

**Assembly Bill No. 2859**

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Passed the Assembly August 29, 2002

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*Chief Clerk of the Assembly*

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Passed the Senate August 28, 2002

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to add Section 45037 to, and to add and repeal Section 41329.3 of, the Education Code, relating to education, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2859, Aroner. School finance.

(1) Existing law requires the Superintendent of Public Instruction and the Director of Finance to establish a repayment plan for funds that a local education agency received on the basis of average daily attendance, or other data, that did not comply with statutory or regulatory requirements that were conditions of the apportionments. Existing law authorizes the Controller to withhold the disallowed amount from a school district's next principal apportionment.

This bill would reallocate specified amounts withheld from the Berkeley Unified School District's 2000–01 and 2001–02 principal apportionments and the district's 2002–03 first principal apportionment to the Kern County Office of Education for use by the County Office Fiscal Crisis and Management Assistance Team for purposes of conducting specified assessments and improvement plans, this constituting an appropriation. This bill would impose a state-mandated local program by requiring the County Office Fiscal Crisis and Management Assistance Team to prepare the assessments and improvement plans and by requiring the Berkeley Unified School District, commencing with the 2003–04 fiscal year and continuing through the 2004–05 fiscal year, to allocate a specified sum, in accordance with a specified schedule, to implement the improvement plans. The bill would require an additional amount to be withheld from the district's 2005–06 first principal apportionment if a certain sum is not expended for purposes consistent with the improvement plans.

(2) Existing law provides that whenever a person has rendered service in a position requiring certification qualifications for a period of service during which the person did not have a valid credential, the rendering of service shall be deemed legal if the Commission for Teacher Preparation and Licensing approves the service.



This bill would provide that, except as specified above, for the fiscal year 2001–02 and any fiscal year thereafter in which a person renders service as a teacher in kindergarten or any of grades 1 to 12, inclusive, who does not have a valid certification document, the school district or county office of education in which the person is employed shall be assessed a penalty, calculated pursuant to a specified formula.

(3) This bill would provide that for the 2000–01 school year every person employed by the Emery Unified School District as a teacher in kindergarten or any of grades 1 to 12, inclusive, shall be deemed to have possessed a valid certification document and received specified training.

(4) The bill would make certain findings and declarations regarding the Berkeley Unified School District and the Emery Unified School District and the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

(5) The funds appropriated by this bill would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution for that fiscal year.

(6) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Appropriation: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 41329.3 is added to the Education Code, to read:

41329.3. (a) The County Office Fiscal Crisis and Management Assistance Team shall conduct comprehensive



assessments and shall complete, by July 1, 2003, the following improvement plans for the Berkeley Unified School District:

(1) An instructional improvement plan that includes special education and programs for English language learners and is consistent with the financial improvement plan required by paragraph (2). The plan shall specify pupil outcomes that reflect significant improvement in pupil achievement, particularly in the areas of reading, writing, and mathematics. Among the areas addressed by the plan shall be the alignment between the written, taught, and tested curriculum consistent with the state's adopted instructional standards, and the use of assessment data to make appropriate pupil placements and allocate district resources. Included in the plan shall be a clear link between professional development for all instructional staff and pupil achievement objectives, including the need for ongoing analysis and use of assessment results to tailor instruction to meet the needs of all pupils.

(2) A financial improvement plan that is consistent with the instructional improvement plan required by paragraph (1) and that includes the current and future projected solvency and fiscal integrity of the school district. The financial improvement plan shall also include, but not be limited to, specific strategies to fund the full implementation of the improvement plans specified in this section and for improving the following:

- (A) Management information systems.
- (B) Accounting and internal control procedures.
- (C) Attendance accounting procedures.

(3) A facilities improvement plan that shall be consistent with the financial improvement plan required by paragraph (2), and that includes, but is not limited to, specific strategies for improving the following:

- (A) Protection and safety for pupils, employees, and district property.
- (B) Ongoing maintenance of district property.
- (C) Management control and procedures for managing all construction and modernization projects.

(4) A personnel management improvement plan that is consistent with the financial improvement plan required by paragraph (2), and that includes, but is not limited to, specific strategies for improving the following:



(A) The recruitment, retention, screening, assessment, and hiring procedures for all district staff.

(B) The training of members of the governing board of the school district in the subjects about which members of the governing board must have knowledge in order to discharge their duties as board members effectively.

(C) The assessment of the administrative practices of the school district and staff development to ensure that staff have the knowledge and skills required to manage effectively the educational programs, finances, safety, and facilities maintenance of the school district.

(D) The calculation and maintenance of appropriate and efficient full-time equivalent staffing rations for all school district staff.

(E) The governance structure of the school district in relation to board policy development, operational effectiveness, and responsiveness to the community.

(F) In addition, the personnel management improvement plan shall provide data and analysis on the number of district certificated personnel who are serving on credential waivers or emergency permits. The plan shall provide for monitoring and support for personnel in their daily instructional duties and in completing subject matter and professional preparation requirements through a traditional, university-based program, alternative certification program, or training to pass the CBEST exam.

(5) A community relations improvement plan that is consistent with the financial improvement plan required by paragraph (2), and that includes, but is not limited to, specific strategies for improving the communication among the governing board, personnel of the school district, pupils, and parents.

(b) Commencing in December 2003, and each six months thereafter until June 2005, the County Office Fiscal Crisis and Management Assistance Team shall file a written status report with the appropriate fiscal and policy committees of the Legislature, including any special committees created for the purpose of reviewing the reports, and with the legislators representing the Berkeley Unified School District, the governing board of the school district, the Alameda County Office of Education, the Superintendent of Public Instruction, the Director of Finance, and



the Secretary for Education. The reports shall include the progress that the Berkeley Unified School District is making in meeting the recommendations of the improvement plans developed pursuant to subdivision (a).

(c) The County Office Fiscal Crisis and Management Assistance Team shall provide an accounting of expenditures made by it pursuant to the requirements of this act to the Controller and the Alameda County Office of Education. The Controller shall certify unexpended balances for purposes of subdivision (d) of Section 2.

(d) This section shall remain in effect only until June 1, 2006, and as of that date is repealed, unless a later enacted statute that is enacted before June 1, 2006, deletes or extends that date.

SEC. 2. Section 45037 is added to the Education Code, to read:

45037. (a) Except as provided in Section 45036, for the fiscal year 2001–02 and for any fiscal year thereafter in which a person renders service as a teacher in kindergarten or any of grades 1 to 12, inclusive, who does not have a valid certification document, the school district or county office of education in which the person is employed shall be assessed a penalty that shall be in lieu of any loss of funding that would otherwise result under Chapter 6.10 (commencing with Section 52120) of Part 28. The penalty shall be calculated as provided in subdivision (b) and withheld from state funding otherwise due to the district or county office of education.

(1) Notwithstanding Section 46300, the attendance of the noncertificated person's pupils during the period of service shall be included in the computation of average daily attendance.

(2) The noncertificated person's period of service shall not be excluded from the determination of eligibility for incentive funding for a longer instructional day or year, or both, pursuant to Article 8 (commencing with Section 46200) of Chapter 2 of Part 26.

(b) (1) For each person who rendered service in the employment of the district or county office of education as a teacher in kindergarten or any of grades 1 to 12, inclusive, during the fiscal year, add the total number of schooldays on which the person rendered any amount of the service.



(2) For each person who rendered service in the employment of the district or county office of education as a teacher in kindergarten or any of grades 1 to 12, inclusive, during the fiscal year, for a period of service during which the person did not have a valid certification document, add the number of schooldays on which the person rendered any amount of the service without a valid certification document.

(3) Divide the number determined in paragraph (2) by the number determined in paragraph (1) and carry the result to four decimal places.

(4) Multiply a school district's revenue limit entitlement for the fiscal year, calculated pursuant to Section 42238, or its funding amount calculated pursuant to Article 4 (commencing with Section 42280) of Chapter 7 of Part 24, as applicable, or a county office of education's funding for the fiscal year, for the program in which the noncertificated person rendered service by the number determined in paragraph (3).

(c) Beginning in 2002–03, if a county office of education draws an order for a warrant in favor of a person for whom a period of school district service is included in the calculation set forth in paragraph (2) of subdivision (b), the county office shall be assessed a penalty. The penalty assessed to a county office for any fiscal year in which one or more district teachers did not have a valid certification document shall be equal to the lesser of three amounts as follows:

(1) Fifty percent of all penalties assessed for that fiscal year to all school districts in the county office's jurisdiction pursuant to subdivision (b).

(2) One-half percent of the total expenditures for that fiscal year from unrestricted resources, as defined in the California School Accounting Manual, in the county office's county school service fund, when two or fewer districts in the county office's jurisdiction are subject penalties pursuant to subdivision (b).

(3) One percent of the total expenditures for that fiscal year from unrestricted resources, as defined in the California School Accounting Manual, in the county office's county school service fund, when three or more districts in the county office's jurisdiction are subject penalties pursuant to subdivision (b).

(d) Nothing in this section may be waived in whole or in any part.



SEC. 3. (a) The State Department of Education shall reallocate the sum of five hundred eighty thousand four hundred forty-eight dollars (\$580,448) withheld from the Berkeley Unified School District's 2000–01 and 2001–02 principal apportionments, to the Kern County Office of Education for use by the County Office Fiscal Crisis and Management Assistance Team for the purposes of conducting the assessments and completing the improvement plans specified in Section 41329.3 of the Education Code.

(b) The State Department of Education shall reallocate the sum of one hundred nineteen thousand five hundred fifty-two dollars (\$119,552) scheduled to be withheld from the Berkeley Unified School District's 2002–03 first principal apportionment to the Kern County Office of Education for use by the County Office Fiscal Crisis and Management Assistance Team for the purposes of conducting the assessments and completing the improvement plans specified in Section 41329.3 of the Education Code.

(c) Commencing with the 2003–04 fiscal year, and continuing through the 2004–05 fiscal year, the Berkeley Unified School District shall allocate the sum of four hundred sixty thousand eight hundred ninety-six dollars (\$460,896) from the district's general fund to implement the improvement plans specified in Section 41329.3 of the Education Code in accordance with the following schedule:

(1) In the 2003–04 fiscal year, the Berkeley Unified School District shall expend two hundred thirty thousand four hundred forty-eight dollars (\$230,448) to implement the improvement plan.

(2) In the 2004–05 fiscal year, the Berkeley Unified School District shall expend two hundred thirty thousand four hundred forty-eight dollars (\$230,448) to implement the improvement plan.

(d) Not later than June 30, 2005, the Alameda County Office of Education, with the assistance and concurrence of the Fiscal Crisis and Management Assistance Team, shall review the expenditures made by the Berkeley Unified School District of the funds provided in paragraphs (1) and (2) of subdivision (c) and determine the amount of expenditures made for purposes consistent with the improvement plans, and, if the expenditures are determined to be less than four hundred sixty thousand eight



hundred ninety-six dollars (\$460,896), the difference shall be withheld from the district's 2005–06 first principal apportionment.

(e) The amounts available in subdivisions (a) and (b) are available for expenditure during the 2002–03 and 2003–04 fiscal years. Unexpended balances as of June 30, 2004, shall be repaid to the General Fund to be reappropriated to the Berkeley Unified School District to implement the improvement plans specified in Section 41329.3 of the Education Code.

SEC. 4. Notwithstanding any provision of the Education Code, for the 2000–01 school year, every person employed by the Emery Unified School District as a teacher in kindergarten or any of grades 1 to 12, inclusive, shall be deemed to have possessed a valid certification document and shall be deemed to have received training pursuant to Section 52127 of the Education Code, if applicable.

SEC. 5. Due to the unique circumstances concerning the Berkeley Unified School District and the district's need to improve its management and operations with the assistance of the Fiscal Crisis and Management Assistance Team, and to unique circumstances involving the operation of the Emery Unified School District, it is necessary that special funding provision be enacted, and the Legislature finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.



Approved \_\_\_\_\_, 2002

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*Governor*

