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Board Cover Memorandum

To Board of Education

From Budget & Finance Committee
Aimee Eng, Board Member
Mike Hutchinson, Board Member
VanCedric Williams, Board Member

Meeting Date December 15, 2021

Subject Resolution No. 2021-0163B - Committing Sufficient Funds to Fully Repay State Loans

Ask of the Board Approval by the Board of Education of Resolution No. 2021-0163A - Committing Sufficient Funds to Fully Repay State Loans

Background In 2003, the State took over the District after the latter was not able to meet its financial obligations. As part of that takeover, the State authorized a \$100 million loan for the District and the Superintendent of Public Instruction (“SPI”) assumed all of the Board of Education’s rights, duties, and powers and appointed an administrator to run the District.

The administrator then borrowed all \$100 million from the State. A portion of the loan was subsequently refinanced by the sale of California Infrastructure Economic Development Bank bonds (“I-Bank loan”) that reduced, but did not eliminate, the State General Fund loan, leading to two loans. The last payment on the I-Bank loan is scheduled for January 2023 and the last payment on the State General Fund loan is scheduled for June 2026.

On June 28, 2009, the Board’s full rights, duties, and powers were reinstated, with the exception that a trustee was appointed with the ability to stay and rescind any action of the Board that, in the judgment of the trustee, may affect the financial condition of the District.

There are certain steps that must be met before the District can fully repay the loans and, even then, the stay/rescind authority is not necessarily automatically removed. Under State law, the District needs to hire an auditor to conduct an audit of its fiscal systems before OUSD may fully repay its loans. Additionally, the trustee serves until, among other things, OUSD has adequate fiscal systems and controls in place; and even after there is no more trustee, Alameda County Superintendent

L.K. Monroe retains the ability to stay and rescind any action of the Board until the District's loans are repaid.

On June 23, 2021, the Board adopted Resolution No. 2021-0163 - Preparing Plan to Fully Repay State Loans, which expressed the Board's intent to fully repay the I-Bank and the State General Fund loans by no later than January 2023. It also directed the Superintendent or designee to prepare and present to the Board a plan ("Repayment Plan") for consideration by the Board no later than December 2021 that would, among other things, allow the District to fully repay the I-Bank and the State General Fund loans by no later than January 2023. The Repayment Plan would need to include, among other things, a plan to set aside the necessary funds by June 2022 (in order to realize the ongoing savings in the 2022-23 budget).

Discussion

Upon internal discussions as well as external discussions with the Alameda County Office of Education, staff does not recommend attempting to immediately repay the I-Bank and the State General Fund loans. Staff is not confident that the District would pass the fiscal systems audit, which is required before the loans can be fully repaid. If the District were to press forward with an audit and not pass, it would be a significant and unnecessary setback.

Instead, the proposed Resolution would commit the necessary funds to make the remaining payments on the I-Bank and the State General Fund loans. (This "commitment" is a term of art that legally restricts the use of the funds for the articulated purpose or until the commitment is modified or removed by the Board. District staff cannot modify or change such a commitment.) The intent of the Resolution is to remove the ongoing expense of the loan payments from the District's budget starting in 2022-23.

This item was discussed at the December 2, 2021 Budget & Finance Committee meeting. At that meeting, staff noted that certain changes were needed, particularly an increase in the committed amount, language permitting more flexibility in regards to the ability to prepay one or both of the loans, and language responding to the possibility of certain investment requirements of the committed funds. Rather than amending the Resolution at the meeting, the Committee approved the proposed version "with the details to be worked out by staff." With this direction in mind, a revised version of the Resolution (numbered 2021-0163B) is being brought forward. A redlined copy showing the changes from Resolution No. 2021-1063A is also included.

Fiscal Impact

\$21,500,000 from one time funds from the Base Unrestricted General Fund and/or from the allowable use of any applicable one-time fund and/or one time transfer of expenditures. This is a one-time cost that will effectively remove the ongoing expense of the debt services payments for both the I-Bank loan and the State General Fund loan.

Attachment(s)

- Resolution No. 2021-0163B - Committing Sufficient Funds to Fully Repay State Loans

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2021-0163B

Committing Sufficient Funds to Fully Repay State Loans

WHEREAS, as a result of the District not being able to meet its financial obligations, the State authorized a \$100 million loan for the District and, consistent with state law at the time, the Superintendent of Public Instruction (“SPI”) assumed all of the Board of Education’s rights, duties, and powers and appointed an administrator to run the District;

WHEREAS, the State-appointed administrator borrowed all \$100 million from the State and a portion of the loan was subsequently refinanced by the sale of California Infrastructure Economic Development Bank bonds (“I-Bank loan”), leading to two outstanding loans for the District;

WHEREAS, the last payment on the I-Bank loan is scheduled for January 2023 and the last payment on the State General Fund loan is scheduled for June 2026;

WHEREAS, the Board’s full rights, duties, and powers were reinstated on June 28, 2009, with the exception that a trustee was appointed with the ability to stay and rescind any action of the Board that, in the judgment of the trustee, may affect the financial condition of District;

WHEREAS, Education Code section 41320.1 states that the trustee shall serve until, among other things, OUSD “has adequate fiscal systems and controls in place” and that even “[a]fter the trustee’s period of service” Alameda County Superintendent Monroe retains the ability to stay and rescind any action of the Board until the District’s loans are repaid;

WHEREAS, Education Code section 41320.1 also states, in relevant part, that there needs to be “an audit of its fiscal systems” before OUSD may fully repay its loans;

WHEREAS, paying off the loan debt at the earliest opportunity would help address the District’s long-term structural financial challenges and, more generally, would be an example of sound fiscal management and governance; and

WHEREAS, it is in the interest of the students and staff of OUSD as well as the taxpayers of Oakland for the Board to regain complete democratic control of the District.

NOW, THEREFORE, BE IT RESOLVED, the Board of Education hereby commits \$21.5 million from the Base Unrestricted General Fund and/or from the allowable use of any applicable one-time fund and/or one time transfer of expenditures for the exclusive purpose of prepaying one or both of the I-Bank and the State General Fund loans and/or making the debt service payments on the I-Bank and the State General Fund loans;

BE IT FURTHER RESOLVED, the Superintendent or designee shall first use these committed funds, before using another other funding source, to prepay one or both of the I-Bank and the State General Fund loans and/or to make debt service payments on the I-Bank and the State General Fund loans, and whether to use these committed funds to prepay and/or make debt service payments shall be at the Superintendent's discretion;

BE IT FURTHER RESOLVED, the funds so committed shall remain restricted to the purposes specified herein unless or until such time as the Board rescinds this Resolution, provided that once the I-Bank and the State General Fund loans are fully repaid, the restriction on any remaining committed funds shall terminate without the need for additional Board action and the Superintendent or designee shall transfer such funds to the unassigned ending fund balance as appropriate;

BE IT FURTHER RESOLVED, any committed funds shall be housed, invested, or otherwise located and accounted for in a manner consistent with all applicable legal requirements as determined by the Superintendent and she is empowered to house, invest, or otherwise locate and account for any committed funds in a manner consistent with all such legal requirements; and

BE IT FURTHER RESOLVED, the Superintendent or designee is authorized to take any accounting or financial actions to effectuate the intent of purpose of this Resolution.

PASSED AND ADOPTED on _____, 2021, by the Governing Board of the Oakland Unified School District by the following vote:

PREFERENTIAL AYE:

PREFERENTIAL NOE:

PREFERENTIAL ABSTENTION:

PREFERENTIAL RECUSE:

AYES:

NOES:

ABSTAINED:

RECUSED:

ABSENT:

CERTIFICATION

We hereby certify that the foregoing is a full, true, and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on December ____, 2021.

Legislative File	
File ID Number:	21-1543A
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OAKLAND UNIFIED SCHOOL DISTRICT

Shanthi Gonzales
President, Board of Education

Kyla Johnston-Trammell
Superintendent and Secretary, Board of Education

**RESOLUTION OF THE
BOARD OF EDUCATION OF THE
OAKLAND UNIFIED SCHOOL DISTRICT**

Resolution No. 2021-0163B

Committing Sufficient Funds to Fully Repay State Loans

REDLINE COMPARED WITH RESOLUTION NO. 2021-0163A

WHEREAS, as a result of the District not being able to meet its financial obligations, the State authorized a \$100 million loan for the District and, consistent with state law at the time, the Superintendent of Public Instruction (“SPI”) assumed all of the Board of Education’s rights, duties, and powers and appointed an administrator to run the District;

WHEREAS, the State-appointed administrator borrowed all \$100 million from the State and a portion of the loan was subsequently refinanced by the sale of California Infrastructure Economic Development Bank bonds (“I-Bank loan”), leading to two outstanding loans for the District;

WHEREAS, the last payment on the I-Bank loan is scheduled for January 2023 and the last payment on the State General Fund loan is scheduled for June 2026;

WHEREAS, the Board’s full rights, duties, and powers were reinstated on June 28, 2009, with the exception that a trustee was appointed with the ability to stay and rescind any action of the Board that, in the judgment of the trustee, may affect the financial condition of District;

WHEREAS, Education Code section 41320.1 states that the trustee shall serve until, among other things, OUSD “has adequate fiscal systems and controls in place” and that even “[a]fter the trustee’s period of service” Alameda County Superintendent Monroe retains the ability to stay and rescind any action of the Board until the District’s loans are repaid;

WHEREAS, Education Code section 41320.1 also states, in relevant part, that there needs to be “an audit of its fiscal systems” before OUSD may fully repay its loans;

WHEREAS, paying off the loan debt at the earliest opportunity would help address the District’s long-term structural financial challenges and, more generally, would be an example of sound fiscal management and governance; and

WHEREAS, it is in the interest of the students and staff of OUSD as well as the taxpayers of Oakland for the Board to regain complete democratic control of the District.

NOW, THEREFORE, BE IT RESOLVED, the Board of Education hereby commits \$~~721~~.5 million from the Base Unrestricted General Fund and/or from the allowable use of any applicable one-time fund and/or one time transfer of expenditures for the exclusive purpose of prepaying one or both of the I-Bank and the State General Fund loans and/or making the debt service payments on the I-Bank and the State General Fund loans;

BE IT FURTHER RESOLVED, the Superintendent or designee shall first use these committed funds, before using another other funding source, to prepay one or both of the I-Bank and the State General Fund loans and/or to make ~~the~~ debt service payments on the I-Bank and the State General Fund loans, and whether to use these committed funds to prepay and/or make debt service payments shall be at the Superintendent's discretion ~~before any other funding source is used~~;

BE IT FURTHER RESOLVED, the funds so committed shall remain restricted to the purposes specified herein unless or until such time as the Board rescinds this Resolution, provided that once the I-Bank and the State General Fund loans are fully repaid, the restriction on any remaining committed funds shall terminate without the need for additional Board action and the Superintendent or designee shall transfer such funds to the unassigned ending fund balance as appropriate; ~~and~~

BE IT FURTHER RESOLVED, any committed funds shall be housed, invested, or otherwise located and accounted for in a manner consistent with all applicable legal requirements as determined by the Superintendent and she is empowered to house, invest, or otherwise locate and account for any committed funds in a manner consistent with all such legal requirements; and

BE IT FURTHER RESOLVED, the Superintendent or designee is authorized to take any accounting or financial actions to effectuate the intent of purpose of this Resolution.