

## **Item 1**

### **Proposed Minutes**

#### **COMMISSION ON STATE MANDATES**

Location of Meeting: Room 447  
State Capitol, Sacramento, California  
January 22, 2016

Present: Member Eraina Ortega, Chairperson  
Representative of the Director of the Department of Finance  
Member Richard Chivaro, Vice Chairperson  
Representative of the State Controller  
Member Ken Alex  
Director of the Office of Planning and Research  
Member Mark Hariri  
Representative of the State Treasurer  
Member Sarah Olsen  
Public Member  
Member Carmen Ramirez  
City Council Member

Absent: Member Don Saylor  
County Supervisor

*NOTE: The transcript for this hearing is attached. These minutes are designed to be read in conjunction with the transcript.*

#### **CALL TO ORDER AND ROLL CALL**

Chairperson Ortega called the meeting to order at 10:04 a.m. Executive Director Heather Halsey called the roll. Member Chivaro and Member Saylor were absent at roll call.

#### **ELECTION OF OFFICERS**

Chairperson Ortega stated that the annual election of officers was the first order of business and asked for nominations for the chairperson.

Member Ramirez made a motion to nominate the Director of Finance. With a second by Member Alex, the Director of Finance, Michael Cohen, was elected chairperson by a vote of 5-0.

Chairperson Ortega asked for nominations for vice chairperson. Member Ramirez nominated the State Controller. Member Alex seconded the motion, but Member Ramirez withdrew her motion.

Member Olsen made a motion to nominate the State Treasurer. With a second by Member Ramirez, State Treasurer John Chiang was elected vice chairperson by a vote of 5-0.

## MINUTES

Member Alex made a motion to adopt the minutes. Member Hariri seconded the motion. However, Members Ramirez and Olsen abstained. Chairperson Ortega announced the Commission would reconsider the minutes later in the hearing when a full quorum could vote on the matter.

## PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

The Chairperson asked if there was any public comment. There was no response.

## CONSENT CALENDAR

HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)

PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES AMENDMENTS

- Item 8      *Training for School Employee Mandated Reporters*, 14-TC-02  
Education Code Section 44691(b) and (c); and Penal Code Section 11165.7(d); as added or amended by Statutes 2014, Chapter 797 (AB 1432)  
Lake Elsinore Unified School District, Claimant

## INCORRECT REDUCTION CLAIMS

- Item 11      *Notification of Truancy*, 13-904133-I-13  
Education Code Section 48260.5; Statutes 1983, Chapter 498  
Fiscal Years 2007-2008, 2008-2009, and 2009-2010  
Riverside Unified School District, Claimant

INFORMATIONAL HEARING PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 8 (action)

## STATEWIDE COST ESTIMATES

- Item 13\*      *Sheriff Court-Security Services*, 09-TC-02  
Government Code Section 69926(b)  
Statutes 2009-2010 (4th Ex. Sess.), Chapter 22 (SB 13)  
County of Los Angeles, Claimant

## ADOPTION OF PROPOSED RULEMAKING CALENDAR

- Item 14\*      Proposed Rulemaking Calendar, 2016

Executive Director Heather Halsey announced that after the agenda for this hearing was issued, the parties agreed to place Items 8 and 11 on the Consent Calendar. Chairperson Ortega asked if there was any objection to adding Items 8 and 11 to the Consent Calendar and if there were any comments from the public. No objection was made and there was no public comment.

Member Ramirez made a motion to adopt the Consent Calendar as revised. With a second by Member Olsen, the Consent Calendar was adopted as revised by a vote of 5-0.

**HEARINGS AND DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, CHAPTER 2.5, ARTICLE 7 (GOV. CODE, § 17551, 17557, 17559, and 17570) (action)**

Executive Director Heather Halsey swore in the parties and witnesses participating in the hearing.

**APPEAL OF EXECUTIVE DIRECTOR DECISIONS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, SECTION 1181.1(c) (info/action)**

Item 3 Appeal of Executive Director Decisions

There were no appeals to consider.

Member Chivaro joined the meeting.

**TEST CLAIMS**

Item 4 *California Assessment of Student Performance and Progress (CAASPP)*, 14-TC-01

Education Code Sections 60602, 60602.5, 60603, 60604, 60607, 60610, 60611, 60612, 60640, 60641, 60642.6, 60643, 60643.6, 60648, 60648.5, 60649, 60810, 99300, and 99301; as added or amended by Statutes 2013, Chapter 489 (AB 484); Statutes 2014, Chapter 32 (SB 858); Statutes 2014, Chapter 327 (AB 1599); California Code of Regulations, Title 5, Sections 850-864 as added or amended by Register 2014, Nos. 30 and 35

Plumas County Office of Education, Plumas Unified School District, Porterville Unified School District, Santa Ana Unified School District, and Vallejo City Unified School District, Claimants

AND

*California Assessment of Student Performance and Progress (CAASPP)*, 14-TC-04

California Code of Regulations, Title 5, Sections 850-864; as added or amended by Register 2014, No. 6

Plumas County Office of Education, Plumas Unified School District, Porterville Unified School District, and Santa Ana Unified School District, Claimants

This test claim alleges a reimbursable state-mandated program arising from the replacement of the *Standardized Testing and Reporting* program with a computer-based statewide pupil assessment.

Commission Counsel Matt Jones presented this item, stating that some of the test claim statutes and regulations impose a reimbursable state-mandated program within the meaning of article XIII B, section 6 of the California Constitution, and recommended that the Commission adopt the proposed decision to partially approve the test claim.

Parties were represented as follows: Arthur Palkowitz, representing the claimant; Josh Daniels, California School Boards Association; Rick Miller, Santa Ana Unified School District; Nate Nelson, Porterville Unified School District; Micheline Miglis, Plumas County Office of Education and Plumas Unified School District; Dr. Ramona Bishop, Vallejo Unified School District; Amber Alexander and Susan Geanacou, representing the Department of Finance.

Following discussion among the Commission members, staff, and parties, Member Olsen made a motion to adopt the staff recommendation. With a second by Member Ramirez, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

## **MANDATE REDETERMINATIONS**

Item 5      *Immunization Records: Hepatitis B (98-TC-05), 14-MR-04*

Education Code Section 48216 and Health and Safety Code Sections 120325, 120335, 120340, and 120375; as amended by Statutes 1978, Chapter 325; Statutes 1979, Chapter 435; Statutes 1982, Chapter 472; Statutes 1991, Chapter 984; Statutes 1992, Chapter 1300; Statutes 1994, Chapter 1172; Statutes 1995, Chapters 291 and 415; Statutes 1996, Chapter 1023; and Statutes 1997, Chapters 885 and 882

California Code of Regulations, Title 17, Sections 6020, 6035, 6040, 6055, 6065, 6070, and 6075; as amended by Register 90, No. 35; Register 80, Nos. 16, 34, 40; Register 86, No. 6; Register 96, No. 13; Register 97, Nos. 21, 37, and 39

As Alleged to be Modified by Statutes 2010, Chapter 434 (AB 354)

Department of Finance, Requester

**FIRST HEARING: ADEQUATE SHOWING**

The first hearing for this matter is to determine whether the Department of Finance made an adequate showing that a subsequent change in law may modify the State's liability for this program.

Chief Legal Counsel Camille Shelton presented this item and recommended that the Commission adopt the decision finding that Finance had made an adequate showing and direct staff to provide notice of the second hearing to determine whether new test claim decision shall be adopted to supersede the previously adopted test claim decision.

Parties were represented as follows: Rebecca Hamilton, representing the Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Olsen made a motion to adopt the staff recommendation. With a second by Member Chivaro, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

Item 6      *Community College Construction (02-TC-47), 14-MR-03*

Education Code Sections 81820 and 81821(a), (b), (e), and (f)

Statutes 1980, Chapter 910; Statutes 1981, Chapter 470;

Statutes 1981, Chapter 891; Statutes 1995, Chapter 758

As Alleged to be Modified by Statutes 2014, Chapter 34 (SB 860)

Department of Finance, Requester

SECOND HEARING: NEW TEST CLAIM DECISION

The second hearing for this matter is to determine whether the State's liability has been modified by a subsequent change in law and whether the Commission shall adopt a new test claim decision to supersede the previously adopted decision reflecting the State's modified liability.

Senior Commission Counsel Eric Feller presented this item stating that staff finds the state's liability ended effective June 2014 based on a subsequent change in law, and recommended that the Commission adopt the proposed decision as its new test claim decision.

Parties were represented as follows: Chris Ferguson, representing the Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Chivaro made a motion to adopt the staff recommendation. With a second by Member Alex, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

Item 7      *Behavioral Intervention Plans (CSM-4464), 14-MR-05*

California Code of Regulations, Title 5, Sections 3001 and 3052; as added or amended by Register 93, No. 17; Register 96, No. 8; Register 96, No. 32

As Alleged to be Modified by Statutes 2013, Chapter 48 (AB 86)

Department of Finance, Requester

SECOND HEARING: NEW TEST CLAIM DECISION

The second hearing for this matter is to determine whether the State's liability has been modified by a subsequent change in law and whether the Commission shall adopt a new test claim decision to supersede the previously adopted decision reflecting the State's modified liability.

Commission Counsel Matt Jones presented this item stating that staff finds the state's liability ended based on a subsequent change in law that removed statutory authority for the test claim regulations, and recommended that the Commission adopt the proposed decision as its new test claim decision.

Parties were represented as follows: Mollie Quasebarth, representing the Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Ramirez made a motion to adopt the staff recommendation. With a second by Member Olsen, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

**PARAMETERS AND GUIDELINES AND PARAMETERS AND GUIDELINES AMENDMENTS**

- Item 9 [TENTATIVE] *Community College Construction*, 02-TC-47 (14-MR-03)  
Education Code Sections 81820, 81821(a), (b), (e), and (f);  
Statutes 1980, Chapter 910; Statutes 1981, Chapter 470;  
Statutes 1981, Chapter 891; Statutes 1995, Chapter 758  
As Alleged to be Modified by Statutes 2014, Chapter 34 (SB 860)  
Department of Finance, Requester

This proposed parameters and guidelines amendment ends reimbursement for this program beginning June 2014.

Senior Commission Counsel Eric Feller presented this item and recommended that the Commission adopt the proposed decision and amendment to the parameters and guidelines.

Parties were represented as follows: Donna Ferebee, representing the Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Ramirez made a motion to adopt the staff recommendation. With a second by Member Alex, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

- Item 10 [TENTATIVE] *Behavioral Intervention Plans*, CSM-4464 (14-MR-05)  
California Code of Regulations, Title 5, Sections 3001 and 3052;  
Register 93, No. 17; Register 96, No. 8; Register 96, No. 32  
As Alleged to be Modified by Statutes 2013, Chapter 48 (AB 86)  
Department of Finance, Requester

This proposed parameters and guidelines amendment ends reimbursement for this program beginning June 30, 2013.

Commission Counsel Matt Jones presented this item and recommended that the Commission adopt the proposed decision and amendment to the parameters and guidelines.

Parties were represented as follows: Mollie Quasebarth, representing the Department of Finance.

Department of Finance concurred with the staff recommendation and there was no comment from interested parties or the public on this matter. Member Ramirez made a motion to adopt the staff recommendation. With a second by Member Chivaro, the motion to adopt the staff recommendation was adopted by a vote of 6-0.

**HEARINGS ON COUNTY APPLICATIONS FOR FINDINGS OF SIGNIFICANT FINANCIAL DISTRESS PURSUANT TO WELFARE AND INSTITUTIONS CODE SECTION 17000.6 AND CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 6.5 (info/action)**

- Item 12 Assignment of County Application to Commission, a Hearing Panel of One or More Members of the Commission, or to a Hearing Officer

No applications were filed.

## STAFF REPORTS

Item 15 Legislative Update (info)

Program Analyst Kerry Ortman presented this item.

Item 16 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Camille Shelton presented this item.

Item 17 Executive Director: Workload Update and Tentative Agenda Items for the March and May 2016 Meetings (info)

Executive Director Heather Halsey presented this item and reported on the Commission's pending caseload.

## APPROVAL OF MINUTES

The December 3, 2015 hearing minutes were adopted by a vote of 5-0, with Member Ramirez abstaining.

## CLOSED EXECUTIVE SESSION PURSUANT TO GOVERNMENT CODE SECTIONS 11126 AND 11126.2 (info/action)

### A. PENDING LITIGATION

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126(e)(1):

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matters pursuant to Government Code section 11126(e)(1):

#### Trial Courts:

1. *California School Board Association (CSBA) v. State of California et al.*  
Alameda County Superior Court, Case No. RG11554698  
[2010-2011 Budget Trailer Bills, Mandates Process for K-12 Schools, Redetermination Process]
2. *Paradise Irrigation District, et al. v. Commission on State Mandates, Department of Finance, and Department of Water Resources*  
Sacramento County Superior Court, Case No. 34-2015-80002016  
[*Water Conservation* (10-TC-12/12-TC-01, adopted December 5, 2014), Water Code Division 6, Part 2.55 [sections 10608-10608.64] and Part 2.8 [sections 10800-10853] as added by Statutes 2009-2010, 7th Extraordinary Session, Chapter 4 California Code of Regulations, Title 23, Division 2, Chapter 5.1, Article 2, Sections 597-597.4; Register 2012, No. 28.]

#### Courts of Appeal:

1. *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Board, San Diego Region v. Commission on State Mandates and County of San Diego, et al.* (petition and cross-petition)  
Third District Court of Appeal, Case No. C070357

Sacramento County Superior Court Case No. 34-2010-80000604  
[*Discharge of Stormwater Runoff*, Order No. R9-207-000 (07-TC-09), California Regional Water Control Board, San Diego Region Order No. R9-2007-001, NPDES No. CAS0108758, Parts D.1.d.(7)-(8), D.1.g., D.3.a.(3), D.3.a.(5), D.5, E.2.f, E.2.g,F.1, F.2, F.3, I.1, I.2, I.5, J.3.a.(3)(c) iv-vii & x-xv, and L]

2. *Counties of San Diego, Los Angeles, San Bernardino, Orange, and Sacramento v. Commission on State Mandates, et al.*

Fourth District Court of Appeal, Division One, Case No. D068657  
San Diego County Superior Court, Case No. 37-2014-00005050-CU-WM-CTL  
[Mandate Redetermination, *Sexually Violent Predators*, (12-MR-01, CSM-4509); Welfare and Institutions Code Sections 6601, 6602, 6603, 6604, 6605, and 6608; Statutes 1995, Chapter 762 (SB 1143); Statutes 1995, Chapter 763 (AB 888); Statutes 1996, Chapter 4 (AB 1496) As modified by Proposition 83, General Election, November 7, 2006]

3. *Coast Community College District, et al. v. Commission on State Mandates*, Third District Court of Appeal, Case No. C080349

Sacramento County Superior Court, Case No. 34-2014-80001842  
[*Minimum Conditions for State Aid*, 02-TC-25/02-TC-31  
(Education Code Sections 66721, 66721.5, 66722, 66722.5, 66731, 66732, 66736, 66737, 66738, 66740, 66741, 66742, 66743, 70901, 70901.5, 70902, 71027, 78015, 78016, 78211.5, 78212, 78213, 78214, 78215, 78216, 87482.6, and 87482.7; Statutes 1975, Chapter 802; Statutes 1976, Chapters 275, 783, 1010, and 1176; Statutes 1977, Chapters 36 and 967; Statutes 1979, Chapters 797 and 977; Statutes 1980, Chapter 910; Statutes 1981, Chapters 470 and 891; Statutes 1982, Chapters 1117 and 1329; Statutes 1983, Chapters 143 and 537; Statutes 1984, Chapter 1371; Statutes 1986, Chapter 1467; Statutes 1988, Chapters 973 and 1514; Statutes 1990, Chapters 1372 and 1667; Statutes 1991, Chapters 1038, 1188, and 1198; Statutes 1995, Chapters 493 and 758; Statutes 1998, Chapter 365, 914, and 1023; Statutes 1999, Chapter 587; Statutes 2000, Chapter 187; and Statutes 2002, Chapter 1169; California Code of Regulations, Title 5, Sections 51000, 51002, 51004, 51006, 51008, 51012, 51014, 51016, 51018, 51020, 51021, 51022, 51023, 51023.5, 51023.7, 51024, 51025, 51027, 51100, 51102, 53200, 53202, 53203, 53204, 53207, 53300, 53301, 53302, 53308, 53309, 53310, 53311, 53312, 53314, 54626, 54805, 55000, 55000.5, 55001, 55002, 55002.5, 55004, 55005, 55006, 55100, 55130, 55150, 55160, 55170, 55182, 55200, 55201, 55202, 55205, 55207, 55209, 55211, 55213, 55215, 55217, 55219, 55300, 55316, 55316.5, 55320, 55321, 55322, 55340, 55350, 55401, 55402, 55403, 55404, 55500, 55502, 55510, 55512, 55514, 55516, 55518, 55520, 55521, 55522, 55523, 55524, 55525, 55526, 55530, 55532, 55534, 55600, 55601, 55602, 55602.5, 55603, 55605, 55607, 55620, 55630, 55750, 55751, 55752, 55753, 55753.5, 55753.7, 55754, 55755, 55756, 55756.5, 55757, 55758, 55758.5, 55759, 55760, 55761, 55762, 55763, 55764, 55765, 55800, 55800.5, 55801, 55805, 55805.5, 55806, 55807, 55808, 55809, 55825, 55827, 55828, 55829, 55830, 55831, 58102, 58104, 58106, 58107, 58108, 59404, and 59410; Handbook of Accreditation and Policy Manual, Accrediting Commission for Community and Junior Colleges (Summer 2002); and



“Program and Course Approval Handbook” Chancellor’s Office California  
Community Colleges (September 2001).]

California Supreme Court:

1. *State of California Department of Finance, State Water Resources Control Board, and California Regional Water Quality Control Board, Los Angeles Region v. Commission on State Mandates and County of Los Angeles, et al*  
(petition and cross-petition)  
California Supreme Court, Case No. S214855  
Second District Court of Appeal, Case No. B237153  
Los Angeles County Superior Court, Case No. BS130730  
[*Municipal Storm Water and Urban Runoff Discharges*, 03-TC-04, 03-TC-19,  
03-TC-20, and 03-TC-21, Los Angeles Regional Quality Control Board Order  
No. 01-182, Permit CAS004001, Parts 4C2a., 4C2b, 4E & 4Fc3]

To confer with and receive advice from legal counsel, for consideration and action, as necessary and appropriate, upon the following matter pursuant to Government Code section 11126(e)(2):

Based on existing facts and circumstances, there is a specific matter which presents a significant exposure to litigation against the Commission on State Mandates, its members or staff.

**B. PERSONNEL**

To confer on personnel matters pursuant to Government Code section 11126(a):

The Commission adjourned into closed executive session at 10:43 a.m., pursuant to Government Code section 11126(e), to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the published notice and agenda; and to confer with and receive advice from legal counsel regarding potential litigation; and to confer on personnel matters pursuant to Government Code section 11126(a)(1).

**RECOVENE IN PUBLIC SESSION  
REPORT FROM CLOSED EXECUTIVE SESSION**

At 10:49 a.m., Chairperson Ortega reconvened in open session, and reported that the Commission met in closed executive session pursuant to Government Code section 11126(e)(2) to confer with and receive advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and to confer with and receive advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

**ADJOURNMENT**

Hearing no further business, Chairperson Ortega adjourned the meeting at 10:50 a.m.

Heather Halsey  
Executive Director

**ORIGINAL**



**PUBLIC MEETING**  
**COMMISSION ON STATE MANDATES**



**TIME:** 10:00 a.m.

**DATE:** Friday, January 22, 2016

**PLACE:** State Capitol, Room 447  
Sacramento, California



**REPORTER'S TRANSCRIPT OF PROCEEDINGS**



Reported by:

Daniel P. Feldhaus  
California Certified Shorthand Reporter #6949  
Registered Diplomate Reporter, Certified Realtime Reporter

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A P P E A R A N C E S

COMMISSIONERS PRESENT

ERAINA ORTEGA  
Representative for MICHAEL COHEN, Director  
Department of Finance  
(Chair of the Commission)

RICHARD CHIVARO  
Representative for BETTY T. YEE  
State Controller

KEN ALEX  
Director  
Office of Planning & Research

MARK HARIRI  
Representative for JOHN CHIANG  
State Treasurer

SARAH OLSEN  
Public Member

M. CARMEN RAMIREZ  
Oxnard City Council Member  
Local Agency Member



COMMISSION STAFF PRESENT

HEATHER A. HALSEY  
Executive Director  
(Items 3 and 17)

HEIDI PALCHIK  
Assistant Executive Director

CAMILLE N. SHELTON  
Chief Legal Counsel  
(Items 5 and 16 )

A P P E A R A N C E S

PARTICIPATING COMMISSION STAFF

*continued*

ERIC FELLER  
Senior Commission Counsel  
*(Items 6 and 9)*

MATTHEW B. JONES  
Commission Counsel  
*(Items 4, 7, and 10)*

KERRY ORTMAN  
Program Analyst  
*(Item 15)*



PUBLIC TESTIMONY

**Appearing Re Item 4:**

For Claimants:

ARTHUR PALKOWITZ  
Stutz, Artiano, Shinoff & Holtz  
2488 Historic Decatur Road, Suite 200  
San Diego, California 92106

RICK MILLER  
Superintendent  
Santa Ana Unified School District  
1601 East Chestnut Avenue  
Santa Ana, CA 92701-6322

NATE NELSON  
Assistant Superintendent  
Porterville Unified School District  
600 West Grand Avenue  
Porterville, CA 93257

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 4:**

For Claimants:

MICHELINE MIGLIS  
Former Superintendent  
Plumas County Office of Education and  
Plumas Unified School District

RAMONA BISHOP  
Superintendent  
Vallejo City Unified School District  
665 Walnut Avenue  
Vallejo, California 94592

For Department of Finance:

AMBER ALEXANDER  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

SUSAN GEANACOU  
Senior Staff Attorney  
Department of Finance  
915 L Street, Suite 1280  
Sacramento, California 95814

**Appearing Re Item 5:**

For Department of Finance:

REBECCA HAMILTON  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

A P P E A R A N C E S

PUBLIC TESTIMONY

**Appearing Re Item 6:**

For Department of Finance:

CHRIS FERGUSON  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

**Appearing Re Item 7:**

For Department of Finance:

MOLLIE QUASEBARTH  
Staff Budget Analyst  
Department of Finance  
915 L Street, 7<sup>th</sup> Floor  
Sacramento, California 95814

**Appearing Re Item 9:**

For Department of Finance

DONNA FEREBEE  
Legal Department  
Department of Finance  
915 L Street, Suite 1280  
Sacramento, California 95814

**Appearing Re Item 10:**

For Department of Finance:

MOLLIE QUASEBARTH  
Staff Budget Analyst  
Department of Finance





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| VI.   | Hearings and Decisions on Test Claims and Parameters and Guidelines Pursuant to California Code of Regulations, Title 2, Chapter 2.5, Article 7                                                 |    |
|       | E. Incorrect Reduction Claims                                                                                                                                                                   |    |
|       | Item 11* <i>Notification of Truancy</i><br>13-904133-I-13<br>Riverside Unified School<br>District, Claimant . . . . .                                                                           | 16 |
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**Commission on State Mandates – January 22, 2016**

1 BE IT REMEMBERED that on Friday, January 22,  
2 2016, commencing at the hour of 10:04 a.m., thereof, at  
3 the State Capitol, Room 447, Sacramento, California,  
4 before me, DANIEL P. FELDHAUS, CSR #6949, RDR and CRR,  
5 the following proceedings were held:

6 

7 CHAIR ORTEGA: Okay, good morning, everyone.  
8 We're going to go ahead and get started and if other  
9 folks join us, then that will be great.

10 I'll call to order the Commission on State  
11 Mandates meeting of January 22<sup>nd</sup>.

12 If you could please call the roll.

13 MS. HALSEY: Mr. Alex?

14 MEMBER ALEX: Here.

15 MS. HALSEY: Mr. Chivaro?

16 *(No response)*

17 MS. HALSEY: Mr. Hariri?

18 MEMBER HARIRI: Here.

19 MS. HALSEY: Ms. Olsen?

20 MEMBER OLSEN: Here.

21 MS. HALSEY: Ms. Ortega?

22 CHAIR ORTEGA: Here.

23 MS. HALSEY: Ms. Ramirez?

24 MEMBER RAMIREZ: Here.

25 MS. HALSEY: Mr. Saylor?

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1                   (No response)

2                   MS. HALSEY: The Chair of the Commission,  
3 Ms. Ortega, will conduct the annual election of officers.

4                   CHAIR ORTEGA: Okay, so this is an annual  
5 action we have to have the election of the officers for  
6 2016.

7                   So I would ask if there are any nominations for  
8 the chairperson; or is there a motion for election of a  
9 new chairperson?

10                  MEMBER RAMIREZ: I'll nominate the existing  
11 chair, the current chair.

12                  CHAIR ORTEGA: Thank you.

13                  Ms. Ramirez nominates the Director of Finance  
14 as the chair of the Commission.

15                  MEMBER ALEX: Second.

16                  CHAIR ORTEGA: Second by Mr. Alex.

17                  All in favor of the nomination?

18                  (A chorus of "ayes" was heard.)

19                  CHAIR ORTEGA: Any abstentions?

20                  (No response)

21                  CHAIR ORTEGA: Seeing none, that motion  
22 carries.

23                  And next would be the election of the vice  
24 chairperson. In 2015, that was the State Controller's  
25 representative.

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1           So I would ask if there are any nominations for  
2 vice chair?

3           MEMBER RAMIREZ: I'll nominate the current  
4 chair -- vice chair, sorry.

5           MEMBER ALEX: Second.

6           CHAIR ORTEGA: I would only ask, if we want to  
7 alternate. Historically, we've alternated between the  
8 Controller and the Treasurer as the vice chairs.

9           So if there is an interest in doing that -- or  
10 we can keep the current.

11           We have a motion to keep the Controller as the  
12 vice chair.

13           If there's no objection, is there a second to  
14 that?

15           *(No response)*

16           CHAIR ORTEGA: Ms. Olsen, would you like to  
17 have the alternate?

18           MEMBER OLSEN: Well, I mean, I was going to  
19 follow tradition.

20           CHAIR ORTEGA: Sure.

21           MEMBER OLSEN: But there's a motion on the  
22 floor, so...

23           MEMBER RAMIREZ: I'll withdraw my motion, if  
24 you would like to make an alternate motion.

25           CHAIR ORTEGA: Okay, so the motion has been

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1 withdrawn, so let's have a quick conversation.

2 So the Controller's representative was the  
3 vice chair for 2015. Historically, we've alternated  
4 between the Controller and the Treasurer.

5 So Ms. Olsen, I think, feels maybe we should  
6 keep that tradition and alternate?

7 MEMBER OLSEN: Yes. In the absence of any  
8 reason not to, tradition is good.

9 CHAIR ORTEGA: Okay, so is that a nomination of  
10 the Treasurer's representative?

11 MEMBER OLSEN: That is a nomination for the  
12 State Treasurer.

13 MEMBER RAMIREZ: And I'll second that.

14 CHAIR ORTEGA: And seconded by Ms. Ramirez.  
15 All in favor?

16 *(A chorus of "ayes" was heard.)*

17 CHAIR ORTEGA: Mr. Hariri?

18 MEMBER HARIRI: Aye.

19 CHAIR ORTEGA: Congratulations.

20 Next would be the minutes from the -- is that  
21 right? -- from the December 3<sup>rd</sup> meeting.

22 MS. HALSEY: Yes.

23 CHAIR ORTEGA: Is there a motion on the minutes  
24 from December 3<sup>rd</sup>?

25 MEMBER ALEX: I'll move the minutes.

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1 CHAIR ORTEGA: Moved by Mr. Alex.

2 Is there a second?

3 MEMBER HARIRI: Yes.

4 CHAIR ORTEGA: Second by Mr. Hariri.

5 Was there any comments or corrections to  
6 the minutes?

7 MEMBER RAMIREZ: I'd like to abstain as I  
8 wasn't here.

9 MEMBER OLSEN: Well, and I would abstain, too.  
10 So that's going to be a problem.

11 MEMBER RAMIREZ: Unless you need --

12 CHAIR ORTEGA: Okay, let's hold on the minutes  
13 then. We'll come back to the minutes if we have  
14 additional members. We can always adopt them at a future  
15 meeting.

16 MEMBER OLSEN: And if you don't, I will vote  
17 for them.

18 CHAIR ORTEGA: Okay. Thank you, Ms. Olsen.

19 MS. HALSEY: Next, we will take up public  
20 comment for matters not on the agenda.

21 Please note that the Commission cannot take  
22 action on items not on the agenda; however, it can  
23 schedule issues raised by the public for consideration  
24 at future meetings.

25 CHAIR ORTEGA: Okay, is there any public



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1 comment on items not on the agenda?

2 (No response)

3 CHAIR ORTEGA: Okay, seeing none, we'll move  
4 on.

5 MS. HALSEY: Next, we have a proposal to add  
6 Item 8, the parameters and guidelines on *Training for*  
7 *School Employee Mandated Reporters*; and Item 11, an  
8 incorrect reduction claim on *Notification of Truancy* to  
9 the Consent Calendar.

10 After the agenda for this hearing was issued,  
11 the parties agreed to place Items 8 and 11 on consent.

12 CHAIR ORTEGA: Thank you.

13 Any objections to adding those from the  
14 Commission or the public?

15 (No response)

16 CHAIR ORTEGA: Seeing none, they will be added  
17 to the consent agenda.

18 The consent agenda will consist of Items 8, 11,  
19 13, and 14.

20 Is there a motion?

21 MEMBER RAMIREZ: So moved.

22 CHAIR ORTEGA: Moved by Mr. Ramirez.

23 MEMBER OLSEN: Second.

24 CHAIR ORTEGA: Second by Ms. Olsen.

25 All in all in favor of the Consent Calendar?

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1                   *(A chorus of "ayes" was heard.)*

2                   CHAIR ORTEGA: Okay, approved unanimously.

3                   MS. HALSEY: Let's move to the Article 7  
4                   portion of the hearing.

5                   Will the parties and witnesses for Items 4, 5,  
6                   6, 7, 9, and 10 please rise?

7                   *(Parties/witnesses stood to be sworn*  
8                   *or affirmed.)*

9                   MS. HALSEY: Do you solemnly swear or affirm  
10                  that the testimony which you are about to give is true  
11                  and correct, based on your personal knowledge,  
12                  information, or belief?

13                  *(A chorus of affirmative responses was*  
14                  *heard.)*

15                  MS. HALSEY: Thank you.

16                  Item 3 is reserved for appeals of Executive  
17                  Director decisions.

18                  There are no appeals scheduled for  
19                  consideration at this hearing.

20                  Commission Counsel Matt Jones will present  
21                  Item 4, the test claim on *California Assessment of*  
22                  *Student Performance and Progress*, or "CAASPP."

23                  *(Mr. Chivaro entered the meeting room.)*

24                  CHAIR ORTEGA: Thank you.

25                  And let's have the record reflect that

1 Mr. Chivaro has joined the meeting.

2 MR. JONES: Good morning.

3 This test claim alleges new mandated costs  
4 arising from the elimination of the former *Standardized*  
5 *Testing and Reporting* program, and its replacement with a  
6 computer-based statewide pupil assessment designated  
7 "CAASPP."

8 Staff finds that many of the requirements of  
9 the CAASPP program tests are a continuation of the STAR  
10 program, or minor modifications of the STAR program,  
11 including, in some cases, a lower level of service due  
12 to certain grade levels and subjects no longer tested  
13 under the new program.

14 However, staff recommends that the Commission  
15 adopt the proposed decision, finding that some of the  
16 test-claim statutes and regulations mandate a new program  
17 or higher level of service on school districts to, quote,  
18 "*provide a computing device, the use of an assessment*  
19 *technology program, and the adaptive engine,*" end quote,  
20 to administer CAASPP to all pupils via computer, which  
21 includes the acquisition of and ongoing compliance with  
22 minimum technology requirements.

23 In addition, the proposed decision finds that  
24 the regulations implementing the computer-based CAASPP  
25 assessments mandate new reporting and informational

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1 requirements.

2 The proposed decision further finds, based on  
3 the evidence in the record, that there are increased  
4 costs mandated by the State beginning January 1, 2014,  
5 which will exceed the funding appropriated by the State  
6 for pupil assessment programs, including CAASPP.

7 Will the parties and witnesses please state  
8 your names for the record?

9 MR. PALKOWITZ: Good morning, Art Palkowitz on  
10 behalf of the claimants.

11 MR. DANIELS: Josh Daniels, California School  
12 Boards Association on behalf of the claimants.

13 MS. ALEXANDER: Amber Alexander with the  
14 Department of Finance.

15 MS. GEANACOU: Good morning. Susan Geanacou,  
16 Department of Finance.

17 CHAIR ORTEGA: Mr. Palkowitz?

18 MR. PALKOWITZ: Yes, thank you.

19 Initially, the claimants would like to thank  
20 staff for its thorough analysis of the numerous issues  
21 presented in this test claim.

22 The *California Assessment of Student*  
23 *Performance and Progress, CAASPP*, test claim requires  
24 school districts to administer statewide academic  
25 assessments by providing computer devices, assessment

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1 technology platform, and adaptive engine to all pupils in  
2 the state. Commission staff has determined that the  
3 test-claim statutes and regulations mandate containing  
4 all these requirements are a new program or a higher  
5 level of service on school districts.

6 Staff has recommended, based on the requirement  
7 to administer *CAASPP* to all pupils via the computer, that  
8 the costs relating to these activities are reimbursable.

9 Each District's coordinator is responsible for  
10 assessing technology, and shall ensure the current and  
11 ongoing compliance with the minimum technology  
12 specifications as identified by the State selected  
13 consortium, which is currently Smarter Balanced  
14 Assessment Consortium.

15 The Assembly Appropriations Committee stated  
16 that these assessments are designed to be online and  
17 computer adaptive as opposed to the prior paper-and-  
18 pencil assessments. It was the intent of the Legislature  
19 that the school districts of California be required to  
20 implement 21<sup>st</sup> century technology.

21 Staff has determined, after thorough reviewing  
22 and analyzing the large amount of documents submitted by  
23 the claimants, that there is insufficient funding  
24 available and that the school districts have incurred  
25 increased costs mandated by the State.

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1 Staff has stated that the 2014-15 Budget Act  
2 does not contain State appropriations that are  
3 specifically intended to fund the cost of the mandate for  
4 the 2014-15 fiscal year within the meaning of Government  
5 Code section 17556(e).

6 The five claimants are a diverse group  
7 consisting of a large metropolitan, a middle size, as  
8 well as a rural district. As will be presented by each  
9 representative briefly, they will share with you they  
10 faced challenges that they encountered in initializing  
11 and performing CAASPP.

12 The claimants have provided substantial  
13 evidence that the funding they received -- approximately  
14 \$3 per student that took a test -- is insufficient to  
15 cover their devices, the broadband, and the training  
16 required.

17 For example, Plumas Unified incurred costs for  
18 CAASPP in 2014-15 of approximately \$854,000. Based on  
19 the number of pupils that took the testing in 2013-14,  
20 they received \$4,044 -- less than half of 1 percent of  
21 their actual costs.

22 Claimant Porterville's cost for the 2014 year  
23 was \$3.4 million, and they received \$26,000,  
24 approximately three-quarters of 1 percent of their costs.

25 The goal of CAASPP is to provide assessments

1 that assist teachers, administrators, students of parents  
2 with a better understanding of college and career  
3 readiness.

4 SBAC, selected by the State of California,  
5 provides the new computer adaptive assessments, intended  
6 to provide more individualized, accurate, and fast  
7 results for teachers and parents.

8 Moving forward, CAASPP coordinators have  
9 identified the need for new technology, increased  
10 bandwidth, and more devices for testing -- for testing  
11 more technology support.

12 The computer-based assessment is adaptive, in  
13 that students who answer the initial questions correctly  
14 will get progressively harder questions, while students  
15 who answer the initial questions incorrectly, will get  
16 progressively easier.

17 In effect, the claimants have clearly  
18 demonstrated that the funding for CAASPP is woefully  
19 inadequate to offset the significant financial need of  
20 the test claimants. Accordingly, the claimants request  
21 that the commissioners approve the activities recommended  
22 by staff to be reimbursable activities.

23 At this time, we would ask the representative  
24 for Santa Ana to come forward and speak briefly regarding  
25 the impact CAASPP has on their district.

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1 CHAIR ORTEGA: Just before you come up on this  
2 item, we have a number of witnesses; and I would just ask  
3 that you keep your remarks brief, and everyone try not to  
4 repeat any comments that have been made previously.

5 Thank you.

6 MR. MILLER: Thank you.

7 And good morning. I'm Rick Miller,  
8 Superintendent from Santa Ana Unified School District.

9 I'll give you a brief thumbnail of our  
10 District. We have about 55,000 students. We serve from  
11 pre-K through the twelfth grade. We have 57 school  
12 sites; and we are in Orange County, California.

13 Students, nine out of 10 of our students are  
14 living in poverty. 92 percent, to be more specific.  
15 96 percent of our students are Latino; and 6 out of 10  
16 are English-language learners.

17 So what's this really all about? Because  
18 we have had state testing a long time. And in that  
19 state testing, previously we basically were required to  
20 provide a No. 2 pencil to serve the needs in terms of  
21 taking the actual test. In fact, that's why you've heard  
22 about "paper and pencil."

23 We're now required to have a device -- and  
24 I have just one example, and there's many that are out  
25 there -- but that has to be associated also with a



1 keyboard, with some kind of listening device, and so  
2 forth. So we've had a dramatic shift in terms of  
3 implementation as we go forward.

4 Another piece of the puzzle is that, typically,  
5 we are required to have some kind of wireless deployment  
6 throughout the building. And, again, in the past, we've  
7 maybe done those by putting more access points up; but  
8 the reality is, we need to bring engineers in to help  
9 us do that appropriately and get efficient use of that  
10 process.

11 Previously, in one of my prior districts, I  
12 think we were one of the state leaders in this area; and  
13 we had 28,000 student devices. But the reality is, with  
14 Smarter Balance, we basically did not have devices that  
15 were compatible with the new assessment. So we almost  
16 had to go back and do a whole refresh of that as we move  
17 that issue forward.

18 I would also like to add that we believe it's  
19 a very laudable move on the part of the State and their  
20 leadership to bring forward this test. It's really a  
21 21<sup>st</sup> century test. It's going to be improved assessment  
22 for our students, so we fully support that. We fully  
23 support that direction.

24 The other thing that I might point out to you,  
25 is that when we talk about devices, oftentimes everybody

1 has a smart phone these days; but the reality is that for  
2 students from five years old to 18 years old, have some  
3 differences.

4 For example, this may fit for us, but it may  
5 not fit for a five-year-old, or similar kind of age in  
6 terms of primary school.

7 The other thing I would point out, when we talk  
8 about one by one, implementation is not that complicated;  
9 but when you think systemwide, it becomes a much more  
10 complex issue as we move forward. And oftentimes, we  
11 need to go out and bring in other outside contractors to  
12 assist us in that process of changing our system.

13 Finally, I would say that we support the  
14 proposed solution proposed by your staff.

15 And I thank you very much for your time and  
16 your attention on this matter.

17 CHAIR ORTEGA: Thank you, Mr. Miller.

18 MR. NELSON: Good morning. My name is Nate  
19 Nelson. I'm an assistant superintendent with Porterville  
20 Unified School District.

21 And to give you a brief description of our  
22 district, we're located in the Central Valley of  
23 California, about halfway between Bakersfield and Fresno.  
24 We have about 14,000 students, similar demographics, a  
25 high number of English learners, approximately

1 84 percent, considered poverty, based on the free- and  
2 reduced-lunch participation.

3 And just to expand on a couple of items,  
4 devices obviously are something I think we can all grasp  
5 as far as the need and the investment required to outfit  
6 our students with those.

7 For us, bandwidth has been an issue. We're a  
8 semi-remote location, and don't have access to fiber  
9 readily from a number of different telecom providers.  
10 And so scaling that up was a piece of our puzzle,  
11 providing sufficient bandwidth, the size of the pipe in  
12 terms of the information being delivered. And then kind  
13 of the ancillary devices that we didn't really consider  
14 initially, in terms of the costs associated with  
15 upgrading those. We would really liken it to an Internet  
16 service provider gearing up for Netflix on Friday night,  
17 where you've got everybody tuning in at eight o'clock and  
18 trying to stream movies.

19 And generally, the network has been deployed in  
20 such a way that you can function 95 percent of the day,  
21 pretty predictable traffic patterns. But in that  
22 eight o'clock hour, there's a significant increase in  
23 bandwidth and in the equipment required to support that.

24 And for us, that meant upgrades required and  
25 significant costs associated with our Internet filter to

1 filter out pornography and other inappropriate content.

2 We had to move from a model that we had  
3 purchased a year before, to one that was quite a bit more  
4 expensive to support the additional traffic capacity.  
5 Our centralized firewall, our wireless controllers --  
6 costs, again, that we were not anticipating and were  
7 substantial and ongoing. Once you move from different  
8 tiers, there's a pretty significant increase in terms of  
9 what you're paying for annual support.

10 We also, aside from, you know, bringing in some  
11 external support, looked to gear up our staff internally,  
12 and provided additional training; and that we know that  
13 there's maintenance required for these devices and for  
14 this infrastructure, and so we hired additional  
15 technicians. We also took the technicians that we had  
16 on the staff and trained them in some of the kind of  
17 new deployments they'd have to do, the very dense  
18 deployments. Classroom right on top of each other and  
19 in some ways, people talk about it being engineering;  
20 but it's almost an art form in tuning the signals and  
21 getting them just right, so you don't have people kind  
22 of talking on top of one another. And that was a big  
23 learning experience for us.

24 We're still adjusting to this day. We've got  
25 access points that provide the wireless signal that we

1 deployed, you know, a year ago, even, that we're  
2 replacing with new models because we had seen, when we  
3 geared up for that testing, that it just had different  
4 points of time where it wasn't as functional as we would  
5 have liked.

6 And then finally, just kind of the lower-level  
7 support required moving from the pencil and paper, the  
8 logistics required to distribute paper tests and the  
9 planning. That's always been there. But, of course,  
10 it's ramped up a little bit when you have to get people  
11 that aren't familiar with technology trained on what  
12 we're going to do to enter students into the system. If  
13 we have somebody come from an outside district three days  
14 before they're ready to test, what's it going to take to  
15 get them in the system in a timely manner and have them  
16 ready to test. And we've estimated, we're probably  
17 talking up to 10 hours of different training for those  
18 people on the ground level; and that involves our  
19 resource clerks and even our principals. And again, a  
20 significant investment.

21 Thank you very much for your time.

22 CHAIR ORTEGA: Thank you, Mr. Nelson.

23 MS. MIGLIS: Good morning. And thank you all  
24 for your public service.

25 My name is Micheline Miglis. And during the

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1 2012-13 and the 2013-14 and the 2014-15 school years,  
2 I was the county superintendent for Plumas County Office  
3 of Education and the Plumas Unified School District  
4 superintendent.

5 To help you place Plumas, if you're unfamiliar  
6 with the National Forest, Plumas is surrounded by  
7 thousands of miles of -- thousands of square miles of  
8 the National Forest. We border the counties of Butte,  
9 Shasta in the north, Susanville and Sierra, to name a  
10 few.

11 We consider ourselves a frontier district,  
12 beyond rural, because of the very particular isolation  
13 that our students and our community face.

14 We provide education to students in late  
15 19<sup>th</sup> century schoolhouses built in the late 1800's and  
16 the early 1900's in the 21<sup>st</sup> century.

17 We commend the opportunity for our students to  
18 participate and have access to the same experiences with  
19 the annual assessment as their peers across the state.  
20 However, in particular for the frontier school, Plumas  
21 Unified School District and County Office of Education,  
22 we experience tremendous infrastructure challenges given  
23 the age and the conditions of our school buildings.

24 We had the absence of broadband in many of our  
25 communities. This affected the students' ability to

1 access the state assessment and potentially perform as  
2 well as they could.

3 For an example, if I can give you a sample of  
4 what a child might face to put a student's face on this  
5 assessment experience and challenge, we were able to  
6 purchase computers on wheels so we had one cart in each  
7 school. And that was rotated to classrooms.

8 And in one particular school, in Chester  
9 Elementary School in the far north, that is over near the  
10 Shasta border, we converted a very long storage closet  
11 into a computer lab, and outfitted it with the computers,  
12 and students rotated on a schedule in and out of there.

13 That worked when broadband worked. And when  
14 the service was up and running, often it didn't, and so  
15 the assessment took a long time and delayed, and  
16 sometimes students began part of the test and then needed  
17 to start all over again.

18 Another situation in Quincy, where we provided  
19 bus transportation from our elementary school over to  
20 the high school, because that was the only way that the  
21 students could participate in the assessment at that  
22 time.

23 Of course, you can imagine we hired outside  
24 consultants to help us bring our schools forward and to  
25 address many of the challenges that we had, as other

1 colleagues have mentioned with respect to fiber, cabling,  
2 switches, broadband, and all of the infrastructure  
3 related.

4 The other situation that I want to make note  
5 of for you, is that the devices that we're required to  
6 use are very 21<sup>st</sup> century. And, again, we did not have  
7 even the 20<sup>th</sup> century tools and infrastructure in place.

8 In closing, I want to comment that we are not  
9 even close to faithfully implementing the high-stakes  
10 assessment, and we still have a very long way to go.  
11 We want to participate. We believe in the  
12 accountability. We want to have access for our students,  
13 along with their peers in the state; and yet, we do have  
14 tremendous hurdles to overcome.

15 Thank you.

16 CHAIR ORTEGA: Thank you.

17 MS. BISHOP: Good morning, everyone. I'm  
18 Dr. Ramona Bishop. I'm the proud superintendent of the  
19 Vallejo Unified School District, where I've been since  
20 April 1<sup>st</sup>, 2011.

21 I want to paint a picture for you. Imagine  
22 my walking into this school district, where there are  
23 90 percent students of color. Now, we are 78.4 percent,  
24 unduplicated count. So free and reduced lunch, about  
25 72 percent.



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1           Imagine a place where there had been a state  
2 takeover because a \$60 million loan was taken from the  
3 State. Imagine a place where the city also was the first  
4 city to go bankrupt.

5           Two schools, just because we had some  
6 principals that were tech-savvy, had taken it upon  
7 themselves to make their schools wireless and to  
8 establish an infrastructure for computers.

9           None of the rest of the schools had any of  
10 that. So we had to build the infrastructure for every  
11 school to be wireless. We had to contract with  
12 individuals and engineers to ensure that our students  
13 could access everything that they needed. We had to  
14 purchase from A-to-Z computer technology, whether it was  
15 computers on wheels, computers in labs. We had to ensure  
16 that our students were comfortable, and therefore having  
17 staff available for our staff and students who needed  
18 considerable training and considerable abilities to  
19 implement this assessment.

20           I agree with the staff recommendation. I  
21 appreciate the fact that we're pushing our system to get  
22 better and moving California into the 21<sup>st</sup> century. And  
23 yet, I ask all of you to consider where we are in the  
24 Vallejo City Unified School District.

25           Our students deserve the best. Like all the

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1 other superintendents, I agree. And yet there are  
2 considerable challenges.

3 Yes, we spent money to ensure that our students  
4 were ready for this assessment the last time; but I want  
5 you to remember that I was working to get the state  
6 administrator out of our school district at the same  
7 time. And so we made choices for developing the wireless  
8 infrastructure and the computer infrastructure at the  
9 cost of other things. Yet it is very significant and  
10 wonderful, and we appreciate the opportunity to serve  
11 students in the way that we now are doing in the Vallejo  
12 City Unified School District.

13 You know that we're now out of state  
14 receivership; but, again, it was a lot of hard work and  
15 with this extra cost, it was even more difficult.

16 Thank you very much.

17 CHAIR ORTEGA: Thank you, Ms. Bishop.

18 Ms. Olsen has a question.

19 MEMBER OLSEN: I don't have a question. I just  
20 wanted to make a comment that I am a graduate of Hogan  
21 High School as of way back. And my father was a  
22 superintendent of schools in Vallejo, so...

23 MS. BISHOP: You will be glad to know that  
24 Hogan is up and going, and the kids have everything they  
25 need.

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1 Thank you.

2 MR. PALKOWITZ: Thank you very much for  
3 providing the opportunity for the claimants to express  
4 their experiences.

5 At this time, we have no other testimony.

6 CHAIR ORTEGA: Okay.

7 MS. ALEXANDER: Good morning. Amber Alexander  
8 with the Department of Finance.

9 To start, we would like to concur with the  
10 staff's recommendation to deny the claims for many of the  
11 code sections and regulations pled by the claimants on  
12 account that they do not contain mandated activities.

13 With regards to the claims for which staff is  
14 recommending partial approval, Finance acknowledges that  
15 there is an inherent tension between allocating funding  
16 to local educational agencies in a manner that's  
17 consistent with the notion of local control, while at the  
18 same time, not micromanaging LEAs' ability to spend those  
19 funds as they feel fit by restricting their use for an  
20 intended purpose.

21 We would continue to emphasize that the State  
22 has allocated a significant amount of funding to local  
23 educational agencies to help them prepare for and  
24 administer *CAASPP*; and we believe that these funds have  
25 been provided in an amount sufficient to cover their

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1 expenses associated with the assessment system.

2 Finally, we would note that the staff has  
3 identified a number of sources of required and  
4 potentially offsetting funds as detailed on page 26 of  
5 the proposed decision. And we would agree with staff  
6 that these sources must be identified and deducted from  
7 school-district reimbursement claims to the extent that  
8 they were used by the districts to cover their CAASPP  
9 activities that the Commission determines are  
10 reimbursable.

11 Thank you for your time. And we'd like to end  
12 by thanking staff for their work on this test claim.

13 CHAIR ORTEGA: Thank you, Ms. Alexander.

14 Anything else, Ms. Geanacou?

15 MS. GEANACOU: No, I have nothing further.

16 We're available to answer questions if there are any.

17 CHAIR ORTEGA: Great, thank you.

18 Any questions at this point?

19 Ms. Ramirez?

20 MEMBER RAMIREZ: I don't have any questions.

21 I support the staff's recommendation. It seems  
22 everybody's in agreement with that. And I just want to  
23 say, it's not appropriate for this commission -- this  
24 commissioner to make long speeches; but I'm very  
25 impressed with the work of our school leaders. And I

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1 think this is a problem for all of our community, because  
2 this is about leadership at the state and local level.  
3 And I congratulate you for what you've done. We have a  
4 long way to go. But this is -- it's very sobering to  
5 hear the statistics of poverty in our state. And I know  
6 in Southern California, one in four children live in  
7 poverty. It has tremendous consequences for the health  
8 of our people and our economy.

9 And I appreciate the leadership that you've  
10 shown. So I do support this.

11 I also want to mention, I knew Ms. Miglis when  
12 she was very young, as a student. So it's just awesome  
13 to see you here.

14 Thank you.

15 CHAIR ORTEGA: Ms. Olsen?

16 MEMBER OLSEN: I'll move adoption of the staff  
17 recommendation.

18 CHAIR ORTEGA: Okay, thank you.

19 Moved by Ms. Olsen.

20 Is there a second?

21 MEMBER RAMIREZ: Second.

22 CHAIR ORTEGA: Second by Ms. Ramirez.

23 I do want to say, I think there aren't any  
24 great conflicts here in the Commission -- in the  
25 recommendation from the staff; but it does feel to me

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1 like this is going to be a complicated one in the  
2 claiming process. And so I just want to say that it's  
3 going to be difficult for everyone to identify the  
4 approved, and eliminate the disallowed items, and then  
5 also document the offsetting revenues as discussed in the  
6 decision.

7 So I'm hopeful that -- yes, Camille?

8 MS. SHELTON: Just to add onto that, it would  
9 be helpful to receive sufficient comments when the  
10 parameters and guidelines go out, so that we can analyze  
11 any activities that might be reasonably necessary to  
12 comply with the mandate.

13 CHAIR ORTEGA: Great. Thank you.

14 We have a motion and a second.

15 Please call the roll.

16 MS. HALSEY: Mr. Alex?

17 MEMBER ALEX: Aye.

18 MS. HALSEY: Mr. Chivaro?

19 MEMBER CHIVARO: Aye.

20 MS. HALSEY: Mr. Hariri?

21 MEMBER HARIRI: Aye.

22 MS. HALSEY: Ms. Olsen?

23 MEMBER OLSEN: Aye.

24 MS. HALSEY: Ms. Ortega?

25 CHAIR ORTEGA: Aye.

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1 MS. HALSEY: Ms. Ramirez?

2 MEMBER RAMIREZ: Aye.

3 CHAIR ORTEGA: The motion is adopted.

4 Thank you, everyone.

5 Thank you everyone who traveled here.

6 We'll move on to Item 5.

7 MS. HALSEY: Chief Legal Counsel Camille  
8 Shelton will present Item 5, the adequate showing hearing  
9 for mandate redetermination on *Immunization Records:*  
10 *Hepatitis B.*

11 MS. SHELTON: Good morning. This is the first  
12 hearing on this redetermination request, seeking a  
13 finding from the Commission that the mandated activities  
14 related to the hepatitis-B immunization are no longer  
15 reimbursable pursuant to Statutes 2010, Chapter 434.

16 The 2010 statute provides that a full  
17 immunization against hepatitis B shall not be a condition  
18 by which a school district admits or advances a pupil to  
19 the seventh grade.

20 Staff recommends that the Commission adopt  
21 the proposed decision, finding that Finance has made an  
22 adequate showing that the State's liability may have been  
23 modified by the 2010 statute and that Finance has a  
24 substantial possibility of prevailing at the second  
25 hearing.

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1 Will the parties and witnesses please state  
2 your names for the record?

3 CHAIR ORTEGA: Do you want to state your name  
4 for the record? Thank you.

5 MS. HAMILTON: Rebecca Hamilton, Department of  
6 Finance.

7 We concur with staff comments; and we don't  
8 have any further comments on the analysis.

9 CHAIR ORTEGA: Okay, thank you.

10 Seeing that this is the first hearing on this,  
11 do we have any comments or questions from the Commission?

12 *(No response)*

13 CHAIR ORTEGA: Any public comment on this item?

14 *(No response)*

15 CHAIR ORTEGA: Okay, is there a motion?

16 MEMBER OLSEN: I'll move the staff  
17 recommendation.

18 CHAIR ORTEGA: Moved by Ms. Olsen.

19 MEMBER CHIVARO: Second.

20 CHAIR ORTEGA: Second by Mr. Chivaro.

21 Please call the roll.

22 MS. HALSEY: Mr. Alex?

23 MEMBER ALEX: Aye.

24 MS. HALSEY: Mr. Chivaro?

25 MEMBER CHIVARO: Aye.



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1 MS. HALSEY: Mr. Hariri?

2 MEMBER HARIRI: Aye.

3 MS. HALSEY: Ms. Olsen?

4 MEMBER OLSEN: Aye.

5 MS. HALSEY: Ms. Ortega?

6 CHAIR ORTEGA: Aye.

7 MS. HALSEY: Ms. Ramirez?

8 MEMBER RAMIREZ: Aye.

9 MS. HALSEY: Thank you.

10 CHAIR ORTEGA: Okay, Item 6.

11 MS. HALSEY: Item 6, Commission Counsel Eric  
12 Feller will present the new test-claim decision hearing  
13 on *Community College Construction*.

14 MR. FELLER: Good morning.

15 This is a second hearing for the mandate  
16 redetermination request for this program. And it's based  
17 on the change in law made by Statutes 2014, Chapter 34,  
18 that amended Education Code 81821 to provide that the  
19 new information in a community college district's  
20 five-year plan for capital construction may, rather than  
21 "shall," be included in the plan, and reviewed on an  
22 ongoing basis.

23 Staff finds the 2014 statute has eliminated the  
24 State's liability for the *Community College Construction*  
25 program, so the reimbursement for this program should end

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1 effective June 2014.

2 Would the parties and witnesses please state  
3 your names for the record?

4 MR. FERGUSON: Chris Ferguson with the  
5 Department of Finance. And we concur with the staff  
6 recommendation.

7 CHAIR ORTEGA: Thank you.

8 Any questions or comments from the Commission  
9 on this one?

10 *(No response)*

11 CHAIR ORTEGA: Any other public comment on this  
12 item?

13 MEMBER CHIVARO: I'll move staff  
14 recommendation.

15 CHAIR ORTEGA: Moved by Mr. Chivaro.

16 MEMBER ALEX: Second.

17 CHAIR ORTEGA: Second by Mr. Alex.

18 Please call the roll.

19 MS. HALSEY: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MS. HALSEY: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MS. HALSEY: Mr. Hariri?

24 MEMBER HARIRI: Aye.

25 MS. HALSEY: Ms. Olsen?

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1 MEMBER OLSEN: Aye.

2 MS. HALSEY: Ms. Ortega?

3 CHAIR ORTEGA: Aye.

4 MS. HALSEY: Ms. Ramirez?

5 MEMBER RAMIREZ: Aye.

6 MS. HALSEY: Thank you.

7 Commission Counsel Matt Jones will present  
8 Item 7, the new test-claim decision hearing on *Behavioral*  
9 *Intervention Plans*, or *BIPs*.

10 MR. JONES: This is the second hearing on this  
11 redetermination request seeking a finding from the  
12 Commission that the *Behavioral Intervention Plans* mandate  
13 is no longer reimbursable pursuant to Statutes 2013,  
14 Chapter 48, which directed the repeal of the regulations  
15 that make up the mandate.

16 Staff recommends that the Commission adopt  
17 the proposed decision, finding that Statutes 2013,  
18 Chapter 48, removes statutory authority for the  
19 test-claim regulations as of July 1, 2013. And,  
20 therefore, reimbursement ends as of that date.

21 Will the parties and witnesses please state  
22 your names for the record?

23 MS. QUASEBARTH: Mollie Quasebarth, Department  
24 of Finance.

25 And we concur with the staff recommendation and

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1 have no further comments.

2 CHAIR ORTEGA: Any other public comment on this  
3 item?

4 *(No response)*

5 CHAIR ORTEGA: Any questions or comments from  
6 the Commission?

7 *(No response)*

8 CHAIR ORTEGA: Is there a motion?

9 MEMBER RAMIREZ: So moved.

10 CHAIR ORTEGA: Moved by Ms. Ramirez.

11 MEMBER OLSEN: Second.

12 CHAIR ORTEGA: Second by Ms. Olsen.

13 Please call the roll.

14 MS. HALSEY: Mr. Alex?

15 MEMBER ALEX: Aye.

16 MS. HALSEY: Mr. Chivaro?

17 MEMBER CHIVARO: Aye.

18 MS. HALSEY: Mr. Hariri?

19 MEMBER HARIRI: Aye.

20 MS. HALSEY: Ms. Olsen?

21 MEMBER OLSEN: Aye.

22 MS. HALSEY: Ms. Ortega?

23 CHAIR ORTEGA: Aye.

24 MS. HALSEY: Ms. Ramirez?

25 MEMBER RAMIREZ: Aye.

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1 CHAIR ORTEGA: The motion is adopted.

2 MS. HALSEY: Thank you.

3 Senior Commission Counsel Eric Feller will  
4 present Item 9, the parameters and guidelines amendment  
5 on *Community College Construction*.

6 MR. FELLER: So these are the amended  
7 parameters and guidelines for the mandate redetermination  
8 request for this program that was heard as Item 6 on the  
9 agenda just moments ago.

10 The amendments end reimbursement for this  
11 program effective June 2014 and make other clarifying  
12 changes.

13 Staff recommends adoption of the decision and  
14 the amended parameters and guidelines.

15 Would the parties and witnesses please state  
16 your names for the record?

17 MS. FEREBEE: Donna Ferebee, Department of  
18 Finance.

19 And we concur with the staff recommendation.

20 Thank you.

21 CHAIR ORTEGA: Thank you, Ms. Ferebee.

22 Any other public comment on this one?

23 *(No response)*

24 CHAIR ORTEGA: Seeing none, is there any  
25 comments or questions from the Commission?

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1 (No response)

2 CHAIR ORTEGA: Is there a motion?

3 MEMBER RAMIREZ: So moved.

4 CHAIR ORTEGA: Moved by Mr. Ramirez.

5 MEMBER ALEX: Second.

6 CHAIR ORTEGA: Second by Mr. Alex.

7 Please call the roll.

8 MS. HALSEY: Mr. Alex?

9 MEMBER ALEX: Aye.

10 MS. HALSEY: Mr. Chivaro?

11 MEMBER CHIVARO: Aye.

12 MS. HALSEY: Mr. Hariri?

13 MEMBER HARIRI: Aye.

14 MS. HALSEY: Ms. Olsen?

15 MEMBER OLSEN: Aye.

16 MS. HALSEY: Ms. Ortega?

17 CHAIR ORTEGA: Aye.

18 MS. HALSEY: Ms. Ramirez?

19 MEMBER RAMIREZ: Aye.

20 CHAIR ORTEGA: Thank you.

21 MS. HALSEY: Thank you.

22 Commission Counsel Matt Jones will present

23 Item 10, the parameters and guidelines amendment on

24 *Behavioral Intervention Plans*, or "BIPs."

25 MR. JONES: This is the proposed parameters and

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1 guidelines amendment ending reimbursement for the *BIPs*  
2 mandate in accordance with the Commission's new  
3 test-claim decision made just a minute ago.

4 Staff recommends that the Commission adopt the  
5 proposed parameters and guidelines amendment and proposed  
6 decision, finding that reimbursement for the mandated  
7 program ends June 30<sup>th</sup>, 2013.

8 Will the parties and witnesses please state  
9 your names for the record?

10 MS. QUASEBARTH: Mollie Quasebarth, Department  
11 of Finance again.

12 And we agree with the staff recommendation.  
13 And thank you.

14 CHAIR ORTEGA: Any public comment on this?  
15 *(No response)*

16 CHAIR ORTEGA: No?  
17 Anything from the commissioners?  
18 *(No response)*

19 CHAIR ORTEGA: Is there a motion?

20 MEMBER ALEX: So moved.

21 CHAIR ORTEGA: Moved by Mr. Alex.

22 MEMBER CHIVARO: Second

23 CHAIR ORTEGA: Second by Mr. Chivaro.

24 Please call the roll.

25 MS. HALSEY: Mr. Alex?

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MEMBER ALEX: Aye.

MS. HALSEY: Mr. Chivaro?

MEMBER CHIVARO: Aye.

MS. HALSEY: Mr. Hariri?

MEMBER HARIRI: Aye.

MS. HALSEY: Ms. Olsen?

MEMBER OLSEN: Aye.

MS. HALSEY: Ms. Ortega?

CHAIR ORTEGA: Aye.

MS. HALSEY: Ms. Ramirez?

MEMBER RAMIREZ: Aye.

MS. HALSEY: Thank you.

Item 11 was on the Consent Calendar.

Item 12 is reserved for County applications for a finding of significant financial distress, or SB-1033 applications.

No SB-1033 applications have been filed.

Items 13 and 14 are also on the Consent Calendar.

Program Analyst Kerry Ortman will present Item 15, the Legislative Update.

MS. ORTMAN: Good morning.

The Legislature reconvened on January 4<sup>th</sup>, 2016. New legislation must be introduced by February 19<sup>th</sup>, 2016. As of this writing, there were no



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1 new bills relating to mandates. However, we continue to  
2 monitor AB 575, *Teachers: Best Practices Teacher*  
3 *Evaluation System* from last year's session.

4 CHAIR ORTEGA: Thank you, Ms. Ortman.

5 MS. HALSEY: Thank you, Kerry.

6 Chief Legal Counsel Camille Shelton will  
7 present Item 16, the Chief Legal Counsel report.

8 MS. SHELTON: Good morning.

9 The court hearing challenging the *Water*  
10 *Conservation* test-claim decision by the Commission is  
11 scheduled for February 5<sup>th</sup>.

12 In addition, I do have a new hearing to add.  
13 On February 29<sup>th</sup>, there will be a hearing on the State's  
14 motion to dismiss the remaining causes of action in the  
15 *California School Boards Association* case.

16 CHAIR ORTEGA: Okay, any questions?

17 *(No response)*

18 MS. HALSEY: Item 17 is the Executive  
19 Director's Report.

20 We now have 13 test claims pending, all of  
21 which are *Stormwater Permits* and are on inactive status  
22 pending resolution of the pending litigation in the  
23 California Supreme Court.

24 In addition, we have two parameters and  
25 guidelines pending, two parameters and guidelines

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1 amendments, three statewide cost estimates, 40 incorrect  
2 reduction claims, and .5 mandate redeterminations.

3 Currently, Commission staff expects to complete  
4 the IRC backlog by approximately January 2017 or January  
5 2018. And that is partially dependent on the outcome of  
6 the cases pending in the courts right now.

7 For tentative agenda items, please check the  
8 Executive Director's report and see if your items are  
9 coming up over the next few hearings.

10 The proposed parameters and guidelines for  
11 CAASPP are tentatively set for hearing in March; and the  
12 draft will be issued with the adopted decision from  
13 today.

14 Additionally, there are a number of incorrect  
15 reduction claims listed on the report which are  
16 tentatively set for May or March.

17 Please expect to receive draft proposed  
18 decisions for their review and comment about eight to  
19 ten weeks prior to the hearing date.

20 And that's all I have.

21 CHAIR ORTEGA: Thank you.

22 Any questions?

23 *(No response)*

24 CHAIR ORTEGA: Okay, we will now go --

25 MS. HALSEY: Oh, sorry. Minutes.

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1 CHAIR ORTEGA: Minutes, right.

2 We'll return to the minutes.

3 Are we going to have sufficient votes? I don't  
4 know.

5 MEMBER OLSEN: You will, because I will make  
6 sure you do.

7 CHAIR ORTEGA: So we were considering the  
8 minutes from the December 3<sup>rd</sup> meeting.

9 I can't recall if we had a motion.

10 MEMBER ALEX: You did.

11 CHAIR ORTEGA: Someone had a motion. We had  
12 a motion and a second. We didn't have quite enough  
13 votes.

14 So let's call the roll, so we can keep track of  
15 whether we have five.

16 MS. PALCHIK: Just to clarify, Ken Alex made  
17 the motion, and Mr. Hariri seconded the motion.

18 CHAIR ORTEGA: Thank you, Heidi.

19 MS. HALSEY: Mr. Alex?

20 MEMBER ALEX: Aye.

21 MS. HALSEY: Mr. Chivaro?

22 MEMBER CHIVARO: Aye.

23 MS. HALSEY: Mr. Hariri?

24 MEMBER HARIRI: Aye.

25 MS. HALSEY: Ms. Olsen?

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1 MEMBER OLSEN: Aye.

2 MS. HALSEY: Ms. Ortega?

3 CHAIR ORTEGA: Aye.

4 MS. HALSEY: Ms. Ramirez?

5 MEMBER RAMIREZ: I'm going to abstain.

6 Thank you.

7 MS. HALSEY: We're good. The motion passes.

8 CHAIR ORTEGA: Anything else in public session?

9 *(No response)*

10 CHAIR ORTEGA: If not, we will convene in  
11 closed session.

12 Thank you, everyone.

13 The Commission will meet in closed executive  
14 session pursuant to Government Code section 11126(e) to  
15 confer with and receive advice from legal counsel for  
16 consideration and action, as necessary and appropriate,  
17 upon the pending litigation listed on the published  
18 notice and agenda, and to confer with and receive advice  
19 from legal counsel regarding potential litigation.

20 The Commission will also confer on personnel  
21 matters pursuant to Government Code section 11126(a)(1).

22 We will reconvene in open session in  
23 approximately 15 minutes, or sooner.

24 Thank you, everyone.

25 //



**REPORTER' S CERTIFICATE**

I hereby certify:

That the foregoing proceedings were duly reported by me at the time and place herein specified; and

That the proceedings were reported by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed into typewriting by computer-aided transcription.

*In witness whereof*, I have hereunto set my hand on the 15<sup>th</sup> day of February 2015.



---

Daniel P. Feldhaus  
California CSR #6949  
Registered Diplomate Reporter  
Certified Realtime Reporter