

SENATE COMMITTEE ON EDUCATION
John Vasconcellos, Chair
2003-2004 Regular Session

BILL NO: SB 39
AUTHOR: Perata
AMENDED: April 7, 2003
FISCAL COMM: Yes
URGENCY: Yes

HEARING DATE: April 9, 2003
CONSULTANT: James Wilson

SUBJECT Emergency Loan: Oakland Unified School District

SUMMARY

This bill, an urgency measure, appropriates \$100 million for an emergency loan to the Oakland Unified School District, requiring the district's finances to be reviewed by a state appointed trustee who would have "stay and rescind" authority over district governing board actions during the term of the loan.

BACKGROUND

Current law requires that emergency loans be provided by legislative appropriation and that acceptance of a loan that exceeds 200% of a district's recommended reserve requires that:

- The State Superintendent of Public Instruction (SPI) assume all the legal rights, duties and powers of the governing board of the district.
- The SPI may appoint an administrator to act on behalf of the SPI.
- The school district governing board shall be advisory only.
- The authority of the SPI and the state-appointed administrator shall continue until specified conditions have been met including SPI determination that future compliance with recovery plans is probable.

When specified conditions have been met, current law allows the SPI to appoint a trustee to replace the administrator. A trustee has the authority to "stay and rescind" any action of the local district governing board that, in the judgment of the trustee, may affect the financial condition of the district, but the governing board otherwise regains its authority.

Previous emergency loans have been made to the Compton, West Contra Costa (Richmond) and Emeryville School Districts, among others. Earlier this year, AB 38 (Reyes, Chapter 1 of 2002) provided a \$2 million emergency loan to the West Fresno Elementary School District.

In 1993 and 1994 the **Compton Unified School District** requested and the State provided emergency loans totaling almost \$20 million. In accord with statute governing emergency loans, the SPI assumed all the legal rights, duties

and powers of the school district governing board and appointed an administrator to govern the district on her behalf. The loan was repaid in full in June 2001, but the former state appointed administrator continues to serve as a trustee until such time as the SPI determines that the district's fiscal condition is likely to remain sound.

In June 1990, the **West Contra Costa Unified School District** requested and the State provided a \$9.5 million emergency loan. In accord with state law at that time, the SPI appointed a state trustee for the Richmond Unified School District, as it was known then. In October 1990 the district requested an additional \$29 million emergency loan but the loan was denied. In April 1991, the district declared bankruptcy and its intent to close the schools. The Contra Costa County Superior Court ordered the State to keep the schools open for the rest of year and in May 1991 approved an agreement between the SPI and the State Controller's Office (SCO) for the State to provide a \$19 million loan to the district. A condition of that loan was the appointment of a state administrator to exercise all the authority of the school district governing board. The administrator served from May 1991 until May 1992 and the continues as a trustee to oversee the district until the emergency loan is paid off, the district has adequate fiscal systems and controls in place, and the SPI determines that compliance with the fiscal recovery plan is probable.

At the request of the district, Chapter 950, Statutes of 1997, extended the loan repayment period an additional 20 years (to 2018) resulting in a total loan repayment period of 27 years. Chapter 578, Statutes of 2000 (AB 2265), provides the district an additional \$800,000 per year for five years in unrestricted funds. The legislation specifies that the fiscal relief is provided because, as part of the emergency apportionment loan agreement, the district was excluded from school facilities funding from 1993 through 1998. The Fiscal Crisis and Management Assistance Team (FCMAT) has conducted required six-month progress and in January 2003, reported that the district continues to make progress in each of the operational areas reviewed but several fiscal and personnel issues continue to be of concern.

In July 2001 **Emery Unified School District** requested and the State provided a \$1.3 million state emergency loan and an additional \$1 million line of credit (AB 96, Chapter 135, 2001). Consistent with emergency loan statutes, AB 96 required the SPI to assume all of the legal rights, duties and powers of the school district governing board. In August 2001, the SPI appointed a state administrator to govern on her behalf. The governing board then became an advisory body. The SPI also formally appointed the Fiscal Crisis and Management Assistance Team (FCMAT) to act as fiscal advisor to the district, as required by AB 96. In September 2001, the \$1.3 million loan was provided to the district. To date, the district has not drawn down the additional line of credit.

According to **the Oakland Unified School District**, district officials became aware of a negative general fund balance for the 2001-02 fiscal year, and of potential deficits in its 2002-03 budget, in August 2001. The district projects that it will run out of cash in May of 2003 and be unable to pay school employees.

In 1999, the Oakland Unified School District negotiated a 24.4% teacher salary increase to be phased in over three years. Also since 1999, the district believes that it has lost 3,265 pupils, worth \$15 to \$22 million in annual revenues. Despite making budget cuts for the 2002-03 fiscal year that the district believes will save approximately \$31 million, the district projects a negative fund balance at the close of the current fiscal year and the district governing has requested an emergency loan.

The District notes that, "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".

Finally, the district argues that it "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" and for this reason the district is requesting the appointment of a trustee instead of an administrator so that the district governing board and superintendent may continue to exercise authority over the district.

ANALYSIS

This bill:

- 1) Declares several findings with regard to the current status of the Oakland Unified School District, including findings that the district will run out of cash in May 2003 and be unable to pay school employees unless immediate action is taken.
- 2) Declares legislative intent that the trustee appointed by the State Superintendent, as provided by the bill, "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" achieve the following specified outcomes:
 - a) Significantly raise pupil achievement.
 - b) Improve pupil attendance.
 - c) Lower pupil dropout rate.
 - d) Increase parental involvement.
- 3) Appropriates \$100 million from the General Fund for the purpose of making an emergency loan to the Oakland Unified School District, providing that the Oakland Unified School District agrees to the appointment by the State Superintendent of Public Instruction (SPI) of a trustee with "recognized expertise in management and finance to oversee

the operations of the district." A trustee and necessary staff are required to oversee the district until the loan is repaid, and the SPI determines that a fiscal recovery plan will lead to solvency. The loan is to be repaid over a period of not more than 20 years.

- 4) Exempts the SPI from specified provisions of the Contracts and Military and Veteran's Codes with regard to the hiring of the trustee and staff, and provides for the salary and benefits of the trustee to be established by the SPI but paid out of district funds and further provides for the trustee to be deemed a district employee for liability insurance and workers compensation.
- 5) Allows an administrator who is currently a state employee to remain in his or her retirement plan and have a right of return to a comparable position
- 6) Provides that a trustee, appointed by the SPI, shall monitor and review the operation of the Oakland Unified School District and 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.
- 7) Further provides that the trustee shall maintain the core educational reforms that have led to district-wide 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.
- 8) Provides that the SPI may require that reports be prepared by the district and used by the trustee to monitor and review the operations of the district. Reports are considered public records and failure to submit an acceptable report subjects the district to a \$200 fine for each day that the report is late.
- 9) Requires the trustee to information relating to the fiscal condition of the district submitted by the district governing board, any district advisory council, parent-teacher organizations, community representatives and the Fiscal Crisis and Management Assistance Team (FCMAT).
- 10) Requires that the district, in consultation with FCMAT, develop a fiscal recovery plan to be approved by the Alameda County Superintendent. Further provides that the SPI may modify the plan as necessary. Also provides that the trustee and FCMAT must concur on the necessity for disbursement of "loan proceeds."
- 11) Requires that the district governing board prepare quarterly fiscal reports on specified items and submit these reports to the trustee for approval. Upon the trustee's approval, the reports are to be forwarded to the SPI, the county superintendent and the Controller.

- 12) Provides that the SPI may convert the trustee to a state administrator if the SPI determines that the district is not making sufficient progress on its financial recovery plan.
- 13) Provides that the Oakland School District will pay all costs of fiscal recovery, except for the costs of the FCMAT. The bill also authorizes the Department of Finance to redirect funds already appropriated to FCMAT as necessary.
- 14) Provides that, for purposes of calculating the declining enrollment adjustment of the Oakland district's apportionment for 2002-03 through 2004-05, the average daily attendance (ADA) used for purposes of that adjustment shall be augmented with the ADA of any district charter school that does not receive its funding directly from the state.
- 15) Provides that, during the term of the loan, the district's annual audit will be conducted under the direction of the State Controller, who may designate the auditor although the district is still required to pay for the audit. The Controller is also directed to conduct quality control reviews of the district.
- 16) Provides that from June 1, 2003 to June 30, 2005 the district may declare as surplus and, until June 30, 2004, may sell or lease any property without regard to the statutory conditions normally placed on such sales or leases. Among the requirements that would not apply to the district would be requirements to offer the property to other local governments or non-profit agencies or use the proceeds for capital outlay or maintenance purposes.
- 17) Declares that this bill does not impose any state mandated local costs because the act was requested by the local agency.

STAFF COMMENTS

- 1) Administrator or Trustee? The provisions of this bill differ from current law concerning the fiscal oversight and recovery of troubled districts. Most importantly the bill calls for appointment of a trustee while current law, and all previous school district fiscal recovery bills, require the appointment of a state administrator to replace the function of the local governing board. Current law allows for the appointment of a trustee, rather than an administrator, if the emergency loan is less than 200% of the district's reserve requirement. A trustee does not replace the local board, although a trustee has "stay and rescind" authority of fiscal decisions of the board. Oakland is required to have a 2% or approximately \$16 million reserve, thus setting the 200% threshold at approximately \$32 million.
- 2) Oversight of fiscal recovery. The bill currently calls for the fiscal recovery plan to be developed by the district, in consultation with the Fiscal Crisis Management Assistance Team (FCMAT) and the approved by the County Superintendent. The SPI is allowed to modify the plan, but this appears to be the only "outside" involvement in the recovery plan. This hardly seems

adequate to implement fiscal reforms in a district that got into \$100 million of fiscal trouble with budgets that were annually reviewed and approved by the County Superintendent. Statute requires that recovery plans for West Fresno and Emeryville be prepared by the FCMAT and approved by the state administrator. **Staff recommends** that the fiscal recovery plan for Oakland be prepared by the FCMAT and approved by the SPI and/ or the State Controller, if there is not to be a state appointed administrator.

SUPPORT

None received on this version of the bill.

OPPOSITION

None received

AMENDED IN SENATE APRIL 7, 2003

INTRODUCED BY Senator Perata
(Principal coauthor: Assembly Member Chan)

JANUARY 3, 2003

An act relating to the Oakland Unified School District, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, Perata. Oakland Unified School District: emergency loan.

Existing law authorizes the governing board of a school district that determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations to request an emergency apportionment through the Superintendent of Public Instruction subject to specified requirements and repayment provisions.

(1) Existing law provides for emergency apportionments to school districts subject to specified conditions including, in certain circumstances, the repayment of an emergency loan over a period of no more than 10 years and the appointment by the Superintendent of Public Instruction of an administrator who would exercise the powers and responsibilities of the governing board of the school district.

This bill would appropriate \$100,000,000 from the General Fund an unspecified amount to the Superintendent of Public Instruction for the purpose of providing the Oakland Unified School District with an emergency loan. The bill would require the superintendent to appoint a trustee to oversee the operations of the district, and would authorize the trustee to stay or rescind any action of the governing board that may affect the financial condition of the district. The bill would authorize loan funds to be disbursed from the proceeds of the loan only if the trustee and the County Office Fiscal Crisis and Management Assistance Team (FCMAT) jointly determine that disbursement is necessary. The bill would require the district to repay the loan as a straight line loan amortized over a 20-year term, with interest as provided. The bill would require the district, in consultation with FCMAT, to develop a financial recovery plan, to be approved by the Alameda County Superintendent of Schools, and would require the district, each year, to prepare and submit to the trustee 4 quarterly financial reports evidencing progress on its financial recovery plan. The bill would require the plan, upon being approved by the trustee, to be submitted to the county superintendent of schools, the Superintendent of Public Instruction, and the Controller. Under the bill, if the Superintendent of Public Instruction determines that the district is not evidencing sufficient progress on its recovery plan, the trustee may exercise the powers of an administrator.

The bill would authorize the district from June 1, 2003, to June 30, 2005, inclusive, to declare as surplus property any property of the district and to sell, sell back, lease or leaseback that property on or before June 30, 2004, and use the proceeds from that transaction to reduce or retire the loan.

The bill would require the school district to prepare specified reports, and would require the district, except as specified, to bear 100% of all costs associated with implementing its provisions, thereby imposing a state-mandated local program.

This

(2) This bill would declare that due to the unique circumstances relating to the Oakland Unified School District's fiscal emergency, a general statute cannot be made applicable.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason and would provide that with regard to any other mandates, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This

(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: ~~no~~ yes .

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares that because of the fiscal emergency in which the Oakland Unified School District finds itself, it is necessary for an appropriation to be made to Section A of the State School Fund for apportionment by the Superintendent of Public Instruction to the Oakland Unified School District for the purpose of an emergency loan.

SEC. 3. The sum of _____ dollars (\$_____) is hereby appropriated from the General Fund to Section A of the State School Fund for apportionment by the Superintendent of Public Instruction to the Oakland Unified School District for the purpose of an emergency loan.

SEC. 3.

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 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. The Legislature finds and declares that due to unique circumstances relating to the fiscal emergency in the Oakland Unified School District, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 4.

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. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to address the fiscal emergency in which the Oakland Unified School District finds itself and to ensure that it meets its fiscal obligations as soon as possible cash obligations for this fiscal year, it is necessary that this act take effect immediately.