

Amendment 1

On page 2, strike out lines 1 to 11, inclusive, in line 12, strike out "SEC. 3." and insert:

SECTION 1. The Legislature finds and declares all of the following:

(a) Providing a quality education that meets the unique needs of Oakland public school pupils is a fundamental interest that should not be jeopardized.

(b) In late August 2002, the Oakland Unified School District became aware of a negative general fund balance for the 2001-02 fiscal year, and of potential deficits in its 2002-03 budget, and thereafter, promptly reported this information to the Alameda County Office of Education.

(c) The Oakland Unified School District is projected to run out of cash in May of 2003 and will be unable to pay school employees unless immediate action is taken.

(d) The Oakland Unified School District and its community have the will and ability to continue the key educational reforms that have benefited Oakland public school pupils in the last three years and to make difficult decisions in order to immediately eliminate all further overspending by the district.

(e) Despite initial budget cuts for the 2002-03 fiscal year exceeding fourteen million dollars (\$14,000,000) and additional budget cuts and adjustments of seventeen million dollars (\$17,000,000), the Oakland Unified School District will have a negative fund balance at the close of the current fiscal year and will require a loan from the State of California.

(f) In contrast to the circumstances surrounding other school districts that have recently received state loans, there have not been any accusations of intentional mismanagement or fraud in the Oakland Unified School District. The budget deficits at the Oakland Unified School District were inadvertently hidden by an inadequate system of checks and balances in the district's financial services division, and were exacerbated by declining enrollment, increases in health care costs, and state education budget cuts.

(g) Despite its financial condition, the Oakland Unified School District has made demonstrable academic improvements over the last few years, witnessed by test score improvements, more fully credentialed teachers in Oakland classrooms, and increased parental and community involvement.

SEC. 2. (a) It is the intent of the Legislature that the

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trustee appointed pursuant to this act should work with the present administrators and governing board of the Oakland Unified School District to identify the procedures and programs currently implemented by the district that have proven to do one or more of the following:

- (1) Significantly raise pupil achievement.
- (2) Improve pupil attendance.
- (3) Lower pupil dropout rate.
- (4) Increase parental involvement.

(b) It is the intent of the Legislature that these identified procedures and programs should be protected, maintained, and expanded as the district's budget allows.

SEC. 3. (a) Acceptance by the governing board of the Oakland Unified School District of the emergency loan authorized by Section 12 of this act constitutes an agreement by the Oakland Unified School District to all of the following conditions:

(1) The Superintendent of Public Instruction shall appoint a trustee who has recognized expertise in management and finance to oversee the operations of the district. The superintendent may also employ, on a short-term basis, any staff necessary to assist the trustee, including, but not limited to, a certified public accountant.

(2) The expenses incurred by the trustee and any necessary staff shall be paid by the district.

(3) The superintendent shall establish the terms and conditions of the employment of the trustee and staff, including the salary of the trustee. The trustee shall serve at the pleasure of, and report directly to, the superintendent.

(4) The trustee, and any necessary staff, shall serve until the emergency loan authorized by Section 12 of this act is fully repaid, the district has adequate fiscal systems and controls in place as determined by the superintendent, the district develops the financial recovery plan as required by Section 8 of this act, and the superintendent determines that the district's future compliance with the financial recovery plan will lead to fiscal solvency.

SEC. 4. (a) To facilitate the appointment of the trustee and the employment of any necessary staff for purposes of this act, the superintendent is exempt from the requirements of Article 6 (commencing with Section 999) of Chapter 6 of Division 4 of the Military and Veterans Code and Part 2 (commencing with Section 10100) of the Public Contract Code.

(b) Notwithstanding any other law, the superintendent may appoint an employee of the State Department of Education to act as trustee for up to the duration of the trusteeship. The salary and benefits of that employee shall be established by the superintendent and paid by the school district. During the time of appointment, the employee shall be deemed an employee of the school district, but shall remain in the same retirement system under the same plan as if

the employee had remained in the department. Upon the expiration or termination of the appointment, the employee shall have the right to return to his or her former position, or to a position at substantially the same level as that position, with the department. The time served in the appointment shall be counted for all purposes as if the employee had served that time in his or her former position with the department.

(c) For all purposes of errors and omissions liability insurance policies, the trustee appointed pursuant to this act shall be deemed to be an employee of the district.

(d) For the purpose of workers' compensation benefits, the trustee shall be deemed an employee of the district, except that a trustee appointed pursuant to subdivision (b) of Section 4 shall be deemed an employee of the State Department of Education for that purpose.

(e) Except for a trustee appointed by the superintendent pursuant to subdivision (b), the trustee shall be a member of the State Teachers' Retirement System, if qualified, for the period of service as trustee, unless the trustee elects in writing not to become a member. A person who is a member or retirant of the State Teachers' Retirement System at the time of appointment shall continue to be a member or retirant of the system for the duration of the appointment. If the trustee chooses to become a member or is already a member, the trustee shall be placed on the payroll of the district for the purposes of providing appropriate contributions to the system. The superintendent may also require that any trustee appointed pursuant to subdivision (b) be placed on the payroll of the school district for purposes of remuneration, other benefits, and payroll deductions.

SEC. 5. (a) The trustee appointed pursuant to this act shall monitor and review the operation of the Oakland Unified School District. During the period of his or her service, the trustee may stay or rescind any action of the governing board that, in the judgment of the trustee, may affect the financial condition of the district.

(b) The trustee, during the duration of his or her appointment, shall maintain the core educational reforms that have led to districtwide improvement of academic achievement, including, but not limited to, educational reforms targeting underperforming schools, new small schools, and other reforms that have demonstrated measurable success.

(c) The superintendent may establish timelines and prescribe formats for reports and other materials to be prepared by the district and used by the trustee to monitor and review the operations of the district. The trustee shall approve all reports and other materials required from the district as a condition of receiving the loan.

(d) Notwithstanding any other law, all reports submitted to the trustee shall be public records.

(e) The superintendent, upon the recommendation of the trustee, may reduce any apportionment to the district in an amount up to two hundred dollars (\$200) per day for each late or unacceptable report or other material required under Part 24 (commencing with Section 41000) of the Education Code, and shall report to the Legislature any failure of the district to comply with the requirements of that part.

(f) If the superintendent determines, at any time, that the financial recovery plan developed by the district under Section 8 of this act is unsatisfactory, he or she may modify the plan as necessary, and the district shall comply with the plan as modified.

SEC. 6. At the request of the Superintendent of Public Instruction, the Controller shall transfer to the State Department of Education, from any apportionment to which the Oakland Unified School District would otherwise have been entitled pursuant to Section 42238, the amount necessary to pay the expenses incurred by the trustee and any associated costs incurred by the county superintendent of schools for purposes of this act.

SEC. 7. The trustee shall consider, on a monthly basis, or more frequently if so desired by the trustee, information relating to the fiscal condition of the district from one or more groups from each of the following categories:

- (a) The governing board of the school district.
- (b) Any advisory council of the school district.
- (c) Any parent-teacher organization of the school

district.

(d) Representatives from the community in which the school district is located.

(e) The County Office Fiscal Crisis and Management Assistance Team.

SEC. 8. (a) The Oakland Unified School District, in consultation with the County Office Fiscal Crisis and Management Assistance Team, shall develop a financial recovery plan, which shall be approved by the Alameda County Superintendent of Schools that shall include, among other things, all of the following:

- (1) Elimination of all future deficit spending.
- (2) Adoption of future balanced budgets.
- (3) Restoration of a positive fund balance.
- (4) Restoration of the 2 percent reserve for economic

uncertainty.

(b) During the year following receipt of the emergency loan pursuant to this act, commencing no later than October 31, and each year thereafter, until the loan, including interest, is repaid, the governing board of the Oakland Unified School District shall prepare and submit four quarterly interim financial reports evidencing progress on its financial recovery plan. The reports shall include, but not be limited to, all of the following information:

- (1) Specific actions taken to reduce expenditures or

increase income, and the cost savings and increased income resulting from those actions.

(2) A copy of the adopted budget for the current fiscal year.

(3) Reserves for economic uncertainties.

(4) Status of employee contracts.

(5) Obstacles to the implementation of the adopted recovery plan.

(c) The district shall submit the report to the trustee for review. Upon the trustee's approval of the report, the district shall transmit copies to the county superintendent of schools, the Superintendent of Public Instruction, and the Controller.

SEC. 9. If the Superintendent of Public Instruction, through the trustee, determines that the Oakland Unified School District is not evidencing sufficient progress on its financial recovery plan, the trustee may exercise the powers of an administrator, as provided in Article 2.5 (commencing with Section 41325) of the Education Code.

SEC. 10. The Oakland Unified School District shall bear 100 percent of all costs associated with implementing this act, except for the activities of the County Office Fiscal Crisis and Management Team.

SEC. 11. Notwithstanding Section 42238.51 of the Education Code, beginning with the 2002-03 fiscal year and continuing through the 2004-05 fiscal year, the Oakland Unified School District's average daily attendance shall be calculated for purposes of paragraph (1) of subdivision (a) of Section 42238.5 of the Education Code, as follows:

(a) Compute Oakland Unified School District's regular average daily attendance in the current year.

(b) Compute Oakland Unified School District's second principal apportionment regular average daily attendance for the prior year.

(c) To the greater of the amounts computed pursuant to subdivisions (a) and (b), add the regular average daily attendance in the current year of all pupils attending charter schools sponsored by the district that are not funded pursuant to Article 2 (commencing with Section 47633) of Chapter 6 of Part 26 of the Education Code.

SEC. 12. (a) The sum of one hundred million dollars (\$100,000,000) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for apportionment to the Oakland Unified School District for the purpose of an emergency loan. In order to qualify for the loan, the district shall comply with Article 2 (commencing with Section 41320) and Article 2.5 (commencing with Section 41325) of Chapter 3 of Part 24 of the Education Code to the extent those provisions are consistent with the conditions specified in this act.

(b) Funds may be disbursed from the proceeds of the loan

only if the trustee and the County Office Fiscal Crisis and Management Assistance Team jointly determine that the disbursement is necessary.

(c) Based on the needs of the district to meet its obligations, the Superintendent of Public Instruction may direct the Controller to disburse, on a monthly basis, specific amounts of the emergency loan before the approval of all of the conditions established by this act.

(d) For the fiscal year in which the loan moneys are disbursed and each fiscal year thereafter, the Controller, or his or her designee, shall cause an audit to be conducted of the books and accounts of the district, instead of the audit required by Section 41020 of the Education Code. At the discretion of the Controller, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the county superintendent and approved by the Controller. The costs of the audit shall be paid by the district. An audit is required annually until the Superintendent of Public Instruction, in consultation with the County Office of Education, determines that the district is financially solvent, but may not cease being required earlier than one year following the implementation of the plan required by Section 8 nor later than the time the emergency loan, including interest, is repaid. In addition, the Controller shall conduct quality control reviews pursuant to subdivision (c) of Section 14504.2 of the Education Code.

SEC. 13. (a) Notwithstanding subparagraph (A) of paragraph (2) of subdivision (a) of Section 41327 of the Education Code, the Oakland Unified School District shall repay the emergency loan incurred pursuant to Section 12 of this act as a straight line loan amortized over a 20-year term. This amount shall be repaid by the district, plus interest calculated at a rate equal to the rate earned by the Pooled Money Investment Account on the date this act becomes effective, for a period not to exceed 20 years.

(b) If a required payment is not made within 60 days after a scheduled date, the Controller shall pay the defaulted loan payment of principal and interest by withholding that amount from the next available payment that would otherwise be made to the county treasurer on behalf of the district pursuant to Section 14041 of the Education Code. However, subject to the approval of the Department of Finance, the amount withheld may be in monthly amounts as determined by an agreement between the Oakland Unified School District and the Controller during the period beginning with the next available apportionment through the month preceding the next scheduled payment.

(c) The Director of Finance may amend the payment schedule set forth in subdivision (a) if the director concludes that the amendment is warranted and is in the best interests of both the state and the Oakland Unified School District education program. Upon that determination, the director shall notify the Joint

Legislative Budget Committee that the payment scheduled will be changed on the date that is 90 days from the date of notification if the Legislature is in session. If the 90-day period ends during a recess of the Legislature or while the Legislature is not in session, the 90-day period shall be extended until the Legislature reconvenes. Amendments to the payment schedule shall defer the unpaid portion of a repayment of the earliest fiscal year in which no other repayment is scheduled. Interest shall accrue on the unpaid portion of a repayment from the scheduled due date until the time the payment is actually made. The interest charge shall be the rate equal to the daily investment rate of the Pooled Money Investment Account on the date the pay schedule is changed.

(d) The school district may repay its loan obligation without incurring any prepayment penalties.

SEC. 14. (a) Notwithstanding Sections 17456, 17462, and 17463 of the Education Code, or any other law, from June 1, 2003, to June 30, 2005, inclusive, the Oakland Unified School District may declare as surplus property any property owned by the district, and may sell, sell back, lease, or leaseback that property on or before June 30, 2004, and use the proceeds from the sale, sale back, lease, or leaseback to reduce or retire the emergency loan provided by Section 12 of this act. In selling or leasing surplus property pursuant to this subdivision, the district shall be exempt from the requirements of Sections 17459 and 17464 of the Education Code.

SEC. 15. The Alameda County Superintendent of Schools maintains the responsibility to superintend school districts under its jurisdiction. This act does not remove any statutory or regulatory rights, duties, or obligations from the county superintendent of school.

SEC. 16. The Department of Finance is authorized to redirect funds appropriated in Item 6110-107-0001 of Section 2.00 of the Budget Act of 2002 for the purposes of funding activities of the County Office Fiscal Crisis and Management Assistance Team specified in this act.

SEC. 17.

Amendment 2

On page 2, line 17, strike out "SEC. 4." and insert:

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district are the result of a program for which legislative authority was requested by that local agency or school district, within the meaning of Section 17556 of the Government Code and Section 6 of Article XIII B of the California Constitution.

SEC. 19.

Amendment 3

On page 2, line 24, strike out "fiscal obligations as soon as possible" and insert:

cash obligations for this fiscal year

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