

Item 1

Proposed Minutes

COMMISSION ON STATE MANDATES

Location of Meeting: California Department of Food and Agriculture (CDFA),
First Floor Auditorium, 1220 N Street, Sacramento, California, 95814 and via Zoom
May 23, 2025

Present: Member Deborah Gallegos
 Representative of the State Controller, Vice Chairperson
 Member William Pahland
 Representative of the State Treasurer
 Member Lee Adams
 County Supervisor
 Member Karen Greene Ross
 Public Member
 Member Alexander Powell
 Representative of the Director of the Office of Land Use and Climate
 Innovation

Absent: Member Michele Perrault, Chairperson
 Representative of the Director of the Department of Finance
 Member Renee Nash
 School District Board Member

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

Vice Chairperson Gallegos called the meeting to order at 10:15 a.m., and introduced the new Commission Member, Alexander Powell, designee of the Director of the Governor's Office of Land Use and Climate Innovation. Executive Director Gmur called the roll. Members Adams, Gallegos, Greene Ross, Pahland, and Powell, all indicated that they were present. Executive Director Gmur stated that Members Nash and Perrault notified Commission staff that they would not be able to attend the meeting.

APPROVAL OF MINUTES

Vice Chairperson Gallegos asked if there were any objections to or corrections of the March 28, 2025 minutes. There was no response. Vice Chairperson Gallegos asked if there was any public comment on this item. There was no response. Assistant Executive Director Supachana stated that there were no online public comments. Vice Chairperson Gallegos asked if there was any further discussion on the item. There was no response. Vice Chairperson Gallegos asked for a motion to approve the March 28, 2025 minutes. Member Adams made the motion to adopt the minutes.

Member Greene Ross seconded the motion. Executive Director Gmur called the roll. The Commission voted to adopt the March 28, 2025 minutes by a vote of 5-0 with Member Nash and Chairperson Perrault absent.

PUBLIC COMMENT FOR MATTERS NOT ON THE AGENDA

Vice Chairperson Gallegos asked if there was any public comment. There was no response. Assistant Executive Director Supachana stated that there were no public comments online.

CONSENT CALENDAR

INFORMATIONAL HEARINGS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 8 (info/action)

STATEWIDE COST ESTIMATES

Item 4* *Free Application for Federal Student Aid (FAFSA), 22-TC-05*

Executive Director Gmur stated that Item 4 was proposed for consent. Vice Chairperson Gallegos asked if there were any objections to the proposed consent calendar from the members or from any members of the public. There was no response. Assistant Executive Director Supachana stated that there were no online public comments. Vice Chairperson Gallegos asked for a motion to adopt the consent calendar. Member Greene Ross made the motion to adopt the consent calendar. Member Adams seconded the motion. The Commission voted to adopt the consent calendar by a vote of 5-0 with Member Nash and Chairperson Perrault absent.

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

Executive Director Gmur swore in the parties and witnesses participating in the Article 7 portion of the hearing.

TEST CLAIMS

Item 2 *Transitional Kindergarten, 23-TC-02*

Statutes 2021, Chapter 44, Section 60 (AB 130); Education Code Section 48000, Effective July 9, 2021

Hope Elementary School District and Sunnyvale School District,
Claimants

Commission Counsel Anna Barich presented this item and recommended that the Commission adopt the Proposed Decision to deny the Test Claim.

Art Palkowitz, Anne Hubbard, and Michael Gallagher appeared on behalf of the Hope Elementary School District and Sunnyvale School District. George Harris, Katie Lagomarsino, Rebecca Lee, and Brittany Thompson appeared on behalf of the Department of Finance.

Following statements by Mr. Palkowitz, Ms. Hubbard, Mr. Gallagher, and Mr. Harris, Vice Chairperson Gallegos asked if there were any public comments on this item.

There was no response. Assistant Executive Director Supachana stated that there were no online public comments. Vice Chairperson Gallegos asked if there were any questions from the Members on this item.

Following discussion between Member Greene Ross, Ms. Lagomarsino, Mr. Palkowitz, Chief Legal Counsel Shelton, Member Powell, Member Adams, and Vice Chairperson Gallegos, Vice Chairperson Gallegos asked if there were any additional questions from the Members. There was no response. Vice Chairperson Gallegos asked if there was any additional discussion. There was no response. Vice Chairperson Gallegos asked if there was a motion on Item 2. Member Greene Ross made a motion to adopt the staff recommendation. Assistant Executive Director Supachana stated that there were no public comments online. Vice Chairperson Gallegos stated that Member Greene Ross made a motion and asked for a second. Member Powell seconded the motion. The Commission voted to adopt the Proposed Decision by a vote of 5-0 with Member Nash and Chairperson Perrault absent.

PARAMETERS AND GUIDELINES

Item 3 *Lead Sampling in Schools: Public Water System No. 3710020, 17-TC-03-R2*

On Remand from City of San Diego v. Commission on State Mandates, Sacramento County Superior Court, Case No. 24WM000056; Permit Amendment No. 2017PA-SCHOOLS, City of San Diego Public Water System No. 3710020, effective January 18, 2017

City of San Diego, Claimant

Chief Legal Counsel Camille Shelton presented this item and recommended that the Commission adopt the Proposed Decision and Parameters and Guidelines.

Justin Stanek appeared on behalf of the City of San Diego. Donna Ferebee appeared on behalf of the Department of Finance.

Following statements by Mr. Stanek and Ms. Ferebee, Vice Chairperson Gallegos asked if there were any public comments. There was no response. Assistant Executive Director Supachana stated that there were no online public comments. Vice Chairperson Gallegos asked if there were any questions from the Members. There was no response. Vice Chairperson Gallegos asked if there was any further discussion. There was no response. Vice Chairperson asked for a motion on this item. Member Adams made the motion to adopt the staff recommendation. Vice Chairperson Gallegos asked if there was a second. Member Greene Ross seconded the motion. The Commission voted to adopt the Proposed Decision and Parameters and Guidelines by a vote of 5-0 with Member Nash and Chairperson Perrault absent.

INFORMATIONAL HEARINGS PURSUANT TO CALIFORNIA CODE OF REGULATIONS, TITLE 2, ARTICLE 8 (info/action)

REPORTS

Item 5 Legislative Update (info)

Program Analyst Jill Magee presented this item.

Item 6 Chief Legal Counsel: New Filings, Recent Decisions, Litigation Calendar (info)

Chief Legal Counsel Shelton presented this item.

Item 7 Executive Director: Budget, Workload Update, and Tentative Agenda Items for the July 2025, September 2025, and December 2025 Meetings (info)

Executive Director Gmur presented this item. Chief Legal Counsel Shelton presented Senior Commission Counsel Eric Feller, who retires on August 2, 2025, with a resolution commemorating his contributions to the Commission during his almost 24 years of service. Senior Commission Counsel Feller thanked the Commission.

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

The Commission adjourned into closed executive session at 11:22 a.m., pursuant to Government Code section 11126(e). The Commission met in closed session 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; 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).

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):

There are no cases currently pending.

B. POTENTIAL LITIGATION

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):

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.

C. PERSONNEL

To confer on personnel matters pursuant to Government Code section 11126(a)(1).

RECONVENE IN PUBLIC SESSION

At 11:43 a.m., the Commission reconvened in open session.

REPORT FROM CLOSED EXECUTIVE SESSION

Vice Chairperson Gallegos reported that the Commission met in closed executive session pursuant to Government Code section 11126(e). The Commission conferred with and received advice from legal counsel for consideration and action, as necessary and appropriate, upon the pending litigation listed on the public notice and agenda, and conferred with and received advice from legal counsel regarding potential litigation, and, pursuant to Government Code section 11126(a)(1) to confer on personnel matters.

ADJOURNMENT

Vice Chairperson Gallegos asked for a motion to adjourn. Member Powell made the motion to adjourn the meeting. Member Greene Ross seconded the motion. The May 23, 2025, meeting was adjourned at 11:44 a.m., by a vote of 5-0 with Member Nash and Chairperson Perrault absent.

Juliana F. Gmur
Executive Director

STATE OF CALIFORNIA
COMMISSION ON STATE MANDATES

PUBLIC MEETING

FRIDAY, MAY 23, 2025

10:00 A.M.

RECEIVED

JUN 20 2025

COMMISSION ON
STATE MANDATES

MEETING HELD

AT 1220 N STREET

AUDITORIUM

SACRAMENTO, CALIFORNIA

AND

VIA ZOOM

VIDEO COMMUNICATIONS PLATFORM

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

STENOGRAPHICALLY REPORTED BY:

CONNIE J. PARCHMAN
Certified Shorthand Reporter No. 6137

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KathrynSwankCSR@sbcglobal.net

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A P P E A R A N C E S

COMMISSIONERS PRESENT

DEBORAH GALLEGOS
Representative for MALIA COHEN
State Controller
(Vice Chairperson of the Commission)

WILLIAM PAHLAND
Representative for FIONA MA
State Treasurer

ALEXANDER POWELL
Representative for SAMUEL ASSEFA, Director
Office of Land Use and Climate Innovation

LEE ADAMS III
Sierra County Supervisor
Local Agency Member

KAREN GREENE ROSS
Public Member

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COMMISSION STAFF

JULIANA GMUR
Executive Director

DENNIS SUPACHANA
Assistant Executive Director

CAMILLE N. SHELTON
Chief Legal Counsel

ANNA BARICH
Commission Legal Counsel

ERIC FELLER
Senior Legal Counsel

JILL MAGEE
Program Analyst

HUSHAM HAROUN

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A P P E A R A N C E S C O N T I N U E D

PUBLIC PARTICIPANTS

ART PALKOWITZ
Hope Elementary and Sunnyvale School Districts, Claimants
(Item 2)

ANNE HUBBARD
Hope Elementary School District, Claimant
(Item 2)

MICHAEL GALLAGHER
Sunnyvale School District, Claimant
(Item 2)

GEORGE HARRIS
Department of Finance
(Item 2)

KATIE LAGOMARSINO
Department of Finance
(Item 2)

REBECCA LEE
Department of Finance
(Item 2)

BRITTANY THOMPSON
Department of Finance
(Item 2)

JUSTIN STANEK
City of San Diego
(Item 3)

DONNA FEREBEE
Department of Finance
(Item 3)

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E R R A T A S H E E T

Page	Line	Correction
<u>2</u>	<u>25</u>	<u>IT Specialist I</u>
<u>6</u>	<u>4</u>	<u>A. (Skipped)</u>
<u>6</u>	<u>14</u>	<u>September 2025, and</u>
<u>11</u>	<u>17</u>	<u>the first proposed consent</u>
<u>14</u>	<u>25</u>	<u>tTransitional kKindergarten,</u>
<u>15</u>	<u>13</u>	<u>ACTING CHAIR GALLEGOS: MS. GMUR:</u>
<u>22</u>	<u>10</u>	<u>counsel, is <u>in</u> response</u>
<u>22</u>	<u>11</u>	<u>conclusion <u>compulsion</u> and practical</u>
		<u>conclusion <u>compulsion</u></u>
<u>35</u>	<u>4</u>	<u>by the legislation <u>legislature</u></u>
<u>39</u>	<u>12</u>	<u>There <u>They</u> are education</u>
<u>40</u>	<u>6</u>	<u>CHAIRPERSON PERRAULT: <u>ACTING CHAIR</u></u>
		<u><u>GALLEGOS</u></u>
<u>46</u>	<u>1</u>	<u>Ms. Powell? <u>Mr. Palkowitz?</u></u>
<u>46</u>	<u>24</u>	<u>collection and avocation, <u>allocation</u>,</u>
<u>47</u>	<u>1</u>	<u>in order to satisfactory <u>satisfy</u></u>
<u>48</u>	<u>16</u>	<u>legislation <u>legislature</u></u>
<u>50</u>	<u>8</u>	<u>Lead <u>Sampling</u> in SSchools,</u>
<u>50</u>	<u>9</u>	<u>number <u>No.</u> 3710020, 17-TC-03-R2</u>
<u>54</u>	<u>23</u>	<u>this bill <u>bill</u></u>
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		<u>rRunoff dDischarges</u>

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I N D E X C O N T I N U E D

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FRIDAY, MAY 23, 2025, 10:15 A.M.

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ACTING CHAIR GALLEGOS: The meeting of the
Commission on State Mandates will come to order.

Welcome to our hybrid meeting.

For those participating in person, I have some
housekeeping information.

On the table at the back of the room are paper
copies of the meeting, revised notice, and agenda,
revised new filings, proposed consent calendar and,
witness list.

The electronic public hearing binder is also
located there on the laptop.

Please note, the room is microphoned so speakers
and microphones on all devices must stay muted for the
duration of the meeting to eliminate feedback noise.

When called up for an item, the parties and
witnesses will please come to the table and sit at the
designated laptop.

The restrooms are located out the entrance door and
through the door on the left. The men's restroom is
located on the right and the women's restroom is down
the hallway to the right and up the stairs.

Finally, please take note of the emergency exits in
the room. In the event of an emergency, please exit the

1 door to the left, turn left and go down the stairs.

2 For those participating remotely, the materials for
3 today's meeting, including the revised notice, agenda,
4 proposed consent agenda -- proposed consent calendar,
5 and witness list are all available on the Commission's
6 website, www.csm.ca.org.

7 When being sworn in at the beginning of the hearing
8 and when called for an item, the parties and witnesses
9 will be -- will please turn on their video and unmute
10 their microphone. At the conclusion of the item, please
11 turn off the video and mute the microphone.

12 In the event we experience technical difficulties,
13 or the meeting is bumped offline, we will restart and
14 allow time for people to rejoin before recommencing the
15 meeting.

16 If we are unable to restart, a notice will be
17 posted on the Commission's website listing the items to
18 be heard at the next meeting.

19 Please remember to speak slowly and accurately for
20 the benefit of the court reporter and an accurate
21 transcript of the hearing.

22 Finally, before we begin, it is my pleasure to
23 introduce our new designee from the Governor's Office of
24 Land Use and Climate Innovation, Senior staff counsel,
25 Alexander Powell.

1 Juliana, will you please call the roll.
2 MS. GMUR: Yes.
3 Mr. Adams.
4 MEMBER ADAMS: Here.
5 MS. GMUR: Ms. Gallegos.
6 ACTING CHAIR GALLEGOS: Here.
7 MS. GMUR: Ms. Greene Ross.
8 MEMBER GREENE ROSS: Here.
9 MS. GMUR: Mr. Pahland.
10 MEMBER PAHLAND: Here.
11 MS. GMUR: Mr. Powell.
12 MEMBER POWELL: Here.
13 MS. GMUR: Members Nash and Perrault notified the
14 Commission staff that they will not be able to attend
15 this meeting.
16 ACTING CHAIR GALLEGOS: Thank you.
17 Next is Item 1. Are there any objections to or
18 additional corrections of the March 28, 2025, minutes?
19 Thank you.
20 Is there any public comment on this item?
21 Thank you.
22 MR. SUPACHANA: Just a minute.
23 There are no online public comments, Madam Chair.
24 ACTING CHAIR GALLEGOS: Great. Thank you.
25 And no public comments in the room.

1 Thank you.

2 Is there any further discussion on the item?

3 Thank you.

4 Is there a motion to approve this item?

5 MEMBER ADAMS: I move to approve, Madam Chair.

6 MEMBER GREENE ROSS: Second.

7 ACTING CHAIR GALLEGOS: Thank you very much. All

8 those in favor?

9 MS. SHELTON: You need to call a roll.

10 MS. GMUR: Yes, ma'am. That was Mr. Adams with a

11 first; Ms. Greene Ross with a second.

12 ACTING CHAIR GALLEGOS: Very good.

13 MS. GMUR: Mr. Adams.

14 MEMBER ADAMS: Aye.

15 MS. GMUR: Ms. Gallegos.

16 ACTING CHAIR GALLEGOS: Aye.

17 MS. GMUR: Ms. Greene Ross.

18 MEMBER GREENE ROSS: Aye.

19 MS. GMUR: Mr. Pahland.

20 MEMBER PAHLAND: Aye.

21 MS. GMUR: Mr. Powell.

22 MEMBER POWELL: Aye.

23 MS. GMUR: The motion carries.

24 ACTING CHAIR GALLEGOS: Great. Thank you very

25 much.

1 MS. GMUR: And now we now will take up public
2 comment for matters not on the agenda.

3 Please note that the Commission may not take action
4 on items not on the agenda; however, it may schedule
5 issues raised by the public for consideration at future
6 meetings. We invite the public to comment on the
7 matters that are on the agenda as they are taken up.

8 MR. SUPACHANA: Madam Chair, there are no online
9 public comments.

10 ACTING CHAIR GALLEGOS: Any public comments in the
11 room?

12 No public comments.

13 Thank you.

14 MS. GMUR: Next is the proposed consent calendar.

15 Item 4 is proposed for consent.

16 ACTING CHAIR GALLEGOS: Are there any objections to
17 the first proposed consent calendar from the members or
18 members of the public?

19 None in the room.

20 MR. SUPACHANA: Madam Chair, no public comments on
21 this item.

22 ACTING CHAIR GALLEGOS: Thank you.

23 Is there a motion to adopt the proposed consent
24 calendar?

25 MEMBER GREENE ROSS: Motion.

1 ACTING CHAIR GALLEGOS: Ms. Greene Ross.
2 Is there a second?
3 MEMBER ADAMS: I will second.
4 ACTING CHAIR GALLEGOS: Thank you, Mr. Adams.
5 Call the roll.
6 MS. GMUR: Very good.
7 Mr. Adams.
8 MEMBER ADAMS: Aye.
9 MS. GMUR: Ms. Gallegos.
10 ACTING CHAIR GALLEGOS: Aye.
11 MS. GMUR: Ms. Greene Ross.
12 MEMBER GREENE ROSS: Aye.
13 MS. GMUR: Mr. Pahland.
14 MEMBER PAHLAND: Aye.
15 MS. GMUR: Mr. Powell.
16 MEMBER POWELL: Aye.
17 MS. GMUR: That motion's carried.
18 Let's move to the swearing in.
19 Will the parties and witnesses for Items 2 and 3
20 participating remotely, please be sure that your first
21 and last names are listed on your Zoom window for the
22 benefit of the court reporter, turn on your video and
23 unmute your microphone.
24 The parties or witnesses participating in person
25 for Items 2 and 3, please approach the witness table.

1 And all parties please rise.

2 (Parties/witnesses stood to be sworn
3 or affirmed.)

4 MS. GMUR: Will the parties and witnesses for
5 Item 2 in the room -- I'm sorry.

6 Will the parties and witnesses for Item 2, please
7 state your names for the record.

8 For the claimants participating in person for Hope
9 Elementary District and Sunnyvale District, please state
10 your names for the record.

11 (No response.)

12 ACTING CHAIR GALLEGOS: Very good.

13 For claimants participating remotely for Hope
14 Elementary School District and Sunnyvale School District
15 please state your names for the record.

16 MR. GALLAGHER: Michael Gallagher.

17 MS. HUBBARD: Anne Hubbard.

18 MS. GMUR: For the Department of Finance,
19 participating in person, please state your names for the
20 record.

21 MR. HARRIS: George Harris.

22 MS. THOMPSON: Brittany Thompson.

23 MS. LEE: Rebecca Lee.

24 MS. GMUR: And for the Department of Finance
25 participating remotely, please state your names for the

13

1 record.

2 MS. LAGOMARSINO: Katie Lagomarsino.

3 MS. GMUR: And I understand, Mr. Palkowitz, you may
4 not have unmuted, but we see you are here, so
5 Art Palkowitz for the record.

6 Will the parties and witnesses for Item 3, please
7 state your names for the record.

8 For the Department of Finance participating in
9 person, please state your names for the record.

10 For the Department of --

11 MS. FEREBEE: Donna Ferebee, Department of Finance.

12 MS. GMUR: Very good, Ms. Ferebee.

13 Do you solemnly swear or affirm that the testimony
14 which you are about to give is true and correct based on
15 your personal knowledge, information, or belief?

16 (Affirmative responses.)

17 MS. GMUR: Thank you.

18 At this time, we invite the parties and witnesses
19 for Item 3 participating remotely, please turn off your
20 video and mute your microphone. And those participating
21 in person, please return to your seats.

22 Next is Item 2.

23 Commission Counsel, Anna Barich, will please
24 present the proposed decision on a -- a proposed
25 decision on transitional kindergarten 23-TC-02.

1 MR. HAROUN: Madam Chair, there is a hand raised
2 from the public.

3 MR. SUPACHANA: If you have a public comment,
4 Justin, you have your hand raised, we will unmute you
5 and you can speak when you are unmuted.

6 MR. STANEK: Good morning. I apologize. This is
7 Justin Stanek with -- representing the City of San Diego
8 on Item 3.

9 I was having difficulty getting signed in, so I
10 apologize. I just had to raise my hand there. But I am
11 here on Item 3 and accept the sworn testimony or -- or
12 accept the sworn statement.

13 ACTING CHAIR GALLEGOS: All right.

14 Mr. Stanek, let me swear you in.

15 Do you solemnly swear or affirm that the testimony
16 which you are about to give is true and correct based on
17 your personal knowledge, information or belief?

18 MR. STANEK: I do.

19 MS. GMUR: Thank you.

20 MR. STANEK: Thank you.

21 MS. GMUR: And now, back to Item 2 with Commission
22 counsel, Ms. Anna Barich.

23 MS. BARICH: Thank you, Juliana.

24 Good morning, everyone.

25 This Test Claim addresses changes to the

1 transitional kindergarten program or TK.

2 Transitional kindergarten is the first year of a
3 two-year kindergarten program, it's a modified
4 kindergarten curriculum that is age and developmentally
5 appropriate.

6 Under prior law, school districts were required, as
7 a condition of receiving apportionment of the funding
8 for students in TK to provide a TK program for students
9 that will have their fifth birthday between
10 September 2nd and December 2nd.

11 The test claim statute gradually expands the
12 birthdate range used to determine who is eligible to
13 enroll in TK until by the 2025-2026 school year, all
14 students that will turn four by September 1st, are
15 eligible for TK.

16 The test claim statute also requires an average
17 maximum TK class size of 24 pupils per school site. And
18 beginning in the 2022-2023 school year, an adult to
19 pupil ratio of one adult for every 12 students in a TK
20 classroom.

21 Staff finds that there are no costs mandated by the
22 State within the meaning of Article XIII B, Section 6,
23 of the California Constitution as the State has provided
24 additional revenue intended to fund the costs of TK
25 programs pursuant to Government Code Section 17556(e).

1 The required activities are as a condition of
2 receipt of apportionment pursuant to Education Code
3 Section 46300, which is the statute that allows school
4 districts to include TK students in calculating their
5 average daily attendance, or ADA.

6 ADA is used in calculating how much funding State
7 reserves for education each year under Proposition 98
8 and how much of that Prop. 98 funding is apportioned to
9 each school district, according to the local control
10 funding formula.

11 Between the base rate, an adjustment conditional on
12 maintaining an average class size in kindergarten
13 through grade 3 classrooms of 24 pupils, and an add-on
14 specifically intended to support the costs of the adult
15 to pupil ratio in TK classrooms, the LCFF provides at
16 least \$12,932 per unit of ADA generated by TK students.

17 Thus, the State has provided additional revenue
18 through the LCFF and Proposition 98 specifically
19 intended to fund the costs of the TK program, including
20 the new requirements in an amount sufficient to fund the
21 costs of the program and therefore, there are no costs
22 mandated by the State.

23 Accordingly, staff recommends that the Commission
24 adopt the proposed decision to deny this Test Claim and
25 authorize staff to make any technical, nonsubstantive

1 changes following the hearing.

2 Thank you.

3 ACTING CHAIR GALLEGOS: Thank you.

4 Parties and witnesses, please state your names for
5 the record.

6 MR. PALKOWITZ: Art Palkowitz on behalf of the
7 Claimants.

8 MS. HUBBARD: Anne Hubbard.

9 MR. GALLAGHER: Michael Gallagher.

10 ACTING CHAIR GALLEGOS: Great. Thank you.

11 Mr. Palkowitz, Ms. Hubbard and Mr. Gallagher for
12 the Claimants, Hope School District and Sunnyvale School
13 District, would you like to begin?

14 MR. PALKOWITZ: Yes, thank you.

15 Thank you for the opportunity to address the
16 Commission this morning on the transitional kindergarten
17 Test Claim filed by the Claimants, Sunnyvale and Hope
18 School District.

19 The Commission is vested with the exclusive
20 authority to adjudicate the existence of State-mandated
21 programs within the meaning of Article XIII B, Section 6
22 of the California Constitution.

23 The Commission's oath is to follow and apply the
24 California Constitution and California laws when
25 deciding if a test claim is a reimbursable mandate.

1 Article XIII B, Section 6 of the California
2 Constitution, the highest legal authority in California,
3 requires local agencies and school districts to receive
4 reimbursement for the cost of State-mandated new
5 programs or higher levels of service when legislation
6 requires new activities.

7 New legislative programs and activities are to
8 include funding. This requirement allows school
9 districts to continue to offer the services provided
10 prior to the new legislation.

11 The courts have provided the Commission with
12 instructions, also a roadmap when reviewing a test
13 claim.

14 A two-prong test was established by the court that
15 includes the requirement to either satisfy legal
16 compulsion or practical compulsion.

17 The key issue in this Test Claim that is presented
18 to you today is whether the Claimants receive funding
19 for the transitional kindergarten program.

20 The record and the proposed decision fail to
21 include evidence that the Claimants received funding for
22 the transitional kindergarten program and therefore you
23 must conclude that, under the law, the test claims be
24 approved as a reimbursable mandate.

25 Transitional kindergarten is a landmark legislation

1 in adding an entire grade to the public education school
2 system. Education Code Section 48000 is part of the
3 test claim statute and there is overwhelming statute and
4 case authority to conclude that this Test Claim is a
5 reimbursable mandate.

6 The first prong of the test in reviewing a test
7 claim is referred to as legal compulsion.

8 Legal compulsion occurs when a statute uses
9 mandatory language that requires or commands a local
10 entity, or in this case a school district, to
11 participate in a program of service. Legal compulsion
12 is present when the local entity has a mandatory legal
13 enforceable duty to obey.

14 Education Code Sectional 48000 states all school
15 districts shall admit children to the TK program when
16 the child is age eligible.

17 This Commission has previously followed legal cases
18 that the word "shall" is to be construed as the activity
19 and services are required and is not discretionary.

20 The plain language of the statute includes
21 activities requiring a new entire grade that has
22 required the hiring of teachers and non-teachers, staff.

23 This is a higher level of service that is unique to
24 government services.

25 In further support of the legal compulsion has been

1 satisfied by the Claimants is found in comments
2 submitted by the California Department of Education.

3 California Department of Education comments dated
4 April -- April 17th, 2025, and are included as an
5 exhibit are from the CDE General Counsel and state that
6 the test claim compels school districts to comply with
7 the test claim statute and that legal compulsion is met
8 by the Claimants.

9 The California Department of Education oversees the
10 State's public school system which is responsible for
11 the education of more than 7 million children and young
12 adults in more than 9,000 schools.

13 The California Department of Education and the
14 State Superintendent of Public Instruction are
15 responsible for enforcing education law and regulation.

16 There is no dispute in this matter in that legal
17 compulsion is established in the record for approving
18 the Test Claim as a reimbursable mandate.

19 The second prong of the process to review a test
20 claim is referred to as practical compulsion. When
21 proving that a test claim is reimbursable as a mandate,
22 the Claimants need satisfy either legal or practical
23 compulsion.

24 In this matter, the Claimants have satisfied both.

25 CDE, California Department of Education, has issued

1 several directives with the latest one dated
2 March 21st, 2025, requiring all school districts, and in
3 bold, including basic aid school districts to provide
4 transitional kindergarten.

5 This is an exhibit to the Test Claim.

6 The Claimants are basic aid -- basic aid school
7 districts that has a characteristic of primarily
8 receiving funding from local property tax.

9 The comments submitted by CDE, their general
10 counsel, is response to the proposed decision and
11 supports that legal conclusion and practical conclusion
12 both exist in the Claimants' Test Claim.

13 The comments from CDE refer to the law that with
14 practical compulsion, the school districts really have
15 no true choice and are required to offer the
16 kindergarten program regardless of what their funding
17 mechanism is.

18 Claimants have presented to the Commission that the
19 Test Claim is a new program for a higher level of
20 service that satisfies both the requirements of legal
21 and practical compulsion, despite both not being
22 required.

23 The test claim statute requiring and stating the
24 transitional kindergarten activities include that a
25 condition of receipt of apportionment for pupils is

1 required for the transactional [sic] kindergarten
2 program.

3 As I stated earlier, this is the key issue in this
4 case.

5 The test claim statute states the plain language
6 that for the new TK services to be required, it is
7 conditioned on the budget appropriating funding for TK.
8 The State has budgeted the money for years 23-25 with
9 nearly \$4 billion appropriated for fiscal 25-26 when the
10 transitional kindergarten is fully implemented.

11 However, there is no appropriation for the
12 Claimants. It is undisputed that the Claimants have not
13 received any of the TK funding.

14 There is no evidence in the record showing the date
15 or amounts of money received by the Claimants for the TK
16 program.

17 The plain language of statute does not include
18 exceptions for the Claimants not to receive funding.

19 The Claimants are basic aid school districts that
20 are funded primarily by local property taxes and are not
21 allocated funding by a pupil formula.

22 Department of Finance objected to the Test Claim
23 because of not timely filed and that the cost submitted
24 by the Claimants were in dispute. The proposed decision
25 dismisses both of these positions.

1 Department of Finance contends that the Claimants
2 received LCFF funding; however, there's no evidence in
3 the record, as none exists, that the Claimants received
4 the payment for the transitional kindergarten funding.

5 That same holds true for all basic aid school
6 districts.

7 To the contrary, Department of Finance has said how
8 much and when each school district received their TK
9 apportionment for non-basic aid school districts.

10 At this time, I would ask that the witnesses for
11 the Claimants share with the Commission how TK has
12 impacted their districts.

13 Anne Hubbard, Superintendent of Hope School
14 District, would you be so kind as to address the
15 commissioners at this time.

16 MS. HUBBARD: Yes, thank you, Art. And thank you
17 to the Commissioners for allowing this opportunity to
18 share our story here at Hope School District.

19 Hope School District is a three-school TK through
20 6th grade school district. We serve about 860 students.

21 As you are well aware, TK started -- it started
22 originally as a temporary gap fill for the students
23 that -- when they changed the date for kindergarten
24 eligibility.

25 But as you know, over the years, it's grown. So we
24

1 used to be able to pull in our very few TK students to
2 our K classes and create TK/K classrooms.

3 However, as eligibility has expanded, our TK
4 students, the number of students, have greatly expanded.

5 So for instance, next year -- and remember the
6 whole district is only -- just under 860 students.

7 I have 77 incoming TK students fully enrolled with
8 five more with partial enrollment.

9 And as you can tell, that is a -- that is a large
10 number for a small district like mine.

11 In addition, the cost of providing that TK has
12 greatly impacted what I can provide in my K through 6th
13 grade classes.

14 One example that I will share with you is that
15 we -- we were in a budget crisis in 2016. We had some
16 combination classes and expanded our classes sizes.

17 Over the years of working through that budget
18 crisis and making some adjustments, passing a local
19 parcel tax, and some bond -- bonds to address the
20 facilities issues, we have been able to stabilize, move
21 away from combo classes.

22 However, for next year, looking at our budget, and
23 we have what's called a structural budget deficit, we've
24 had to make some hard decisions. And I've had to pull
25 staff from upper grade to serve TK, because as was

1 noted, the ratio for next year is ten to one and so,
2 because of that, I now have larger classes in upper
3 grade and a combination class in the upper grade as well
4 in order to free up resources for TK.

5 Another issue is we've had -- as you know,
6 hopefully, the State has created a new math framework.
7 We're doing all the -- digging in and doing all the work
8 around the framework. However, we do not have the
9 ability to adopt a new math curriculum because we are
10 having to funnel funding into having four stand-alone TK
11 classes in order to meet those ratios.

12 So the addition of TK has caused us to have to make
13 adjustments in other parts of the budget that impact all
14 the other grade levels as well.

15 As far as community-funded districts, I think
16 there's a misunderstanding about the funding and that
17 it's a higher level of funding.

18 I'd like to point out that in my county, which is
19 Santa Barbara County, my closest LCFF funded neighbor --
20 we fund at around -- just over 20,000 per pupil, but
21 Buellton, which is an LCFF funded district just to the
22 north of me, an elementary school district, they fund at
23 33,000 per student. And so -- and just north of the
24 them is San Maria-Bonita and they fund at over 23,000
25 per student.

1 So that funding was appropriated for my students,
2 my TK students, but those dollars are never seeing my
3 students. Instead I'm having to make adjustments for my
4 kindergarten through 6th grade students in order to
5 provide TK.

6 There is no doubt about it that TK is a great
7 addition to the elementary education landscape. I
8 believe in it. I want to provide it. What I would like
9 to see happen is to be able to provide quality programs
10 without impacting my K through 6th grade students, which
11 is the case now.

12 MR. PALKOWITZ: Thank you very much.

13 Michael Gallagher, Superintendent of Sunnyvale
14 School District, also a Claimant, would you be so kind
15 to address the Commission at this time.

16 MR. GALLAGHER: Thank you, Art.

17 And also thank you to the Commission for the
18 opportunity to speak to you today.

19 Just as a matter of -- a little bit of background,
20 Sunnyvale School District serves approximately 5,600
21 students in grades preschool through 8th grade in ten
22 schools. Eight of them are elementary schools. And
23 we're located in Santa Clara County.

24 Just a brief snapshot of our student population,
25 which sometimes surprises people being that we're in

1 Santa Clara County, our student enrollment is just over
2 40 percent Hispanic, our socio-economically
3 disadvantaged students comprise almost 32 percent of our
4 student population. And we're above 30 percent English
5 language learners. A term used in our field is
6 unduplicated count. That's the percentage of students
7 who fall into one of these relatively disadvantaged
8 categories. And our unduplicated count in Sunnyvale is
9 46 percent, which is relatively high for the State.

10 As Anne said, in our school district, we greatly
11 value the transitional kindergarten program.

12 When it was begun some ten or so years ago, we
13 began it specifically targeted when students are
14 referencing -- our unduplicated students in our Title 1
15 schools.

16 But now that it's expanded, it's become
17 increasingly difficult to offer the program, while still
18 maintaining the level of service for all other students.

19 So the total cost of this program for our district
20 is estimated at four and a half million dollars. Next
21 year we plan to have 21 general education classrooms of
22 transitional kindergarten and three special education
23 transitional kindergarten classrooms.

24 So in order to make ends meet, we're in the process
25 of making significant reductions in our school district.

1 By way of example, we are eliminating instructional
2 coach positions. These are teachers who support other
3 teachers to improve their instruction. And we -- the
4 intent of this program is to target students who we've
5 been struggling in meeting their needs. So the students
6 I was speaking of before.

7 So eliminate six of those at a cost of
8 approximately \$1 million or savings of approximately \$1
9 million.

10 We're also in the process of eliminating direct
11 student support para-educators in the classroom. These
12 are employees who provide the instruction for struggling
13 readers. So we have a teacher in the classroom and then
14 you have a regular and para-educator who sits in small
15 groups with students and provides support services. As
16 I said, predominantly in English or in reading.

17 We're also in the process of needing to eliminate
18 behavior support para-educators. These are
19 para-educators who support students with challenges
20 accessing the classroom because of behaviors. And when
21 these supports are removed, it also affects the other
22 students in the classroom.

23 So it's a significant impact we're grappling with.

24 And yet another area that we're looking at
25 reducing, we need to reduce, is in the area of

1 counseling services.

2 So we have counseling services contracts with local
3 agencies. And we're going to need to reduce those. And
4 the impact of that is to create longer wait times for
5 students receiving social emotional supports.

6 So I thank you and happy to answer any other
7 questions.

8 MR. PALKOWITZ: Thank you.

9 ACTING CHAIR GALLEGOS: Thank you.

10 MS. GMUR: Would the witnesses for the Department
11 of Finance please state your names for the record.

12 MR. PALKOWITZ: If I may, sorry, I would like to
13 continue my argument. I was -- I wasn't finished yet.

14 MS. GMUR: Apologies to Mr. Palkowitz.

15 MR. PALKOWITZ: No problem. Thank you very much
16 for your time.

17 Based on the testimony of the Claimant
18 representatives, the implementation of TK without
19 receiving funding has resulted in them being forced to
20 cut services that have detrimentally impacted their
21 students.

22 The purpose of mandate law is to prevent school
23 districts from being forced to encroach on their General
24 Funding for new activity mandated by the legislature.

25 This has caused the basic aid school districts to

1 use their General Funding to pay for programs that were
2 impacted due to the requirement to have the TK program
3 implemented.

4 This violates the Constitution.

5 Based on the legal compulsion of the statute that
6 school districts provide TK and the practical compulsion
7 that has been exhibited by the Claimants, the Claimants
8 have satisfied all other requirements for this Test
9 Claim to be approved as a reimbursable mandate.

10 Finally, I would like to comment on the proposed
11 decision as referenced, a lawsuit by the California
12 School Board Association, CSBA.

13 This citation has appeared approximately 25 times
14 in the proposed decision. What I would like to do is
15 review that CSBA lawsuit and explain how it doesn't
16 apply to this case.

17 In the CSBA lawsuit, it involved two mandates,
18 graduation requirements and behavioral intervention
19 program. Both of those programs were approved as
20 mandates.

21 However, after the approval of those mandates,
22 graduation requirement was to have an additional science
23 class as a graduation requirement.

24 And behavior intervention program was to provide
25 services to students who needed additional support.

1 After both of those mandates were approved, the
2 legislature passed funding -- I'm sorry, the legislature
3 passed a statute and the statute said that the funding
4 for those mandates must come out of the General Fund.

5 This was an exception to the rule of mandate law
6 that -- required by the Constitution that you must pay
7 for new statutes that require new activities.

8 This CSB lawsuit does not apply to this case.
9 There is no exception -- there is no statute ordering
10 that school districts and basic aid school districts pay
11 for this program out of their General Funds.

12 Thank you for the opportunity to speak to you all
13 and I'm available to answer any questions.

14 ACTING CHAIR GALLEGOS: Great. Thank you very
15 much, Mr. Palkowitz.

16 Now we can hear from the Department of Finance.

17 MS. GMUR: If the witnesses for the Department of
18 Finance would state your names for the record, please.

19 MR. HARRIS: George Harris.

20 MS. THOMPSON: Brittany Thompson.

21 MS. LEE: Rebecca Lee.

22 ACTING CHAIR GALLEGOS: Thank you. Go ahead.

23 MR. HARRIS: George Harris with the Department of
24 Finance. We support the staff recommendation.

25 I'm happy to answer any questions that you have for
32

1 us as well.

2 ACTING CHAIR GALLEGOS: Any other comments from the
3 Department of Finance?

4 Great. Thank you.

5 Is there any public comment on this item?

6 MR. SUPACHANA: Madam Chair, I do not see any
7 public comments online.

8 ACTING CHAIR GALLEGOS: Any questions from the
9 members?

10 Yes, Ms. Greene Ross.

11 MEMBER GREENE ROSS: First of all, just empathize
12 that kind of the legislature has done this before. And
13 I appreciate Mr. Palkowitz, because that was going to my
14 question, to distinguish the School Board Association
15 versus State.

16 But I'm still a little confused on how you
17 distinguish the case.

18 And my question to Finance is: It would help if
19 you could just explain the difference in the basic aid
20 in relationship with LCFF, how often do you look and see
21 whether they get a portion of the LCFF with respect
22 to -- I understand that the basic aid formula, if they
23 have sufficient funding, then they don't get a share of
24 the LCFF.

25 Could you just sort of go over that, how often you

1 adjust those numbers?

2 MS. LAGOMARSINO: Katie Lagomarsino, with the
3 Department of Finance.

4 Yeah, so every time we receive updated principal
5 apportionment tables from the Department of Education,
6 that's when we'll update it, which is about three times
7 a year.

8 And additionally, the status of being a basic aid
9 school district, it's not static and it can change at
10 any time.

11 So if the school is kind of right on the edge, like
12 if their property taxes don't exceed their entitlement,
13 then they could slip under and we would provide the rest
14 of the funding through Prop. 98 funding.

15 MEMBER GREENE ROSS: So that, to me, explains that
16 they are getting -- getting funding because they have
17 adequate enough money. If they're not into the LCFF --
18 they don't get tipped over into LCFF distribution, how
19 does that statute that Mr. Palkowitz mentioned, about
20 the General Fund not impacting the California School
21 Board Association decision?

22 Because it appears to me that that is a precedent
23 for this, and the effects, are analogous.

24 I guess that's a question for Mr. Palkowitz.

25 MR. PALKOWITZ: Okay. Thank you. I appreciate

1 your question.

2 I don't believe that that case is on point.

3 It is not analogous because in that case, there was
4 a statute specifically passed by the legislation to
5 allow the mandates of graduation requirement and BIP to
6 invade or encroach the General Fund.

7 There is no statute in this case that allows the
8 invasion or encroachment of the General Fund for the
9 basic aid school districts.

10 MS. GMUR: Ms. Shelton.

11 MS. SHELTON: Maybe we can address that a little
12 bit better.

13 The CSBA case is a California Supreme Court case
14 and it is directly on point. That case, as
15 Mr. Palkowitz was mentioning, was dealing with the
16 graduation requirements program.

17 That program required, for high school students to
18 graduate, to take a second science course. That
19 resulted in school districts having to hire additional
20 teachers, purchase new materials for the second science
21 course and, in some cases, having to remodel science
22 classrooms.

23 That test claim was approved by the Commission
24 early on, back in the early '80s because at the time
25 there was no funding tagged for that program.

1 Schools were getting their Prop. 98 money. It was
2 being apportioned to school districts based on an equal
3 protection argument, the calculation before the local
4 control funding formula. So that test claim was
5 approved.

6 And keep in mind that school districts function and
7 sit differently than county and cities with respect to
8 Article XIII B, Section 6, that school funding has
9 always been shared between State and local government
10 proceeds and taxes.

11 So about 20 years later, the legislature enacted a
12 budget trailer bill that said you have to first use your
13 Prop. 98 apportionment to pay -- fully pay for the
14 graduation requirements and the BIPs programs first.

15 As a result, that meant no mandate reimbursement.
16 No additional mandate reimbursement.

17 So CSBA brought a lawsuit arguing that that
18 conflicts with -- legislature's statute conflicts with
19 Article XIII B, because they contended that Article
20 XIII B, Section 6 required additional revenue.

21 And that what the -- the result of it was that they
22 were forced to use their own local proceeds and taxes to
23 pay for the graduation requirement mandate. And the
24 Court disagreed.

25 The Court found that given the state of education

1 funding, and Article XIII B, Section 6 and Proposition
2 98, the legislature can use their power to earmark any
3 Prop. 98 funding, specifically for a program.

4 So as soon as the legislature tags their Prop. 98
5 apportionment funding to a mandated program, that is
6 considered mandate reimbursement and the State has
7 satisfied their Article XIII B, Section 6 obligation.

8 And that is the same situation here.

9 The Court did recognize that as a result it would
10 reduce their own maybe educational priorities.

11 But, the Constitution -- the Constitution does not
12 require additional funding in addition to the funding
13 that's already being provided.

14 And keep in mind, for graduation requirements,
15 there was no additional funding. It was exactly the
16 funding that was -- had been there. There was no
17 additional funding for grad requirement.

18 Here you do have a statute, several statutes, as
19 Anna mentions in her proposed decision, that do add
20 additional funding for each TK student.

21 So the Department of Finance can explain a little
22 bit better, probably, how that clarification works.

23 But every student does get an equal amount from the
24 State to satisfy their equal protection and their
25 constitutional obligation.

1 So according to the CSBA court, funding has been
2 provided under Article XIII B, Section 6.

3 MEMBER GREENE ROSS: That's my understanding.

4 Appreciate your clarification.

5 Can you speak at all to what he's talking about the
6 statute that references General Fund money?

7 MS. SHELTON: I think Mr. Palkowitz is not stating
8 the statute correctly?

9 It just directs them to offset their program funds
10 using Prop. 98 money. And that's the statute.

11 We have it.

12 MEMBER GREENE ROSS: Thank you.

13 MS. SHELTON: I can find it in the decision.

14 MEMBER GREENE ROSS: Yeah. Thank you.

15 MS. SHELTON: The statute said, "Costs related to
16 the salaries and benefits of teachers incurred by a
17 school district or county office of education to provide
18 the courses listed in the statute," which meant the
19 graduation requirements program "shall be offset by the
20 amount of State funding apportioned to the district
21 pursuant to this article."

22 MEMBER GREENE ROSS: Thank you.

23 MS. SHELTON: That you can find on page -- I'm in a
24 Word document. I'm sorry. Page 72. Hard page 72.

25 ACTING CHAIR GALLEGOS: Thank you, Ms. Shelton.

1 Any additional questions?

2 Yes. Go ahead, Mr. Powell.

3 MEMBER POWELL: I have a question on whether the
4 Claimants are alleging that they're not receiving State
5 funding for their education? Because I hear that
6 there's not LCFF funding. And whether that means that
7 those earmarks of the State applied, apply to that
8 funding that they get.

9 So I'm saying are -- is that funding that is
10 earmarked going to the Claimants in this case?

11 MS. SHELTON: I think you should probably let
12 Department of Finance explain. There are education
13 experts on the local control funding formula.

14 My understanding of the formula is that you first
15 determine a per pupil amount, they first can deduct the
16 local property taxes from that and then for those that
17 need an extra support from the State, it goes from the
18 State.

19 But all school districts go through the local
20 control funding formula and satisfy Prop. 98 funding.

21 MEMBER POWELL: I guess my question would be:
22 Would these Claimants say then that they're getting less
23 money for this allocation than other districts are
24 because of that lack of LCFF funding?

25 An LCFF funded district would get more money and

1 they don't get that.

2 MS. SHELTON: It's a per-pupil amount, not a
3 district amount. So each pupil is getting the same
4 amount under Prop. 98.

5 Am I correct, Finance?

6 CHAIRPERSON PERRAULT: Department of Finance, do
7 you know the --

8 MS. LAGOMARSINO: Yes, that's correct. It's
9 calculated the same regardless. And then after
10 everything is calculated, including the 10.4 percent
11 extra funding for TK through third grade students, it
12 also -- concentration grants and supplemental grants and
13 all of that, after that, that's when we offset with
14 property taxes to see whether or not property taxes are
15 higher or lower than the entitlement for each school.

16 Additionally, every pupil, regardless of basic aid
17 status, would receive a minimum of \$200 per minimum
18 State aid and also, I believe it's \$120 per pupil or not
19 less than 2,400 per school.

20 MS. SHELTON: I should also mention that the
21 Supreme -- at the Supreme Court, with the California
22 School Board Association case, they mentioned there
23 would be disparity between the basic aid districts and
24 other districts. The Court did not accept that.

25 There's no law -- these are questions of law, not

1 questions of evidence, actually.

2 And so there's no law making basic aid districts
3 receive any special constitutional benefit that other
4 districts don't have.

5 ACTING CHAIR GALLEGOS: Mr. Adams, do you have a
6 question?

7 MEMBER ADAMS: Thank you.

8 In our documents, there's a paragraph that states:
9 Although the State's chosen method leaves basic aid
10 school districts with less excess property tax to spend
11 on local education priorities, this does not mean that
12 reimbursement is required. The circumstance of the
13 program funds Claimants may have wished to use
14 exclusively for other programs are hereby reduced does
15 not itself transform the related costs into a mandate.

16 That really, really bothers me. And I guess my
17 question is, who decides whether or not a district is a
18 basic aid school district or another?

19 Is that their choice? Or --

20 MS. SHELTON: It just depends on the -- how much
21 money they are receiving in local property taxes.
22 That's it.

23 That just means that they're -- so the Prop. 98
24 requires per-pupil funding and that's how they usually
25 fund education. And then that's how the local control

1 funding formula is.

2 It all stems early on from the "Serrano versus
3 Priest" lawsuit back in the '70s where there was an
4 equal protection argument that wealthier school
5 districts -- the students in wealthier school districts
6 were receiving more education than those students from a
7 less wealthy area.

8 And so the State went through a bunch of different
9 statutory provisions to try to equalize funding. During
10 that time, Article XIII B, Section 6 was enacted. So
11 what they did, they negotiated school districts into
12 Article XIII B, Section 6.

13 The difference is the -- the difference between
14 school districts and counties and cities -- the other
15 test claims that you receive -- is that for county and
16 city programs there's usually not a shared funding
17 scheme.

18 For all of education, there's a shared funding
19 scheme. Education has always been funded by State and
20 local funds.

21 And so when the Supreme Court is looking at that, I
22 mean, some of the same arguments that have been made by
23 counties and cities simply don't apply to school
24 districts.

25 MEMBER ADAMS: Is it fair to say, then, that the

1 basic aid school districts tend to be those better
2 funded locally than the LCFF districts?

3 MS. SHELTON: I think that's a fair statement.

4 But keep in -- but I -- all school districts go
5 through the local control funding formula calculation,
6 because the State has an obligation to ensure that each
7 pupil is equally funded.

8 ACTING CHAIR GALLEGOS: Any other questions?

9 Okay. I will take -- ask a question, then.

10 Just in its most basic form, are the Claimants
11 saying that they are not receiving the appropriate
12 per-pupil amount for the additional children with the TK
13 program?

14 MS. SHELTON: I --

15 MR. PALKOWITZ: Yes.

16 MS. SHELTON: Should we let the Claimants respond
17 to that?

18 MR. PALKOWITZ: Yeah, that is exactly it.

19 And as Mr. Powell hit on, what's going on here is
20 that the basic aid school districts have funding, and
21 when this legislation was passed, they don't receive any
22 additional funding for the TK program.

23 Okay?

24 And that is really the heart of the problem; that
25 the statute required that school districts be

1 appropriated and receive the funding.

2 There's no evidence in the record that the
3 Claimants, or any school district, received a check or
4 any type of payment or when that payment occurred.

5 And so, in effect, they are invading on the General
6 Fund of the basic aid.

7 Now, I would respectfully disagree with
8 Ms. Shelton's analysis of CSBA, because CSBA dealt
9 specifically with only two mandates.

10 If that was to apply to all future mandates, then
11 none of the basic aid, or other school districts,
12 receive any money for test claims approved.

13 But that was specifically for those two programs.

14 That was passed decades ago.

15 If they were to apply to all future reimbursable
16 mandates, then the argument would be: No, you don't get
17 additional money. We can invade and encroach on your
18 General Fund.

19 MS. SHELTON: Can I respond to that?

20 ACTING CHAIR GALLEGOS: Sure. Of course.

21 MS. SHELTON: First of all, you have -- we have
22 many school district mandates out there. And in those
23 cases, there was no funding specifically intended to
24 fund the cost of that particular mandate.

25 There was no extra discussion from the legislature

1 saying: Here's money for this particular program.

2 The lesson from the CSBA Supreme Court case is that
3 as soon as the legislature earmarks that Prop. 98 money,
4 that Local Control Funding Formula money, for a
5 particular mandated program, then they have satisfied
6 the Article XIII B, Section 6 reimbursement obligation.

7 That is the lesson from the Supreme Court and the
8 Commission does have to follow that decision.

9 MR. PALKOWITZ: I agree that for -- specifically
10 the mandates. But there is no specific mandate or
11 statute for the TK.

12 In that case, it was specifically for the
13 graduation requirement and the BIP program.

14 And now you're violating the Article XIII, Section
15 B, if you are not providing funding for new programs.

16 MS. SHELTON: I will just say that we've outlined
17 several provisions in the proposed decision that make
18 TK, as a condition of receipt of apportionment.

19 There are Education Code statutes identified in
20 this decision that require the director of the
21 Department of Finance to count TK students in the ADA
22 apportionment.

23 So if you're alleging that that did not occur, that
24 would be a whole other lawsuit not having to do with
25 mandates.

1 ACTING CHAIR GALLEGOS: Ms. Powell?

2 MR. PALKOWITZ: Well, I guess I would add, for
3 where in the record in the proposed decision does it
4 show that the Claimant received payment for the TK
5 program?

6 MS. SHELTON: It's listed in statutes. And if
7 you're alleging the State has not complied with those
8 statutes, that's a separate lawsuit.

9 MR. PALKOWITZ: No.

10 MS. SHELTON: The State is required to presume that
11 the statute's --

12 (Multiple speakers.)

13 MR. PALKOWITZ: There's no evidence in the record
14 that the districts received the apportionment. And the
15 basis for the Test Claim decision is that there are no
16 costs. Well, there are costs.

17 ACTING CHAIR GALLEGOS: Mr. Palkowitz, we accept
18 your point here.

19 I'm going to move on to Mr. Powell who has another
20 question.

21 MEMBER POWELL: Thank you. I'm just quoting from
22 it looks like the school board case at 726.

23 And it says, "Pursuant to its broad authority over
24 revenue collection and avocation, the legislature may
25 increase, decrease, earmark or otherwise modify State

1 education funding in order to satisfactory reimbursement
2 obligations so long as its chosen method is consistent
3 with Prop. 98 and the Constitutional guarantees."

4 So my understanding from that would be that the
5 legislature doesn't necessarily always have to provide
6 new funds.

7 It says they may. But also may decrease them and
8 it may target them.

9 The only allegation that a Claimant could make
10 pursuant to this would be that it's not consistent with
11 its Prop. 98 guarantees and other Constitutional
12 guarantees.

13 Are the Claimants alleging that it's not consistent
14 with Prop. 98 or Constitutional guarantees?

15 Or just alleging that there needs to be new money
16 for this -- what they're saying is a new program?

17 ACTING CHAIR GALLEGOS: Mr. Palkowitz, do you want
18 to respond?

19 MR. PALKOWITZ: Sure. Now, what we're saying is
20 the CSBA applies to only to the graduation requirement
21 and the BIP. And that new money is required to provide
22 to school districts for new programs, just as exactly
23 what Article XIII B, 6 says.

24 ACTING CHAIR GALLEGOS: Thank you.

25 MEMBER POWELL: Understood. I mean, I will just

1 say that it says "pursuant to its broad authority," and
2 so, I find it somewhat difficult to say, when you say
3 "broad authority," that it's limited to that specific
4 case.

5 And it's my understanding, is that different than
6 your understanding of "broad authority"?

7 MR. PALKOWITZ: I think we have to look at the
8 facts in that case, Mr. Powell. And I appreciate your
9 understanding. And I believe it's not as simple for me
10 to explain it.

11 But the statutes that related to that case were
12 statutes that specifically said there needs -- there
13 need not be funding for the graduation requirement and
14 for the behavioral intervention program.

15 That was the statutes that were passed by the
16 legislation. And that statutes were in front of the
17 Supreme Court.

18 I mean, I find it hard to -- since there has been
19 numerous mandates passed and funded since that case --
20 to say that you don't need funding since they have broad
21 authority, is an interpretation of that case well beyond
22 the facts.

23 And it really violates Article XIII B, 6.

24 ACTING CHAIR GALLEGOS: Thank you, Mr. Palkowitz.

25 MR. PALKOWITZ: Thank you.

1 ACTING CHAIR GALLEGOS: Any additional questions
2 from the members?
3 Any other additional discussion?
4 Thank you.
5 Is there a motion on Item 2?
6 MEMBER GREENE ROSS: Move to --
7 MR. SUPACHANA: Madam Chair, no public comments
8 online.
9 ACTING CHAIR GALLEGOS: Thank you.
10 So I have a motion by Ms. Greene Ross.
11 Is there a second?
12 MEMBER POWELL: I will second the motion.
13 ACTING CHAIR GALLEGOS: Thank you, Mr. Powell.
14 And roll call?
15 MS. GMUR: Mr. Adams.
16 MEMBER ADAMS: Aye.
17 MS. GMUR: Ms. Gallegos.
18 ACTING CHAIR GALLEGOS: Aye.
19 MS. GMUR: Ms. Greene Ross.
20 MEMBER GREENE ROSS: Aye.
21 MS. GMUR: Mr. Pahland.
22 MEMBER PAHLAND: Aye.
23 MS. GMUR: Mr. Powell.
24 MEMBER POWELL: Aye.
25 MS. GMUR: That motion carries.

1 We now ask the presenters participating remotely
2 for Item 2 to please turn off their videos and mute their
3 microphone.

4 Those presenting in person, please return to your
5 seats.

6 Next is Item 3. Chief legal counsel
7 Camille Shelton, please present a proposed decision and
8 parameters and guidelines on lead sampling in schools,
9 Public Water System number 371002017-TC-03-R2.

10 At this time, we invite the parties and witnesses
11 for Item 3 participating remotely to please turn on your
12 video and unmute your microphones.

13 Those participating in person, please come to the
14 table.

15 MS. SHELTON: Good morning. These parameters and
16 guidelines address State-mandated activities arising
17 from the permit amendment issued by the State Water
18 Resources Control Board to the City of San Diego's
19 public water system.

20 The permit requires the Claimant's Public Water
21 System to submit to the State Water Resources Control
22 Board a list of all K-12 schools it serves and the
23 sample and test drinking water in K-12 schools for the
24 presence of lead upon request of an authorized
25 representative of the school district made before

1 November 1st, 2019.

2 On March 28th, 2025, the Commission adopted a Test
3 Claim Decision, finding that the Test Claim order imposes
4 a reimbursable State-mandated program upon the City of
5 San Diego.

6 On April 3rd, 2025, Commission staff issued the
7 draft expedited parameters and guidelines.

8 Both the Claimant and the State Controller's office
9 filed comments recommending no changes to the parameters
10 and guidelines.

11 Accordingly, the staff recommends that the
12 Commission adopt the proposed decision and parameters and
13 guidelines and authorize staff to make any technical,
14 nonsubstantive changes to the document following the
15 hearing.

16 Thank you.

17 ACTING CHAIR GALLEGOS: Thank you.

18 MS. GMUR: Will the parties and witnesses please
19 state your names for the record.

20 MR. STANEK: Good morning, Deputy City Attorney
21 Justin Stanek on behalf of the Claimant.

22 MS. FEREBEE: Good morning, Donna Ferebee on behalf
23 of the Department of Finance.

24 ACTING CHAIR GALLEGOS: Thank you.

25 MS. GMUR: Mr. Stanek, would you like to begin with
51

1 your comments, please.

2 MR. STANEK: Yes. Thank you very much for the
3 opportunity. And just very, very briefly this morning.

4 First, I appreciate the assistance in connecting
5 this morning. I apologize for any inconvenience with my
6 technical difficulties earlier.

7 But the City has had opportunity to review the
8 parameters and guidelines and requests that the
9 Commission adopt the staff's recommendations and the
10 document as is.

11 Otherwise, no further comments from the City at
12 this point. And we would submit the matter for the --
13 to the Commission upon the staff recommendation.

14 Thank you very much.

15 ACTING CHAIR GALLEGOS: Any comments from the
16 Department of Finance?

17 MS. FEREBEE: Good morning. The Department of
18 Finance has no further comment on these parameters and
19 guidelines. Thank you.

20 ACTING CHAIR GALLEGOS: Thank you very much.

21 Are there any public comments on this item?

22 MR. SUPACHANA: Madam Chair, there are no online
23 public comments.

24 ACTING CHAIR GALLEGOS: Thank you. Are there any
25 questions from the members?

1 Any further discussion?

2 Thank you.

3 Is there a motion on this item?

4 MEMBER ADAMS: Madam Chair, I would move the staff
5 recommendation.

6 ACTING CHAIR GALLEGOS: Great. Thank you,
7 Mr. Adams.

8 Is there a second?

9 MEMBER GREENE ROSS: Second.

10 ACTING CHAIR GALLEGOS: Greene Ross, second.
11 Roll call, please.

12 MS. GMUR: Mr. Adams.

13 MEMBER ADAMS: Aye.

14 MS. GMUR: Ms. Gallegos.

15 ACTING CHAIR GALLEGOS: Aye.

16 MS. GMUR: Ms. Greene Ross.

17 MEMBER GREENE ROSS: Aye.

18 MS. GMUR: Mr. Pahlund.

19 MEMBER PAHLAND: Aye.

20 MS. GMUR: Mr. Powell.

21 MEMBER POWELL: Aye.

22 MS. GMUR: That motion carries.

23 We now ask the presenters participating remotely
24 for Item 3, please turn off their video and mute their
25 microphone.

1 Next, Program Analyst Jill Magee will please
2 present Item 5, Legislative update.

3 MS. MAGEE: Good morning.

4 The following are the legislative updates since the
5 last time the Commission met.

6 First, SB 799, State Government, Local Costs.

7 SB 799 was introduced by Senator Allen.

8 On March 24th, 2025, this bill was amended, is now
9 titled False Claims Taxation and no longer amends
10 Government Code Section 17552 and is no longer relevant
11 to the Commission.

12 Next AB 964, Commission on State Mandates: state
13 mandates.

14 AB 964 was introduced by Assembly Member Hadwick.
15 This bill amends Government Code Section 17558.5.

16 This bill would require the Controller to notify
17 the claimant in writing within 30 days of any adjustment
18 that results from an audit or review. And now requires
19 the Controller to allow a local agency or school
20 district at the sole discretion of the local agency or
21 school district, to offset any reduced reimbursement as
22 prescribed or to remit funds to the Controller.

23 On May 14th, 2025, this bill was set for first
24 hearing and was referred to the Assembly Committee on
25 Appropriations Suspense File.

1 Next AB 1452, State Mandates: claims.
2 AB 1452 was introduced by Assembly Member Ta.
3 This amends Government Code Section 17564.
4 This bill would change the minimum claim amount
5 that requires the State to reimburse a local government
6 from \$1,000 to \$800.
7 There has been no new action on this bill.
8 Next, SB 470, Bagley-Keene Open Meeting Act:
9 Teleconferencing.
10 SB 470 was introduced by Senator Laird.
11 This bill now amends Government Code Section
12 11123.2 and 11123.5.
13 This act authorizes an additional alternative set
14 of provisions under which a State body may hold a
15 meeting by teleconference subject to specified
16 requirements.
17 Existing law repeals these provisions on
18 January 1st, 2026. This bill now repeals these
19 provisions on January 1st, 2030.
20 There has been no new action on this bill.
21 Finally, AB 395, Holidays.
22 AB 395 was introduced by Assembly Member Gabrielle.
23 This bill amends Government Code Section 11131, the
24 Bagley-Keene Open Meeting Act.
25 Among other things, this bill would require that a

1 State agency shall make every reasonable effort to avoid
2 conducting any meeting, conference or other function on
3 a date for which the State agency knows, or has reason
4 to know, that members of the public would be unable to
5 participate or be present due to the ritual observance
6 of a religious, cultural or ancestral holiday, including
7 but not limited to Eid al-Adha, Eid al-Fitr, Feast of
8 the Nativity, Maha Shivratri, the first and last two
9 days of Pesach, also known as Passover, Rosh Hashanah,
10 Yom Kippur, Diwali and Dussehra.

11 On May 14th, 2025, this bill was set for first
12 hearing and was referred to the Assembly Committee on
13 Appropriations Suspense File.

14 Staff will continue to monitor legislation for
15 bills that impact the mandates process.

16 Thank you.

17 MS. GMUR: Thank you, Jill.

18 Next, Chief Legal Counsel Camille Shelton will
19 please present Item 6, the Chief Legal Counsel report.

20 MS. SHELTON: Good morning. The Commission
21 currently does not have any litigation pending, so I
22 have nothing to report today.

23 MS. GMUR: Thank you, Camille.

24 Item 7 is the Executive Director Report. I have
25 four information items.

1 The budget. Commission's proposed operating budget
2 remains at \$3.438 million. That is a decrease of
3 \$124,000 from the last budget adjustment for salaries
4 and benefits. The budget for local assistance or local
5 agency mandated programs is \$91.456 million. This is a
6 decrease of \$40.771 million.

7 The Commission's budget was heard on May 20, by the
8 Assembly Budget Subcommittee Number 5 on State
9 Administration on the issue of the proposed suspension
10 of recently decided storm water mandates: 09-TC-03,
11 10-TC-07, 10-TC-11 and 11-TC-03.

12 The LAO opposes the suspensions.

13 Please see my report for more detailed budget
14 information.

15 The regulations update. The subject of our 2025
16 rule making will be a full review and a update of the
17 Commission's regulations.

18 Staff prepared draft proposed amendments that were
19 reviewed and discussed with 31 representatives from
20 local government agencies at an informal conference on
21 April 25.

22 Commission staff received comments both during and
23 after the conference which are being considered for
24 inclusion in the amended regulations for future
25 consideration by the Commission.

1 Workload. As of May 1, 2025, there are 39 pending
2 test claims, 32 of which are regarding storm water NPDES
3 permits. There are 2 parameters and guidelines, six
4 statewide cost estimates, and one IRC pending.

5 Tentative agenda items. A reminder to please check
6 the tentative agenda items on the Executive Director's
7 report or the pending caseload documents on the
8 Commission's website, which are updated at least
9 bi-monthly to see when something is tentatively set for
10 a hearing.

11 Draft proposed decisions on all the test claims and
12 IRC matters are issued for review and comment at least
13 eight weeks prior to the hearing date and a proposed
14 decision approximately two weeks before the hearing.

15 And that concludes my report.

16 But before we adjourn to closed session,
17 Camille Shelton will present Senior Commission Counsel
18 Eric Feller with a resolution commemorating his
19 contributions to the Commission on State Mandates. Eric
20 will be retiring August 2nd, after almost 24 years in
21 service to the Commission.

22 Camille.

23 MS. SHELTON: Yes, congratulations, Eric.

24 Before the Commission on State Mandates in honor of
25 Eric Feller, Senior Attorney, Commission on State

1 Mandates 2001 through 2025.

2 Whereas, Eric Feller has served as a State employee
3 for over 31 years, beginning his employment with the
4 State of California as an Associate Governmental Program
5 Analyst for the State Water Resources Control Board, and
6 starting his legal career -- thank you -- legal career
7 as an attorney for the Commission on State Mandates in
8 2001, providing legal services for the Commission for
9 almost 24 years;

10 And whereas, Mr. Feller, in his capacity as an
11 attorney with the Commission, drafted proposed decisions
12 in over 55 test claims, numerous parameters and
13 guidelines, and parameters and guidelines amendments,
14 statewide cost estimates, and over 50 incorrect
15 reduction claims for many programs, including,
16 municipal, storm water, and urban runoff discharges,
17 discharge of storm water runoff, integrated waste
18 management plans, high school exit exams, pupil
19 expulsions and suspensions II, health B elimination,
20 crime statistics reports, certificated school void
21 parental leave, vote by mail, photographic record of
22 evidence, public school restrooms menstrual products,
23 the Stahl Act, heating, ventilation and air conditioning
24 and disclosure requirements and deferral of property
25 taxation;

1 And whereas, Mr. Feller handled and assisted with
2 several cases in courts which challenged Commission
3 decisions, including handing the cases in certificated
4 school employees parental leave and the Commission's
5 initial dismissal of municipal storm water and urban
6 runoff discharges and researched and drafted several
7 proposed regulatory amendments;

8 And whereas, Mr. Feller is being honored by the
9 Commission on State Mandates in appreciation for his
10 service to the State of California, and service to the
11 Commission, and will be missed for his reliability,
12 creativity and his dry wit;

13 Now therefore, be it resolved that the Commission
14 on State Mandates warmly congratulates Eric Feller upon
15 his retirement from the State -- from State service.

16 Done this 23rd day of May, 2025, County of
17 Sacramento, State of California, and witness thereof by
18 the Commission on State Mandates.

19 Congratulations, Eric.

20 (Applause.)

21 MR. FELLER: Thanks.

22 ACTING CHAIR GALLEGOS: So the Commission will now
23 meet in closed session pursuant to Government Code
24 Section 11126(e) to confer with and receive advice from
25 legal counsel for consideration -- for consideration and

1 action as necessary and appropriate upon the pending
2 litigation listed on the public -- published notice and
3 agenda.

4 And to confer with and receive advice and legal
5 counsel regarding potential litigation.

6 The Commission will also confer on personnel
7 matters pursuant to Government Code Section 11126(a)(1).

8 We will reconvene in open session -- open session
9 in approximately ten minutes.

10 (Closed session was held:

11 11:22 a.m. to 11:43 a.m.)

12 ACTING CHAIR GALLEGOS: The Commission met in
13 closed executive session pursuant to Government Section
14 11126(e), to confer with and receive advice from legal
15 counsel for consideration and action as necessary and
16 appropriate upon the pending litigation listed on the
17 public notice and agenda and to confer with and receive
18 advice from legal counsel regarding potential
19 litigation.

20 The Commission also conferred on personnel matters
21 pursuant to Government Code Section 11126 (a) (1).

22 With no further business to discuss, I will
23 entertain a motion to adjourn.

24 MEMBER POWELL: So moved.

25 ACTING CHAIR GALLEGOS: Thank you.

1 A second?
2 MEMBER GREENE ROSS: Second.
3 ACTING CHAIR GALLEGOS: Thank you, Ms. Ross.
4 There's a motion and second.
5 Roll call.
6 MS. GMUR: Mr. Adams.
7 MEMBER ADAMS: Aye.
8 MS. GMUR: Ms. Gallegos.
9 ACTING CHAIR GALLEGOS: Aye.
10 MS. GMUR: Ms. Greene Ross.
11 MEMBER GREENE ROSS: Aye.
12 MS. GMUR: Mr. Pahlund.
13 MEMBER PAHLAND: Aye.
14 MS. GMUR: Mr. Powell.
15 MEMBER POWELL: Aye.
16 MS. GMUR: That motion is carried.
17 ACTING CHAIR GALLEGOS: Thank you. We are
18 adjourned.

19 (Proceedings concluded at 11:44 a.m.)

20 ---o0o---

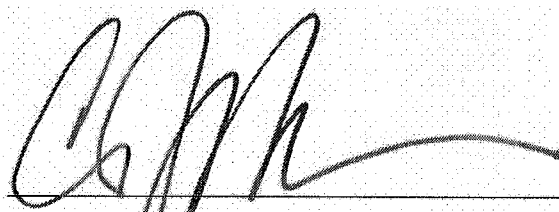
1
2 REPORTER'S CERTIFICATE
3

4 I, the undersigned, a Certified Shorthand
5 Reporter of the State of California, do hereby certify:

6 That the foregoing proceedings were taken
7 before me at the time and place herein set forth; that
8 any witnesses in the foregoing proceedings, prior to
9 testifying, were placed under oath; that a verbatim
10 record of the proceedings was made by me using machine
11 shorthand which was thereafter transcribed under my
12 direction; further, that the foregoing is an accurate
13 transcription thereof.

14 I further certify that I am neither
15 financially interested in the action nor a relative or
16 employee of any attorney or any of the parties.

17 IN WITNESS WHEREOF, I have this date,
18 June 19, 2025, subscribed my name.
19

20
21
22 

23 Connie J. Parchman
24 CSR No. 6137
25