lara. Next I  
25 have Kathy McDonald and Lily Mei.

1 MS. McDONALD: Hi. I'm Kathy McDonald. I'm a  
2 resident of Fremont and I'm a member of the bond oversight  
3 committee for our latest school bond.

4 In 2014, we passed a \$650 million school bond to  
5 address our failing schools. It was fix-it bond. And I can  
6 tell you that in the last two years that I have been on this  
7 bond committee, we have had to prioritize new school  
8 construction out of that budget to accommodate the  
9 accelerated growth we really couldn't accommodate any other  
10 way.

11 And because we have had to accommodate these  
12 school construction projects, we are now jeopardizing the  
13 fix-it projects that we had outlined for this bond.

14 So really we're not only using our money that we  
15 had no other use for for this construction or getting the  
16 money from the developers, at this point we are taking money  
17 from the residents that we have taxed with the promise that  
18 we were going to fix these schools.

19 We need help and at this point, we have 8,000 plus  
20 units of homes already approved on our budget -- on our  
21 planning project for the next two years.

22 So, honestly, Mr. Chavez, if we had five months of  
23 no more approved construction and no development, I think we  
24 would really relish the break.

25 And I really urge you all to approve Level 3 fees

1 so that we have at least a change at getting at this  
2 construction. Thank you.

3 CHAIRPERSON ORTEGA: Thank you, Ms. McDonald.  
4 Ms. Mei.

5 MS. MEI: Good afternoon. My name is Lily Mei and  
6 I really appreciate the opportunity to address the committee  
7 this afternoon.

8 I'm a parent of a graduate of the school district.  
9 I'm a mom of a current student and I'm a former school board  
10 trustee and I have the honor of currently being the Vice  
11 Mayor.

12 However, I wanted to clarify that I'm speaking  
13 today representing myself.

14 There have been a lot of opportunities that I  
15 think the school district has been able to work with  
16 developers, and Warm Springs, that is an example, but having  
17 seen the changes in the city and having been a parent of a  
18 child who's overloaded and having to take a child who's in  
19 kindergarten and show up for two weeks and not know where  
20 you're going to place the child and our city's a fair size,  
21 92 miles, and try and figure out as a parent -- working  
22 parent with a toddler trying to figure out how am I going to  
23 get them to and from two different locations, I really  
24 understand the needs in terms of the fundings that are  
25 critical for the city.

1 I also think that it's important because it's a  
2 three-legged approach in terms of a partnership of state  
3 fees, local, and developers.

4 And as you've heard already from our  
5 superintendent and from our teachers union and parents and  
6 volunteers, the community has supported the schools. They  
7 have consistently stepped up. They have supported parcel  
8 taxes and they supported a bond for \$650 million.

9 What has happened, though, is that in some ways  
10 because we are performing so well and people are choosing to  
11 make this a home and we are trying to do the right thing as  
12 a city too to address the housing needs, we can't do that  
13 without the supporting infrastructure.

14 And so at this point, I would really request for  
15 your support too and to support Senator Carol Liu's proposal  
16 and as that when we ask our children to plan for the future,  
17 it really helps if you help us support that and also help  
18 them plan for theirs. Thank you for your time this  
19 afternoon.

20 CHAIRPERSON ORTEGA: Thank you. Okay. The next  
21 two are -- let's see. I apologize in advance if I am  
22 mispronouncing -- Hiu Ng and Raj Salwan.

23 MR. SALWAN: Okay. Hi. Good afternoon. My name  
24 is Raj Salwan. I'm a current chair of the Fremont Planning  
25 Commission. I'm also a former Fremont City Council member.

1 I'm also a product of Fremont public schools and I have  
2 three kids in our public schools now.

3 I'm here to urge you to support Senator Carol  
4 Liu's motion to increase Level 3 fees.

5 Fremont has been a model city. We have done our  
6 job. We have dedicated four TOD areas, one of which is near  
7 a new BART station.

8 We're building over 4,000 units just in Warm  
9 Springs alone. We are also building another 2,500 units  
10 near the downtown.

11 We have dedicated affordable housing boomerang  
12 funds, 20 percent. We were the first city to do that.  
13 We're continuing to invest in affordable housing in the Warm  
14 Springs district with a large amount of extremely low units  
15 coming online.

16 And so we only have one tool left to build our  
17 schools. The schools that we have now are the same schools  
18 that I went to 30 years ago, and I think it's time that our  
19 schools get modernized and become part of the 21st century.

20 We like to say that we are part of Silicon Valley,  
21 but how can we do that when our schools reflect the 1950s.

22 So I kindly and humbly request all of you to  
23 please consider supporting Level 3 fees.

24 I understand your question, Assemblymember Chavez,  
25 but hopefully we can revisit that at a future time. If we

1 have -- flush with cash, maybe we can relook at it at a  
2 future date. Thank you very much and appreciate your taking  
3 this time.

4 CHAIRPERSON ORTEGA: Thank you.

5 MR. NG: My name is Hiu Ng. I'm a regular parent  
6 from Fremont. I'm not an elected official in any way. I do  
7 not work with the school district.

8 I have a very clear and strong track record of  
9 sometimes agreeing with the Fremont Unified School District  
10 board of education. Other times, I actually disagree.

11 But on this issue of Level 3 fees, the need is so  
12 clear that I actually have not heard from many people to  
13 oppose. I believe the overwhelming sentiments of the  
14 Fremont public is wanting to see a higher developer fee.

15 Our Level 2 developer fee at this time is only  
16 something like \$8.16, and it is not -- some other speakers  
17 have told you, it does not even meet half of the costs to  
18 our school district.

19 I want to give you a snapshot -- really fast  
20 snapshot. There will be a Fremont school board meeting  
21 tomorrow night. On the agenda, there will be nine portable  
22 classrooms being added to one of our elementary schools.

23 On the agenda, these will be 3 portables adding to  
24 one of our junior highs, Thornton Junior High, which already  
25 has 20 portables.

1           There is a third item which is adding 6 portables  
2 to American High School, which already has 24 portables.

3           And the really, really heartbreaking part is I  
4 expect to be at the board meeting tomorrow and ask the  
5 school board please add ten portables at American High.

6           I believe in April I talk to everyone a little bit  
7 about the needs at our schools. Our schools basically  
8 falling apart. Even though we add the classrooms, all the  
9 core facilities -- music, performing arts, bathrooms,  
10 everything else is not enough. There is an urgent need.

11           Many the people here today not because we have  
12 something against developers or, you know, we have something  
13 that we're going to do anything unreasonable or, you know,  
14 get some money in November.

15           At that time, I believe -- I thoroughly believe  
16 that the school district will review and do the right thing.

17           But Fremont is really, really hurting. The kids  
18 are hurting. You heard from, you know, the leader of our  
19 teachers union. Teachers aren't having fun. The parents  
20 are really concerned because we see the overcrowding.

21           You are hearing from a student leader. Please  
22 support Senator Liu's motion.

23           CHAIRPERSON ORTEGA: Thank you, Mr. --

24           MR. NG: We are asking because we need it. Thank  
25 you very much.

1           CHAIRPERSON ORTEGA: Thank you. Patti Herrera.

2           MS. HERRERA: Good afternoon. I'm Patti Herrera.

3 I represent Riverside County schools. We have 23 school  
4 districts in Riverside County. We educate collectively  
5 425,000 students every day.

6           In Riverside County, our situation is quite -- I  
7 wouldn't call it unique, but it's definitely urgent.

8           Our assessed valuation per pupil across our county  
9 is well below the statewide average, which tells us that in  
10 our county we don't have the financial wherewithal to  
11 address our housing needs, our growth in Riverside.

12           We are one of three counties that the Department  
13 of Finance has noted will grow in the coming decade and  
14 actually over the next 50 years and we're feeling that  
15 growth now.

16           We appreciate, Senator's Liu, your leadership in  
17 making the motion to trigger Level 3 fees.

18           I can't tell you, Mr. Chavez, how many of our  
19 districts in Riverside County would use that authority to  
20 assess Level 3 if you provide it to them, but I can assure  
21 you that if you don't provide them the option that they  
22 can't, and they need your assistance.

23           So we support the trigger of Level 3 and we hope  
24 that you will do what's right for kids. Thank you.

25           CHAIRPERSON ORTEGA: Thank you, Ms. Herrera. Next

1 I have David Walrath and Richard Lyon, and the last card I  
2 have is for Laura Preston, and then if there's anyone  
3 else -- I see we have one more coming.

4 MR. WALRATH: Madam Chair, members, Dave Walrath  
5 representing the Coalition for Adequate School Housing.  
6 Thank you for this opportunity.

7 In response to Mr. Nazarian's question, there are  
8 approximately 960 school districts in the State of  
9 California. We do not know how many have Level 2  
10 authorization because only those with Level 2 could go to  
11 Level 3.

12 In Kern County, approximately 25 percent have  
13 Level 2. If you take that extension, if that is reflective  
14 of the state, then you're talking about potentially up to  
15 240 school districts.

16 Whether they all would trigger or not, I do not  
17 know, but most of them when they did their needs analysis  
18 and their fee surveys, they included both Level 2 and  
19 Level 3 authorization in that survey.

20 Consequently, they can automatically go any  
21 subsequent Board action is they choose to, to go down to the  
22 permitting agency and say our fees are now doubled.

23 So a new homeowner who's building their own home  
24 just walked out of the plan department with their plans --  
25 only building their own home will now have twice the fee.

1 They may not have figured that into their costs.

2           Because when you go to a Level 3, you cannot pick  
3 and choose who pays. It could be the person who is building  
4 three or four homes a year who has to be building those  
5 homes in order to have enough money and have enough people  
6 employed to meet his costs because they don't have enough  
7 money in the bank to carry themselves like large a  
8 corporation might be able to carry themselves if they chose  
9 not to building in a Level 3 environment.

10           So Coalition for Adequate School Housing last  
11 Wednesday testified before the three committees -- education  
12 committees regarding the state school bond.

13           Our testimony was the state school bond provides  
14 equity -- provides equity of access for the goal ensuring  
15 that every student in the state and every teacher in the  
16 state can have a quality classroom.

17           We will be urging you to not adopt Senator Liu's  
18 motion because it does not meet the equity test. While it  
19 does have some effects and you've heard testimony from some  
20 school districts, it does not help school districts with  
21 growth and not development, and those are sometimes  
22 districts in the Central Valley with high numbers of low  
23 income students.

24           It does not help modernization districts who have  
25 primarily modernization because Level 3 cannot be used for

1 modernization, only for new construction, only on new  
2 development.

3           And when I say development, we won't get into the  
4 economic analysis of how much of this cost would pass onto  
5 the home buyer versus the home builder.

6           It does not help those districts who are small and  
7 low wealth who need a robust financial hardship program.  
8 The state bond would do that.

9           We believe the state bond will be -- it is on the  
10 ballot. The voters will have a chance to vote on it in five  
11 months.

12           We believe it is a better way of address these  
13 equity issues.

14           We do not know what will happen if the motion  
15 passes. None of us do. So the question is with the bond on  
16 the ballot, why take a great leap into the unknown.

17           We ask you to vote no or not vote at all. Thank  
18 you.

19           CHAIRPERSON ORTEGA: Mr. Lyon.

20           MR. LYON: Good morning, Madam, members. Richard  
21 Lyon on behalf of the California Building Industry  
22 Association.

23           We believe that there are viable solutions here  
24 short of the Board taking the extreme measure of imposing  
25 new taxes on housing.

1           Triggering a hundred percent financing on new home  
2 buyers as Mr. Walrath said with the bond pending in November  
3 before California voters will do very little to advance the  
4 cause of facilities and it will likely send a chilling  
5 message to the housing and the employment markets throughout  
6 the state at a time when we all understand and recognize  
7 that we have a serious housing supply and affordability  
8 crisis.

9           We agree with Mr. Walrath that the better solution  
10 here is to -- for the Board to educate itself, to understand  
11 what its options are, but to allow the public to voice its  
12 opinion on the program.

13           If the bond passes, then this question is moot.  
14 If the bond fails, then the Board should be prepared to take  
15 appropriate action immediately, but we think any action on  
16 Level 3 today would be premature.

17           I would like to address issues that are in the  
18 Board report that go directly to the triggering issues that  
19 the staff has talked about.

20           And I begin by citing you to the 2002 Attorney  
21 General opinion that you have in your packet. The issue  
22 there was not whether the amount of grant requests exceed  
23 the available funds. The issue was whether or not the Board  
24 had exhausted -- and exhausted is the word -- completely  
25 exhausted new construction dollars and is no longer

1 approving apportionments.

2           And importantly, the Attorney General's opinion is  
3 not the only legal opinion on this matter.

4           In 2001, the Legislative Counsel also opined.  
5 It's the opinion right here.

6           For the record, it is Opinion 12361, June 27 of  
7 2001, and I'd like to read you the conclusion in this  
8 opinion and it tracks along with what the Attorney General  
9 said.

10           If state funds are available in the school  
11 facilities fund for apportionment to school districts and  
12 the SAB continues to approve apportionments, even though the  
13 total amount in that fund is less than the total amount of  
14 applications that could have been or could be approved for  
15 funding, then Level 3 doesn't trigger.

16           So it's not about the amount of demand on the  
17 system versus money in the account. It's whether the funds  
18 that are new construction funds have been exhausted.

19           The staff report concludes that there's a lack of  
20 funds for new construction. However, it's important to  
21 understand that the same report also acknowledges that  
22 seismic funds are new construction funds and that seismic  
23 funds remain.

24           So there's an internal conflict here. Both can't  
25 be right. We can't be, on one hand, out of new construction

1 funds and at the same time, have an account balance of funds  
2 that are acknowledged to be new construction.

3           The way that the Board -- I'm sorry. The way that  
4 the staff report attempts to reconcile this is to say that  
5 the Board has decided to place the monies into the Article 8  
6 facility hardship/seismic account, and by doing that, the  
7 monies, according to this reasoning, are no longer counted  
8 as available under Article 5 for new construction purposes.

9           I think this. It really makes no difference what  
10 accounting measures are used here. It doesn't change the  
11 fact that the funds were approved by voters in 2006 as new  
12 construction, and until either the Legislature by a  
13 two-thirds vote or the voters themselves agree to repurpose  
14 those funds, they remain new construction funds.

15           To the second part, does the Board continue to  
16 approve apportionments under Article 5 and the staff report  
17 says no.

18           The report does acknowledge that apportionments  
19 continue to be made to seismic, but it says that those are  
20 under Article 8 and not under Article 5.

21           Article 5 is the organic statute that lays out new  
22 construction and the criteria for new construction, and I've  
23 got a copy of the article right here.

24           And in Section A, it basically says that a  
25 district has to be eligible and it submits an application.

1 But the important part here is in Subsection B, and it says  
2 this, and this is new construction and this is in Article 5.

3           The application shall include, but shall not be  
4 limited to, the school district's determination of the  
5 amount of state funding that the district is otherwise  
6 eligible for relating to -- and these are the eligible  
7 activities under Article 5 that the district is eligible for  
8 new construction -- relating to site acquisition, site  
9 development, new construction, and hardship funding pursuant  
10 to Article 8.

11           Article 8 is a lesser-included article within the  
12 broader Article 5. Article 5 is the new construction pot.  
13 Seismic funds are new construction. Until they have been  
14 repurposed by either the voters or the Legislature, they  
15 continue to be new construction funds.

16           And it makes no difference that the accounting was  
17 in Article 8 and not in Article 5 because by this code,  
18 seismic funds are a lesser-included activity under new  
19 construction. They are in fact new construction funds.  
20 They can be purposed for new construction.

21           The Board continues to approve apportionments of  
22 seismic funds which are identified as new construction  
23 funds.

24           So for those reasons, members, we believe that the  
25 two conditions, being out of new construction dollars and no

1 longer approving apportionments under Article 5, have not  
2 occurred and that it would be inappropriate. It would be  
3 unwise. It would be arbitrary for this Board to pull the  
4 Level 3 trigger.

5 I'd be happy to answer any questions.

6 CHAIRPERSON ORTEGA: Thank you, Mr. Lyon. Next I  
7 have Laura Preston and Donald Hofer.

8 MS. PRESTON: Hi. I'm Laura Preston with the  
9 Association of California School Administrators.

10 Mr. Lyon and I kind of winked at each other on our  
11 way because a couple of the people in the room were here  
12 back in the 1980s when we created the School Facility  
13 Program in its inception.

14 I had the privilege of working for Senator Leroy  
15 Greene who is author of the School Facilities Program and  
16 when we created the program, it was supposed to be a third,  
17 a third, a third, a third builders, a third the state, a  
18 third school districts.

19 And at that time, we were passing bonds  
20 consistently. And also at that time, we had the ability --  
21 and Mr. Lyon and I will probably argue back and forth, but  
22 we had the ability to go to our cities and counties and  
23 leverage additional fees. Especially at that time we were  
24 growing rapidly throughout the state.

25 So developers were paying more than the statutory

1 amount of fees in some parts of the state. I'd assure you  
2 back then and I can assure you now -- I don't know, but I  
3 could assure you back then housing did not slow down.

4           Housing prices don't go skyrocketing because the  
5 houses are going to sell for what they sell. It becomes a  
6 profit margin for the developers and I understand that and I  
7 know that that can be problem, but the reality is, is that  
8 our schools -- our good schools are selling points for  
9 homes.

10           And our schools wouldn't be needed if there  
11 weren't the homes being built to, you know, accommodate the  
12 students that are coming out of them.

13           So I wanted to provide that kind of backdrop  
14 because when we moved forward when SB50 was passed and we  
15 changed the whole dynamic of the developer fees, it has  
16 created problems in pockets of the state.

17           Now, I have talked to many of my members. Some  
18 members are willing to -- they're agreeing that they could  
19 really use the Level 3 developer fees and we have some that  
20 are like, no, even though we know we could probably use the  
21 funds, we know the developers will leave and we don't want  
22 them to leave.

23           So what this does is it allows for the  
24 conversation. It force -- not forces, but it brings the  
25 parties together to figure out how you're going to pay for

1 these schools, especially in light of the state not  
2 providing their one-third part, and they haven't for a long  
3 time, all of you know. And we need those resources for  
4 those districts that will work with their developers to make  
5 this happen. Thank you.

6 CHAIRPERSON ORTEGA: Thank you.

7 MR. HOFER: My name is Don Hofer. I'm the  
8 Chairman for the California Building Industry Association.  
9 I'm also Vice President for Shea Homes in Northern  
10 California, and I participate as Vice Chair on the  
11 Facilities Oversight and Advisory Committee for the school  
12 district in which I live.

13 So I have an interesting perspective with regards  
14 to a lot of this.

15 I'd like to first point out that as the building  
16 industry, we support schools. We believe in a lot of what  
17 the previous speaker just spoke to about the importance of  
18 schools in our communities.

19 However, pulling the Level 3 trigger today doesn't  
20 solve what you're hearing a cry for today. The issue is  
21 fund and as an association, the California Building Industry  
22 Association is focused on the \$9 billion bond that is on the  
23 ballot for November.

24 And that bond is an effort that has gone on, as  
25 many of you know, for nearly four years. Had that bond

1 passed or been allowed to move forward when it was  
2 originally calendared, we wouldn't be having this  
3 conversation today.

4           The issue is funding generally. And generally,  
5 the issue today is whether or not if you pull the trigger  
6 for Level 3 fees if it does anything.

7           I can tell you that a lot of what people have  
8 talked about is correct, that if you pull the trigger today  
9 for Level 3 fees, several things will play out throughout  
10 the state.

11           The first is that in growth districts like Dublin  
12 and Fremont and others, you'll see developers come out and  
13 pay fees in advance. We're talking about a five-month  
14 window from when the fee trigger would be pulled and the  
15 bond would be decided.

16           So for the next couple of months, you'll see  
17 developers possibly working on permits that they've pulled  
18 in advance, have prepaid.

19           Once you get to maybe September or October, if  
20 they haven't prepaid, they're going to wait. Right?  
21 They're going to wait to pull their permits until they know  
22 if the fees are going to be lower.

23           And we're not talking about small dollars here.  
24 Okay? We're talking about fees that will double in  
25 Dublin -- or I'm sorry -- in some parts. I think Fremont is

1 talking about roughly a \$10 square foot difference between  
2 Level 2 and Level 3. That's considerable financial impact.

3 So this the dynamic that private business will  
4 play out in these districts. So in reality, what happens  
5 within Dublin and Fremont and others like them is that  
6 you'll see no revenue difference. Okay?

7 In fact, for a short period of time, you'll see a  
8 peak because more revenue will come in for a short period of  
9 time as developers play out the need for permits short time.

10 You'll see a trough as you get closer to the  
11 November election and then by year end, you'll see no  
12 discernible difference at all in revenue within that  
13 district.

14 You may see a few builders that aren't  
15 sophisticated enough or don't know about this, local  
16 homeowners, local folks who will actually go in and pay that  
17 Level 3 fee, but it won't be much.

18 On the other side of the equation, though, you all  
19 have heard about the housing crisis we're facing in so many  
20 jurisdictions throughout the state. You'll see generally  
21 the pipeline for new projects stop in areas where the  
22 financial liability of development is questionable. You  
23 just will. It's the way business works in this state.

24 When it comes to additional development or  
25 additional investment into development, if all of a sudden

1 on a hundred-unit project my cost just went up by 2- or  
2 \$20 million depending on whatever the economics are, it  
3 could be the difference between a project moving forward or  
4 not.

5 And so generally, a decision today to go to  
6 Level 3 would have more negative impact than positive in  
7 that it would stop development in some parts of the state  
8 which is badly needed today to deal with the housing  
9 affordability crisis that we know exists.

10 So that's kind of high level. Hopefully, the  
11 knowledge that I can, you know, impart here today about the  
12 way it works within a builder like Shea is helpful.

13 I would urge you to wait until November election  
14 is through. And again, like Richard Lyon and others said  
15 here today, if the bond is not successful in November, then  
16 by all means, this is a valid discussion to be having and it  
17 has a lot of important today aspects and I'm happy to be  
18 here today to have the discussion.

19 But really at the end of the day, Level 3 won't  
20 achieve what I think people are asking for it to achieve in  
21 reality. Thank you.

22 CHAIRPERSON ORTEGA: Thank you. Mr. Hakim.

23 MR. HAKIM: Board members, my name is Sameer  
24 Hakim. I'm a trustee with the Dublin Unified School board.

25 One thought which has not been brought up is about

1 our students. We are not thinking about our students and  
2 we're talking about not leveling the Level 3 fees.

3 I would say as a trustee I am responsible to  
4 ensure quality education for all of our students. With the  
5 growth we face in our district, we cannot provide the  
6 quality education without building more schools.

7 We feel we cannot build the schools without  
8 Level 3 fees. Please note that Level 3 fees do not cover  
9 the entire cost of full construction.

10 As a trustee, we want to do the right decision for  
11 those kids, giving districts local control to determine  
12 triggering Level 3 fees is the right thing to do. This will  
13 bring the developers and the districts together. Provide us  
14 the leverage to think what is right for our school district.

15 As a trustee, I would say profit margin should not  
16 be more important than educating our kids. The impact is  
17 now, so please pass the motion said by Senator Liu. Thank  
18 you very much.

19 CHAIRPERSON ORTEGA: Thank you. Is there any  
20 other public comment to come before the Board? Okay.

21 I'll open it back up to Board members. We have a  
22 motion by Senator Liu on the floor. Mr. Schweizer.

23 MR. SCHWEIZER: Thank you. Can I just -- want to  
24 throw a question to my colleagues here. So, you know, I  
25 think there's strong Board consensus here at the dais that

1 there's tremendous need for school facilities statewide.

2           And while this may address some of that need, how  
3 does it sort of fit into, you know, long-term, you know,  
4 addressing all of the needs, particularly given that we know  
5 that, you know, the need is shifting from -- historically,  
6 it's been new construction. It's shifting now to  
7 modernization statewide.

8           This doesn't really address that. We've got a  
9 bond on the November ballot. You know, how does it impact  
10 the bond. We're hearing from some folks that, you know,  
11 builders are going to stop building. It's not going to  
12 generate any money.

13           And then when the bond passes, there's uncertainty  
14 as to district by district how those needs analyses will be  
15 done, you know, since there's no triggering off. So how  
16 does that get addressed.

17           So I think -- you know, I've got a lot of  
18 questions. I'm wondering, you know, what other of my  
19 colleagues can help here.

20           CHAIRPERSON ORTEGA: Senator Hancock.

21           SENATOR HANCOCK: I don't know that I can answer  
22 all of the questions of my colleague. I can tell you that  
23 I'm going to vote for the motion today as one step forward  
24 that we can take right now, and that is that we are talking  
25 about huge needs and we're talking about many different

1 kinds of districts, so it's not one size fits all.

2 A district that looks at their own situation and  
3 conclude that no one's going to build or that it doesn't  
4 make any difference or whatever won't enact the fees.

5 Districts that may need the fees and believe that they will  
6 still have developers building, I think would go ahead and  
7 use it.

8 So for me, it's allowing immediate steps taken by  
9 local people to address their local conditions. And I have  
10 to say, you know, we've heard the argument that comes down  
11 at the end seems to be developers won't do anything unless  
12 they have all the leverage and don't have to do very many  
13 fees.

14 I think that's why some of these people were told  
15 before they came here that we'd never vote for the fees.

16 You know, we have heard -- I come from local  
17 government. We heard some of those same things about  
18 inclusionary zoning and green building and many things that  
19 in fact after we enacted them, developers stepped up to the  
20 plate and did it.

21 And I'm also going to say that I think it's  
22 cynical for people to say developers just won't build unless  
23 they can maximize every dime of profit.

24 And I have found, to be very frank, that often the  
25 associations in Sacramento don't speak for everyone in their

1 class of people. Whether that is union leaders for union  
2 members, the medical association for doctors, developers for  
3 developer, police chiefs for police chiefs, we could go  
4 down. We all know communities are different.

5 And in fact, you have desirable communities and  
6 you have zoning laws. Developers are often vying to do that  
7 building and in communities like the ones we heard from  
8 today, that appears to be the case.

9 And if that is the case and they move forward and  
10 we pass a bond, there will probably be many districts that  
11 aren't that enviable condition, who will step up to use the  
12 money.

13 So I think that there's a reason we have level  
14 fees written into the law and the reason is if at some point  
15 we would need them, and according to the staff report, we're  
16 eligible for them now. We need them now, and I think we  
17 should move forward today.

18 ASSEMBLYMEMBER CHAVEZ: May I make a comment  
19 there.

20 CHAIRPERSON ORTEGA: Please.

21 ASSEMBLYMEMBER CHAVEZ: Thank you. Before I  
22 address all my colleagues, I first want to address all the  
23 parents.

24 First of all, thank you for coming here. I think  
25 it's extremely important that your voice is heard and I'm

1 glad we took the time by the Chairman to allow you all to  
2 speak, especially the staff members the city council members  
3 coming forward.

4           And for the one gentleman who made the comment,  
5 you know, I sit on a lot of education committees and when I  
6 ran for office in 2012, it was all about education. It was  
7 for the kids and students.

8           And that comes from nearly 40 years having been a  
9 school site parent, having been a PTA president, having been  
10 a coach at a high school, having been a school board member,  
11 having been a director of a high school, and also city  
12 council member for two terms. So I didn't just fall off the  
13 truck yesterday. I've been involved in this for some time.

14           And I bring that to this decision. The programs  
15 do cost in California. When you do inclusionary housing,  
16 when you do green, when you do infill, when you do  
17 affordable -- I was in a coastal community in Oceanside when  
18 we were dealing with issues of the coastal zones.

19           You're right. People will develop it. But the  
20 price has been -- is the cost of a house.

21           The largest -- when I go into Silicon Valley when  
22 I meet with the business development centers there and I  
23 talk to students at the universities, the biggest thing they  
24 hit with is affordable housing, and that is because we're  
25 not able to develop because we have all these restrictions

1 on heights and zones and setbacks and all of these other  
2 things that people that put programs in -- yeah, they'll  
3 develop it, but it's going to take your cost up.

4 My daughter sold her condo in Oceanside and bought  
5 a house on five acres of land in Virginia because of the  
6 zoning and good idea of programs. Imagine that. A  
7 two-bedroom condo in Oceanside buys you a five-bedroom  
8 house -- I mean and a five-acre in Virginia.

9 So there's a cost to these.

10 You know, if the bond measure wasn't coming  
11 forward, I'd vote for this in a heartbeat because we need  
12 it. But having been involved with developers and having  
13 been in local government and seeing this, it's going to  
14 happen exactly like that.

15 The plans that have already been pulled, that have  
16 paid fees, they'll go forward and then it's going to be all  
17 stopped to see what happens.

18 And so people in your neighborhoods are going to  
19 be out of work and you're not going to see things go  
20 forward.

21 House prices are going to go up because it's a  
22 supply and demand issue. So when your children graduate  
23 school, they're going to try to figure out where they're  
24 going to live. That's why the houses are so big.

25 So that's why I'm a big supporter of the bond

1 issue.

2           You know, the other thing I'd like to just say  
3 also because I've watched three or four city council members  
4 come forward and say, you know, they're in this and even a  
5 planning commissioner.

6           You know, general plan has mandatory elements and  
7 one of them is actually called the land use, and in the land  
8 use, it actually discussed education being set aside as part  
9 of the whole general plan.

10           You know, in our cities, we would always  
11 consider -- when I was in city council, we would always  
12 consider is this development going to come in. How's it  
13 going to impact the schools.

14           And cities could go ahead and put all types of  
15 fees on people to build things and we often did to take care  
16 of our schools.

17           So if your city council members are sitting there  
18 saying we're coming to the state, really it's a local  
19 problem. You need to look at your general plan, figure out  
20 your roads and all the other things and say do we really  
21 have smart growth going on here or is it just sprawl being  
22 run everywhere.

23           You know, there is -- to the issue that came here  
24 what is a systemic issue? I think the systemic issue is we  
25 got to pass this bond and we need to ask local cities and

1 counties to look at what they're doing and seeing how it's  
2 being impacted to do it.

3           If this problem solved it, I would vote for it in  
4 a heartbeat because as I outlined earlier, I've been  
5 involved in education for a number of years, but it doesn't  
6 solve it. All it's going to do is cause more problems for  
7 jobs, price of houses, and it's going to divide your  
8 community and you probably don't need to do this.

9           So I won't be supporting this today.

10           CHAIRPERSON ORTEGA: Thank you, Mr. Chavez.

11 Mr. Diaz.

12           MR. DIAZ: Thank you, Madam Chair. So from our  
13 perspective, we heard a lot about the construction industry  
14 and I just wanted to share some thoughts of what my thinking  
15 is around this item.

16           I see there's a lot of areas of agreement in the  
17 people that have come forward. I do see that everyone's  
18 involved in shaping what their community looks like, what  
19 developments in those areas are like, and everyone agrees  
20 that the education community schools and developers are  
21 partners in this.

22           There's also an agreement on passing a bond in  
23 November.

24           What we're talking about here and the area of  
25 disagreement is a temporary issue that relates to a

1 community being able to negotiate together on what that  
2 development looks like in between a possible bond and this  
3 happening during this time.

4           So if you look at development in certain areas, as  
5 mentioned by Assemblymember Chavez, you know, I have family  
6 in the Bay Area and I know full well the extreme situation  
7 there with regards to housing and the expense of -- you  
8 know, lack of affordability and how it's driving people away  
9 from those areas.

10           But it also means that there is an extreme need to  
11 look at how to build more affordable housing.

12           In that area, there is commonality. I think the  
13 development community is looking at ways to explore that.  
14 The Legislature is looking at ways to look at affordable  
15 housing. The Governor has a proposal and we're, of course,  
16 engaging in that.

17           But this entire conversation does not end here.  
18 It actually drives more people to sit down across the table  
19 from each other and be able to negotiate exactly what fees  
20 they can accomplish and to allow for temporarily, hopefully,  
21 when this bond passes.

22           I think it's important to approve the motion. I  
23 think it's temporary. I think that with regards to the --  
24 you know, the sort of awareness of the construction  
25 industry -- you know, our members are also seeing that too

1 and our members would like to have their kids go to schools  
2 and not have to travel an hour away to get their kids and  
3 then have to travel another hour to get to work.

4           So I think for those reasons I will be supporting  
5 this motion.

6           CHAIRPERSON ORTEGA: Thank you. Ms. Bonilla.

7           ASSEMBLYMEMBER BONILLA: Thank you very much. And  
8 I do agree with the comments that have been made by Senator  
9 Hancock -- hit on a lot of the notes I've written down.

10           And you know, what we've been trying to achieve I  
11 think and what the original intent here was balance. And if  
12 you look at the chart on page 158, you can see that we're  
13 greatly out of balance.

14           And it's interesting that -- and the reason I'm  
15 going to be supporting the action today is that if we don't,  
16 we're really restraining local governance and at the same  
17 time that we would be restraining local governance, they are  
18 carrying the largest burden if you look at that chart.

19           So they have been doing more than their part  
20 consistently, and this is all taxpayer money. These are the  
21 taxpayers doing this for their own, you know, communities.

22           But the action as I see it today is an action that  
23 allows the local governance to function where it needs to  
24 function and that the state is removing itself with this  
25 action out of the way of what is a very varied and, you

1 know, needs that aren't uniform, that are different from  
2 place to place.

3           So I do come from local government myself: city  
4 council, board of supervisors. I know the school board -- I  
5 wasn't on a school board, but if I was in those seats, this  
6 is the action that I would want to have taken and I think  
7 the action my constituency supports.

8           CHAIRPERSON ORTEGA: Okay. Thank you. Okay. Any  
9 other comments from Board members? Okay.

10           I too will be supporting the motion today. I  
11 agree with the comments about returning the decision to the  
12 local districts.

13           This is not -- we are not taking an action to  
14 impose a fee statewide. We're taking an action to allow  
15 others to consider what's appropriate for their district and  
16 that is -- for that reason, I will support the motion.

17           The other point I wanted to make was on some of  
18 the questions that have been made about we're accounting for  
19 the funds and the analysis that's been provided by the  
20 staff, I think there are -- reasonable people can disagree  
21 on what the statute says or what it means and there are  
22 different interpretations, and, you know, we will likely see  
23 folks raise issues on that.

24           However, what we have before us is an analysis  
25 that says we are not apportioning funds under Article 5.

1 And so again for that reason also, I will be supporting the  
2 motion.

3 So we have a motion by Senator Liu. I don't think  
4 we have a second yet.

5 SENATOR HANCOCK: Second.

6 CHAIRPERSON ORTEGA: Seconded by Senator Hancock.  
7 I'll call one last time if there's any other public comment,  
8 and if not, I'll ask Ms. Jones to call the roll.

9 Okay. Go ahead.

10 MS. JONES: Senator Hancock.

11 SENATOR HANCOCK: Aye.

12 MS. JONES: Senator Liu.

13 SENATOR LIU: Aye.

14 MS. JONES: Senator Huff.

15 Assemblymember Nazarian.

16 Assemblymember Bonilla.

17 ASSEMBLYMEMBER BONILLA: Aye.

18 MS. JONES: Assemblymember Chavez.

19 ASSEMBLYMEMBER CHAVEZ: No.

20 MS. JONES: Nick Schweizer.

21 Cesar Diaz.

22 MR. DIAZ: Aye.

23 MS. JONES: Jeffrey McGuire.

24 MR. MCGUIRE: Aye.

25 MS. JONES: Eraina Ortega.

1 CHAIRPERSON ORTEGA: Aye.

2 MS. JONES: Motion carries.

3 CHAIRPERSON ORTEGA: Motion passes.

4 (Applause)

5 CHAIRPERSON ORTEGA: Thank you everyone. Thank  
6 you again for traveling to be here today.

7 Before we move onto Item No. 8, I would like to  
8 ask Ms. Jones to return to the items where we had some  
9 absent members.

10 MS. JONES: Yes. Thank you. Senator Hancock, how  
11 do you vote on the appeal for Montague?

12 SENATOR HANCOCK: Aye.

13 MS. JONES: Thank you. And also Assemblymember  
14 Nazarian?

15 ASSEMBLYMEMBER NAZARIAN: Aye.

16 MS. JONES: Okay. Couple more. Consent Calendar.

17 CHAIRPERSON ORTEGA: Agenda.

18 MS. JONES: Yes. Thank you.

19 ASSEMBLYMEMBER NAZARIAN: Aye.

20 MS. JONES: Aye and?

21 SENATOR HANCOCK: Aye.

22 MS. JONES: Thank you very much.

23 CHAIRPERSON ORTEGA: Okay. And I think that --

24 SENATOR HANCOCK: And the Minutes too.

25 MS. JONES: Oh, and the Minutes. Thank you.

1           CHAIRPERSON ORTEGA: The Minutes were -- are  
2 approved unanimously.

3           MS. JONES: Yes. Okay. Thank you so much.

4           CHAIRPERSON ORTEGA: Okay. We will move onto  
5 Item No. 8. This is not an action item at this time, so we  
6 will hear the staff presentation and we do have some public  
7 speakers on -- yeah. Let's wait a couple of minutes. If we  
8 can have everyone who is not staying here for Item 8 to  
9 please exit expeditiously.

10           Okay. You can go ahead.

11           MS. KAMPMEINERT: **(Proposed New Construction Loan**  
12 **Program)** Good afternoon. Barbara Kampmeindert from Office  
13 of Public School Construction.

14           And today I'd like to present the staff report on  
15 a proposal that was brought forth by stakeholders and a  
16 Board member at the last meeting.

17           And the Board direction was for staff to take a  
18 look at it and to provide a summary and to see if there were  
19 any issues or challenges to potentially adopting this  
20 proposal.

21           So the proposal in its entirety is included in  
22 your item, but we have also provided a brief overview of  
23 what our understanding of the program is and we do believe  
24 that this is a new program that would provide loan funds to  
25 school districts under the hardship section of the

1 regulations by adding some definitions to what can be  
2 considered a hardship and outlining some points at which a  
3 school district would qualify for these hardship funds.

4           And it would be based on the premise that a school  
5 district could then receive a loan for either the district  
6 matching share or for the state apportionment that may not  
7 be available.

8           So we did take a look at that and in looking at  
9 it, we believe that there are some statutory considerations  
10 that would need to be addressed prior to the Board adopting  
11 the regulation.

12           And at a high level, we have outlined on --  
13 there's a table and a chart there on page 3 of the item,  
14 stamped page 173, that has four key areas that we feel would  
15 need to be addressed through modifications of the  
16 regulations in order to move forward.

17           And the first that we noted is that there is a  
18 request to use funds from an undefined funding source to  
19 provide the loans. There is a reference in here to using  
20 the pooled money investment account funding or requesting  
21 the general funds or a Budget Act appropriation for the  
22 loan.

23           In further conversations, we have heard that  
24 the -- potentially to be based off of funding from a future  
25 bond if a bond is passed. If that's the case, the

1 regulations would need some additional wording changes. If  
2 that's not the intent, then there would need to be some  
3 statutory basis to provide a funding source to do this.

4 The second piece that would be a bit of a  
5 challenge in implementing this is the actual concept of  
6 loans with the School Facility Program.

7 Right now in the program, there are two areas that  
8 do allow for loans or the term lease is used in one of the  
9 areas and that's in the Charter Program and the Career  
10 Technical Education Facilities Program.

11 The statute does not provide any reference to the  
12 Board's ability to make loans, and actually back when the  
13 Board was hearing options for streamlining the Seismic  
14 Mitigation Program, this topic came up as a potential  
15 solution for districts that were facing challenges in  
16 getting their local match for seismic funding.

17 And at the time, we did consult with counsel and  
18 it was determined that because there is no specific  
19 inclusion of loans in the School Facility Program that it's  
20 not permitted without a change to statute.

21 It's mentioned specifically for some programs and  
22 omitted for others. So that wouldn't be addressed  
23 statutorily in order for the concept of the regulations to  
24 move forward.

25 And then two other things to note, that it does

1 change the way that state funds are provided for the school  
2 district matching share, so there may need to be changes to  
3 the regulations. That is not the intent to broaden the  
4 Financial Hardship Program past the decisions that have  
5 currently been made by the Board in regulations or limited  
6 by statute.

7           So there may need to be some statutory direction  
8 there or potentially some clarifying language in the  
9 regulations.

10           And then finally, the -- and how this interacts  
11 with our past item may need to be discussed, but facing new  
12 time point at which Level 3 could be triggered, but since  
13 the Board has just taken action, that may be less of an  
14 issue for the regulations now. But had the Board not taken  
15 action, then that would have been -- having it included  
16 means regulations would have potentially conflicted with the  
17 existing statute for triggering Level 3.

18           So at a high level, that's what we discovered on  
19 the regulations and we'd be happy to answer more specific  
20 questions, but it is here as an information item for the  
21 Board's --

22           CHAIRPERSON ORTEGA: Okay. Thank you. Any  
23 questions or comments before we take public comment on this  
24 item? Okay. Let's go ahead and start with -- we have  
25 Dr. Hanke and Sameer Hakim -- Mr. Hakim again, and I'm going

1 to ask the Dublin folks to be a little brief on this one  
2 since we have heard certainly about the circumstances in  
3 Dublin.

4 DR. HANKE: Yes, I will. Thank you very much.  
5 Madam Chair, members of the Board, I appreciate -- first of  
6 all, I appreciate the opportunity and I thank you for taking  
7 the action that you just did on the developer fees.

8 We are asking that this regulation which would  
9 establish a new construction loan program be kept alive as  
10 we continue to work through the issue of finding a funding  
11 source for those dollars.

12 We also would ask that this item be classified as  
13 an emergency so that the timing of the funding could be made  
14 available to the school district much more rapidly.

15 The issue that we have in Dublin beyond the issue  
16 of the overcrowding is one where cash flow determines  
17 whether or not we can actually build the schools that we  
18 need. Cash flow is critical element.

19 You will hear from our four trustees in just a few  
20 minutes about the conditions in Dublin, what our local  
21 efforts have been, as well as the need that we specifically  
22 have and the solution that we are proposing.

23 We have a wonderful school district in Dublin. We  
24 have made significant progress over the last ten years.

25 I have been pleased to be the Superintendent for

1 that time and it's been absolutely amazing. Our school  
2 district is among the top in the Bay Area and we're very,  
3 very proud of that.

4 I share that with you because the progress that we  
5 are making and continue to make with our students each and  
6 every day is threatened by the challenge that we have and  
7 our ability to house our students now and in the future.

8 You're going to hear some very much amazing  
9 numbers when we talk about the growth that we have had and  
10 the growth that we will experience.

11 We see this as an opportunity, an opportunity for  
12 the Board to preserve the option to move forward with this  
13 program so that we can close that gap on the cash flow issue  
14 and make sure that our schools are built in time to face the  
15 wave of growth that we are experiencing.

16 So once again, we are requesting that you keep  
17 this alive as an action item in the future, either at the  
18 June 22nd meeting or at a future time when the actual  
19 authorization is made available to you, and I thank you for  
20 that.

21 CHAIRPERSON ORTEGA: Thank you.

22 MR. HAKIM: Sincere thank you for approving  
23 developer fees.

24 I bring to attention the uniqueness of Dublin.  
25 Dublin is amongst the top two growing cities in California.

1 We have doubled public student population in the past ten  
2 years and that is like 10,000 where we are and we expect to  
3 double -- add 50 percent more in the next seven years.

4           It's a huge number to manage and for that, we need  
5 to build more schools. We basically need three more  
6 elementary schools. K through 8 is what we are planning and  
7 we are planning to build a new high school -- a new  
8 comprehensive high school.

9           That requires us to keep us funded. That requires  
10 a cash flow and that's what we are trying to bring forward.

11           We have done everything at our end to add  
12 portables. We have changed boundaries and we have done  
13 program changes to manage this growth, but we cannot  
14 accommodate additional students without impacting the  
15 quality of education.

16           We have capped enrollment this year for our middle  
17 school and we have reached maximum, about 2,500 students, in  
18 our single high school and we expect to grow by 2,000 in the  
19 next seven years.

20           That will be the single largest high school and we  
21 do not want to do that.

22           We need your help with this cash flow issue. We  
23 definitely think it will allow us to do the necessary things  
24 now because money keeps us floating and build better things.  
25 Thank you very much for it.

1           CHAIRPERSON ORTEGA: Thank you. Dan Cunningham  
2 and Megan Rouse.

3           MR. CUNNINGHAM: Good afternoon again. I'll keep  
4 this as brief as possible. I don't want to repeat what's  
5 already been said, so I'll look at my notes to make sure I  
6 don't.

7           I think the point we want to make us our  
8 community's done everything right. In the last ten years,  
9 we've -- actually our community's approved two bond measures  
10 and we're getting ready to do a third, although there's a  
11 lot of opposition, which would be over a half billion  
12 dollars in debt our community's taking on.

13           And so we've done what we need to do and this is a  
14 cash flow problem that we need to solve.

15           Our problem is our community's pushing back and  
16 they are angry that the state and developers aren't holding  
17 up their end of the bargain.

18           You know, they see developers getting away with  
19 paying less than their fair share, and when we first started  
20 this whole process back in January, we heard there were  
21 solutions from the developers and they have not come up with  
22 a single solution for us yet.

23           They've told us what they can't do and what they  
24 won't do.

25           In the meantime, they haven't helped with bond.

1 They're quietly sitting on the sidelines and hope that it  
2 doesn't pass and the fees go down to Level 1.

3 We have developers running into our office now  
4 trying to get their fees paid today so they don't have to  
5 pay the higher fees that are going to come.

6 And so they aren't out to help, and they're  
7 doing -- they haven't given us any suggestions on how to  
8 support us or help us.

9 Words are great. We need action and this is  
10 really taking away from our core business which is educating  
11 our students, and we need to find a solution.

12 We think this is a solution to help the funding  
13 issue in the short term for the stuff that we've already  
14 paid for and that we've used to really take away from the  
15 buildings that exist that need repair, and we need our  
16 schools to be in repair so our students have, you know,  
17 adequate housing. Thank you.

18 CHAIRPERSON ORTEGA: Thank you.

19 MS. ROUSE: Hi. Thank you. My name's Megan  
20 Rouse, Vice President of Dublin school board.

21 I'm here to speak in support of our proposed  
22 regulation and making it an action item in June.

23 As I mentioned earlier, Level 3 -- and I'm  
24 extremely grateful for your support in Level 3. Level 3 and  
25 our proposed regulation are complementary.

1           Level 3 addresses the houses that they will build  
2 tomorrow and the next day and the day after that, and this  
3 proposed regulation addresses the homes that were built over  
4 the last several years, the schools that we have already  
5 built, the schools that we have already filled with  
6 children, the schools for which we have submitted for an  
7 appropriation but are still waiting for funds to be  
8 available.

9           And so we need that state portion that we've been  
10 waiting for since 2013 and other districts are in the same  
11 spot with having the cash flow issues and waiting for the  
12 approved projects for the students that we are already  
13 providing a world-class education to.

14           And so we can't go back in time. But this  
15 proposed regulation would allow us to move forward by  
16 providing the relief that we need to close that gap. Thank  
17 you very much.

18           CHAIRPERSON ORTEGA: Thank you, Ms. Rouse. Amy  
19 Miller and the last two are Nanette Farag and Jensen  
20 Jennings.

21           MS. MILLER: Hi again. Thank you for the action  
22 that you just took. I feel like we're sort of part of a  
23 historical moment today and it's much appreciated.

24           Like all of you, those of us from Dublin that have  
25 spoken sit at a dais also and we hear a lot of concerns and

1 one of the things that we really want to do is be able to  
2 serve the people in our community.

3           So one of the things we really like also when  
4 people come to our dais with concerns is sometimes when they  
5 have really great reasonable solutions.

6           When we first initiated this conversation back in  
7 January and we came to you and brought up Level 3 and were  
8 pretty told that was surreal, you shouldn't be saying that  
9 out loud, and it was kind of this whole conversation about,  
10 well, then what can we do.

11           And at that time, we did have some input from  
12 builders and Assemblymember Bonilla was quite helpful and we  
13 had a lot of meetings, and we said, well, what's an  
14 alternative. What can we do to help ourselves, and at that  
15 time we started to write the language for this proposal.

16           And I know that we're not having an action item  
17 for it tonight, but the reason that we really want to talk  
18 about it is we want an action item in June because we  
19 believe by June we will get somewhere with this.

20           Senator Glazer has been very proactive in helping  
21 us and you're going to hear from one of his staff members,  
22 and Assemblymember Baker is onboard with us. I know Senator  
23 Hancock's staff has been in the office with us when we've  
24 had these conversations. We've even talked with  
25 Mr. Wieckowski.

1           We've just had a lot of conversations around this  
2 proposal and we think it's a really reasonable solution and  
3 we really want to talk about it as an action item in June.

4           And I just want to say that we really appreciate  
5 you taking this seriously and we appreciate what you've done  
6 today and we look forward to seeing all of you again. Thank  
7 you.

8           CHAIRPERSON ORTEGA: Thank you. Mr. Jennings.

9           MR. JENNINGS: Jenson Jennings here on behalf of  
10 Senator Steven Glazer. Thank you for this time.

11           We want just to be here as part -- in support of  
12 Dublin School District. Specifically, we just wanted to  
13 strongly support their request to get this on the Allocation  
14 Board's agenda for the next -- on June 22nd. So we really  
15 appreciate that. And we just wanted to support and so we're  
16 here in a cheerleader facility, if you will. So thank you  
17 so much.

18           CHAIRPERSON ORTEGA: Thank you, Mr. Jennings. All  
19 right. Go ahead, Mr. Lyon. I also had Nanette Farag, but I  
20 don't think she has come up, so she was representing  
21 Assemblymember Baker. Mr. Lyon.

22           MR. LYON: Thank you, Madam Chair. We would like  
23 to incorporate by reference what Dr. Hanke had to say.

24           I think the absence -- the neglect of the State of  
25 California from participating as a funding partner has

1 caused ruptures to this program that will probably be  
2 profound and exist for quite some time.

3           This is a small solution that would help growing  
4 districts. We think it's a good idea. We would encourage  
5 the Board to keep this issue alive and allow a number of us  
6 to try to work this forward. Thank you very much.

7           CHAIRPERSON ORTEGA: So I do just want to make a  
8 couple comments about this.

9           So this is not an action item and we're not  
10 proposing to kill it or keep it alive. It's not an action  
11 item because we don't have any statutory authority to adopt  
12 a regulation to implement this program, nor is there an  
13 appropriation for funds to use as the loan or the cash flow.

14           I think what I would commit to is at such time  
15 that that authority exists, whether that be through the  
16 budget process or some other statutory authority through  
17 just as part of a bill that is passed and signed, we would  
18 bring it back to adopt the regulation.

19           There would be no reason at that point to delay  
20 implementing something that had been agreed and approved in  
21 statute.

22           So I don't want -- whether it's on the agenda  
23 again in June -- I'm happy to have an update, but if nothing  
24 has happened in June, it wouldn't make much sense to talk  
25 about it again and have all you folks come.

1           The budget will not be decided by then. It may or  
2 may not be then. So again, the issue is we are not killing  
3 it or keeping it alive today. It is something we don't have  
4 statutory authority to act on. So I just wanted to make  
5 that clear. Ms. Bonilla.

6           ASSEMBLYMEMBER BONILLA: Yes, thank you for that.  
7 Just for clarification, so those who are working on it know  
8 how to get there because I think that's helpful, what you're  
9 really looking for based on the staff report is  
10 clarification on the intention that this would be contingent  
11 upon the bond passing because the first thing was where's  
12 the money going to come from; right?

13           MS. KAMPMEINERT: If that's the intent, yes, but  
14 we didn't see language there that would --

15           ASSEMBLYMEMBER BONILLA: Right. So that could be  
16 done in the language of the regulation because I want to  
17 clarify what needs to be refined in the regulation and what  
18 needs to be done in statute; okay?

19           So if that's refined in the regulation, that would  
20 be good. Then what needs to be done in statute, perhaps in  
21 a trailer bill of the budget, would be the actual loan  
22 authorization for this emergency program -- or I don't know.  
23 What -- tell me exactly what would need to be in the trailer  
24 bill.

25           MS. KAMPMEINERT: I'm not sure what the language

1 would look like, but right now there is no reference or no  
2 authority for the Board to make loans --

3 ASSEMBLYMEMBER BONILLA: Right.

4 MS. KAMPMEINERT: -- except in the specific  
5 circumstance in the Charter and CTE.

6 ASSEMBLYMEMBER BONILLA: Of CTE and?

7 MS. KAMPMEINERT: And the Charter School  
8 Facilities Program.

9 ASSEMBLYMEMBER BONILLA: And the Charter School  
10 Facilities Program, so there would need to be an  
11 authorization put into probably the trailer bill language  
12 that would -- what would we call this? I just want to know  
13 from like a loan for emergency hardship?

14 MS. KAMPMEINERT: I think that's up to what the  
15 intent of the statute would be. We would be happy to --

16 ASSEMBLYMEMBER BONILLA: Okay.

17 MS. KAMPMEINERT: -- implement whatever the  
18 statute --

19 ASSEMBLYMEMBER BONILLA: It is. Right.

20 MS. KAMPMEINERT: -- needs to.

21 ASSEMBLYMEMBER BONILLA: And then you made it  
22 clear that now we're going back to just the regulation, you  
23 know, cleaning up the language here.

24 If you remove the Level 3 reference, just delete  
25 it -- right -- out of the regulation --

1 MS. KAMPMEINERT: Right now the regulation  
2 language for Level 3 doesn't -- and actually there's a  
3 conflict --

4 ASSEMBLYMEMBER BONILLA: Right. So that would  
5 just be deleted. And then you wanted clarity on  
6 retaining -- there's not any intention to change the  
7 matching, the matching program as in -- now is that  
8 something that would have to be in statute or just a cleanup  
9 of the actual regulation language.

10 MS. KAMPMEINERT: The way we read the regulations  
11 right now appears to change the match requirement from  
12 districts.

13 So if it is the intent to change the match  
14 requirement, that would require statute. If it's not the  
15 intent, then the regulation language would need to be  
16 adjusted accordingly.

17 ASSEMBLYMEMBER BONILLA: Okay. So I just wanted  
18 to make sure that, you know, the work was being done in the  
19 correct areas.

20 So I think given the intent I've expressed and it  
21 may be different. Other people may have other intent, but  
22 the main thing that needs to go to statute then is the  
23 actual authorization to make this kind of loan.

24 CHAIRPERSON ORTEGA: Correct. I would add I think  
25 if that existed in statute, there would be more discretion

1 for the regulation to be developed in a way that implements  
2 that statute. It just can't work the other direction.

3 ASSEMBLYMEMBER BONILLA: Right. Yeah, the cart  
4 before the horse --

5 CHAIRPERSON ORTEGA: Yeah. Um-hmm. Yes.

6 ASSEMBLYMEMBER BONILLA: -- essentially at this  
7 point. So we need the authorization first. That's very  
8 helpful.

9 And I think that just for clarification because  
10 some people -- you know, you might ask why would you need to  
11 do this and it really is about the cash flow issue that this  
12 particular district and others who fit in this narrow max  
13 out of bond authority situation may find themselves in.

14 The bond hopefully will pass in November. We'll  
15 begin the process, but they could wait quite a long time  
16 under the normal conditions to receive some money that they  
17 actually need quite urgently.

18 So the real purpose of pursuing this would be give  
19 them relief from their very serious cash flow situation. Is  
20 that -- I just want to make sure that everyone on the Board  
21 kind of understands the intention here.

22 But I think we all understand there isn't extra  
23 money lying around and that's why it would have to be  
24 contingent upon the passage of the bond, but it would speed  
25 up the cash flow issue to this -- you know, to the districts

1 that would fall into the very narrowly defined emergency  
2 criteria. Does that make sense?

3 SENATOR LIU: Well -- yeah, it makes sense, Susan,  
4 but the bond on the ballot doesn't authorize -- I don't  
5 there's any language in the bond that says anything about a  
6 loan program, is there?

7 I mean are you trying to tie the loan -- I mean  
8 the bond amount to a loan program?

9 ASSEMBLYMEMBER BONILLA: I think that it would be  
10 the repayment of the loan would come from the bond. So the  
11 state knows the bond is good money. So the loan -- they  
12 know they're not really going to ever be out.

13 If the bond passes, the state's going to get the  
14 money back. It just lets the district have the cash sooner  
15 and the state knows the bond is good to pay the state back.

16 SENATOR LIU: Is that authorized by the bond, the  
17 way the bond is written or am I --

18 ASSEMBLYMEMBER BONILLA: Well, I don't --

19 CHAIRPERSON ORTEGA: Ms. Miller, I'm going to let  
20 you come up. I do want to state something quickly.

21 ASSEMBLYMEMBER BONILLA: Yes.

22 CHAIRPERSON ORTEGA: We've been told we need to  
23 get out of the room by 6:00 o'clock. So we're going to need  
24 to wrap this conversation up as quickly as possible. Maybe  
25 we'll make them come and actually kick us out. We'll see.

1           But I do want to say one other thing. Some of  
2 these questions seem to be questions that could be answered  
3 by Leg. Counsel or other counsel in the context of --

4           ASSEMBLYMEMBER BONILLA: Of getting the  
5 authorization?

6           CHAIRPERSON ORTEGA: -- reaching a conclusion and  
7 whatever vehicle that could happen. So I don't know that we  
8 have to solve that problem here.

9           SENATOR LIU: Okay. No. All right. I was  
10 just --

11           ASSEMBLYMEMBER BONILLA: Right. Yeah. That's a  
12 good question, though.

13           CHAIRPERSON ORTEGA: Yes. Very good question --

14           ASSEMBLYMEMBER BONILLA: It's a very good  
15 question.

16           CHAIRPERSON ORTEGA: -- that maybe we can resolve.  
17 Mr. Schweizer.

18           MR. SCHWEIZER: Yeah. I think also just -- so the  
19 administration I thought had a very similar proposal in the  
20 May revision, so it might be worth taking a look at that. I  
21 know there's a problem with them using Prop. 98 for it, but  
22 it might be worth taking a look at their language as a  
23 starting point of recrafting that to whatever your intent  
24 is.

25           ASSEMBLYMEMBER BONILLA: Well, I'm encouraging

1 Senator Glazer to do that, yes.

2 CHAIRPERSON ORTEGA: Ms. Miller.

3 MS. MILLER: Yeah. And just the only point I want  
4 to make is that it's not really a loan from the bond funds  
5 because we are already on the list to receive money if the  
6 state bond measure passes. That's already owed to us.

7 So it would almost just be like an advance. It's  
8 like we're receiving the money that's already owed to us.  
9 So then once the bond apportionments start happening, we  
10 just wouldn't get it.

11 It would only -- basically it's us getting it  
12 early and I think what shifted in this conversation,  
13 originally our proposal was for the State Allocation Board  
14 to take out a loan from wherever, the money pooled  
15 investment fund, whatever you might be able to find the  
16 money and loan it to the districts that have been harmed by  
17 this facility funding program.

18 But I can hear the shift is happening now that it  
19 would be contingent on the bond passing, which is fine  
20 because really what that means is nobody's out of money.

21 Really what will happen is we will just get an  
22 advance of the money we're already owed and that's how we  
23 set the criteria.

24 It's districts that already are on the list to be  
25 funded or already on the list waiting for a funding.

1           CHAIRPERSON ORTEGA: Yes. And I think the key  
2 issue is that the SAB cannot cause money to go out to  
3 districts that has not been appropriated for that purpose.

4           MS. MILLER: Right.

5           CHAIRPERSON ORTEGA: So we're back to the key  
6 question which is the legal authority --

7           ASSEMBLYMEMBER BONILLA: Statutory --

8           CHAIRPERSON ORTEGA: -- to appropriate the funds.

9           ASSEMBLYMEMBER BONILLA: -- authorization.

10          CHAIRPERSON ORTEGA: So we will certainly revisit  
11 the regulation at such time that that authority's been  
12 given.

13           So anything else on Item 8? Any other public  
14 comment on Item 8?

15           Okay. I don't see any. Lisa, anything  
16 concluding?

17          MS. SILVERMAN: No.

18          CHAIRPERSON ORTEGA: Okay. Anything else from any  
19 other --

20          ASSEMBLYMEMBER BONILLA: Well, just for  
21 clarification. Then we will wait and see if the Legislature  
22 takes action on the statutory issue and then bring the issue  
23 back --

24          CHAIRPERSON ORTEGA: Yes.

25          ASSEMBLYMEMBER BONILLA: -- to the session at that

1 appropriate time.

2 CHAIRPERSON ORTEGA: I think what the Vice Chair  
3 and I can do is, you know, before the meeting agenda is  
4 noticed, see if there's any indication that we would be able  
5 to take action at the June meeting, and if not, it may be  
6 appropriate that it would be at the next meeting.

7 So we will work on the agenda setting for that?

8 SENATOR HANCOCK: Can I just ask a quick question  
9 as well? So although I think conventional wisdom says the  
10 bond is going to pass, if it does not, we would assume -- it  
11 says in the proposal that the developer fees from Level 3  
12 fees would make up the money.

13 So we would then assume that either the Level 3  
14 fees which can be double the maximum Level 2 fees, if I'm  
15 correct, would make up the difference or that the district  
16 itself would have to come up with it out of its general fund  
17 or out of --

18 CHAIRPERSON ORTEGA: You mean if the loan were --  
19 occurred and then --

20 SENATOR HANCOCK: If the loan were to occur --

21 CHAIRPERSON ORTEGA: Yes. So I think that would  
22 be something that would need to be addressed --

23 SENATOR HANCOCK: So that would --

24 CHAIRPERSON ORTEGA: -- in the statute.

25 ASSEMBLYMEMBER BONILLA: But I think the timing,

1 you could just not do it until after the November election,  
2 so you would know.

3 SENATOR HANCOCK: Oh. So then how could -- how  
4 would it stand --

5 ASSEMBLYMEMBER BONILLA: Well, because otherwise  
6 it's still going to take months and months for the bonds to  
7 be sold and the bonds to go out and it could be another  
8 year.

9 SENATOR HANCOCK: Right. Okay. Thank you. Just  
10 trying to get the timeline straight in my mind. Thank you  
11 very much.

12 CHAIRPERSON ORTEGA: Thank you. Any other public  
13 comment to come before the Board? Seeing none, we will be  
14 adjourned. Thank you, everyone.

15 (Whereupon, at 6:00 p.m. the proceedings were  
16 adjourned.)

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