

HOUSE No. 3409

The Commonwealth of Massachusetts

PRESENTED BY:

Anne M. Gobi

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to the financial condition of the Spencer-East Brookfield Regional School District.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>

HOUSE No. 3409

By Ms. Gobi of Spencer, a petition (subject to Joint Rule 12) of Anne M. Gobi, Stephen M. Brewer and Peter J. Durant for legislation to authorize the Spencer-East Brookfield Regional School District to borrow certain funds. Education.

The Commonwealth of Massachusetts

An Act relative to the financial condition of the Spencer-East Brookfield Regional School District.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect the resources required for the education of students enrolled in the Spencer-East Brookfield regional school district, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

□

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. As used in this act, the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:

3 Commissioner: the commissioner of the department of elementary and secondary
4 education, or his designee.

5 Director: the director of accounts in the department of revenue, or his designee.

6 District: the Spencer-East Brookfield regional school district.

7 School committee: the Spencer-East Brookfield regional school committee.

8 Secretary: the secretary of administration and finance, or his designee.

9 SECTION 2. (a) Notwithstanding any general or special law or the regional school
10 district agreement to the contrary, the Spencer-East Brookfield regional school district, by
11 majority vote of the school committee and with the approval of the commissioner in consultation
12 with the director, may borrow up to \$3,000,000 for the purpose of funding deficits in the
13 district's fiscal year 2013 budget. The commissioner may limit the amount to be borrowed to
14 amounts less than approved by the school committee. Notwithstanding chapters 44 and 44A of

15 the General Laws, bonds or notes issued for the purposes of this act shall be for such terms, not
16 to exceed ten years, as are approved by the commissioner in consultation with the director.
17 Bonds or notes issued for the purposes of this act shall be backed by the full faith and credit of
18 the district and may be issued as qualified bonds or notes. Indebtedness incurred under this act
19 shall otherwise be subject to said chapter 44.

20 (b) The maturities of each issue of bonds or notes authorized under this act, including any
21 refunding bonds, may, if approved by the regional school district officers authorized to issue and
22 approve these bonds or notes and by the commissioner, in consultation with the director, be
23 arranged so that for each issue the amounts payable in the several years for principal and interest
24 combined are as nearly equal as is practicable in the opinion of the officers authorized to issue
25 and approve the bonds or notes or, in the alternative, in accordance with a schedule providing for
26 a more rapid amortization of principal.

27 (c) All proceeds of bonds or notes issued pursuant to this act exclusive of any costs of
28 preparing, issuing and marketing such bonds or notes shall be deposited in the general fund of
29 the district.

30 SECTION 3. (a) Notwithstanding any general or special law or the regional school
31 district agreement to the contrary, at any time while debt issued under this act is outstanding, the
32 superintendent of schools and other officials of the district shall promptly provide such
33 information and reports as may be requested by the commissioner. The following actions shall be
34 subject to the written approval of the commissioner: (i) adoption or reconsideration of the district
35 budget; (ii) transfer of budgetary authority between line items; (iii) encumbrance or expenditure
36 of funds not included in the general fund budget; (iv) borrowing; (v) execution of new or
37 amended collective bargaining agreements; (vi) execution of new contracts or amendments to
38 existing contracts with a value of \$25,000 or more; and (vii) establishment, increase, or decrease
39 of user fees.

40 (b) At any time while debt issued under this act is outstanding, the commissioner may
41 impound any unencumbered funds for such period of time as he determines and may undertake
42 any initiatives that he deems necessary to secure the financial stability of the district. The
43 commissioner may require the district to employ a fiscal overseer, whose appointment shall be
44 subject to the commissioner's approval. The fiscal overseer shall: (i) supervise all financial
45 services and activities of the district; (ii) assist in the development and preparation of the budget;
46 (iii) monitor the expenditure of all funds; (iv) make recommendations to the commissioner
47 regarding the actions set forth in subsection (a); (v) assess and monitor the ability of the district
48 to manage its finances; and (vi) report at least monthly to the commissioner.

49 (c) In any fiscal year during which debt issued under this act is outstanding, the district
50 shall submit to the commissioner quarterly reports presenting a budget to actual comparison of
51 revenues and expenditures. The written reports shall be submitted within 30 days after the

52 conclusion of each fiscal quarter and shall be in such form and include such information and
53 detail as the commissioner may prescribe.

54 (d) The commissioner may waive any reporting or filing requirements contained in this
55 act.

56 (e) At any time while debt issued under this act is outstanding, if the commissioner
57 determines that the district has taken necessary steps to achieve long-term sustainability and no
58 longer requires active oversight, the commissioner may authorize the district to terminate the
59 employment of the fiscal overseer.

60 (f) If at any time the commissioner believes that a finance control board should be
61 established, the commissioner, in consultation with the director, may recommend that the
62 secretary establish such a board. The secretary may, upon receipt of such recommendation,
63 establish such a board in accordance with section 8 of this act. Upon the establishment of such a
64 board, the position of fiscal overseer shall be terminated.

65 SECTION 4. (a) With respect to fiscal year 2014 and any other year in which bonds or
66 notes authorized under this act remain outstanding, the commissioner, in consultation with the
67 director, shall ascertain whether the district budget for that fiscal year contains adequate revenues
68 to meet the appropriations set forth therein and shall report his findings to the superintendent and
69 the school committee. If the commissioner determines that the district budget does not contain
70 adequate revenues to meet the expenditures set forth therein for the applicable fiscal year, the
71 commissioner may recommend further action to achieve a balanced budget. In such a case, the
72 district's net assessment of the budget in such fiscal year to each of the towns of Spencer and
73 East Brookfield shall not be payable by each of such towns unless and until the district has
74 approved or taken action acceptable to the commissioner to achieve a balanced budget.

75 (b) In any fiscal year during which bonds or notes authorized in this act remain
76 outstanding, the director shall not certify the excess and deficiency fund of the district until an
77 audit report for the preceding fiscal year has been received and accepted. The audit report shall
78 be prepared by a certified public accountant in accordance with generally accepted auditing
79 standards and shall include accompanying financial statements.

80 (c) In any fiscal year during which bonds or notes authorized in this act remain
81 outstanding, the district shall not issue any bond or note without written notification to, and the
82 prior approval of, the director .

83 (d) Nothing in this act shall abrogate the commissioner's authority to establish a budget
84 and order assessments for the district pursuant to section 16B of chapter 71 of the General Laws.

85 SECTION 5. Notwithstanding any general or special law to the contrary, for fiscal year
86 2014 and for any subsequent fiscal year during which bonds or notes authorized in this act

87 remain outstanding, the towns of Spencer and East Brookfield, by majority vote, are authorized
88 to appropriate amounts held in any stabilization fund created in accordance with section 5C of
89 chapter 40 of the General Laws to pay each such town's allocable assessment of the district's
90 budget for such fiscal year.

91 SECTION 6. (a) Notwithstanding any general or special law or the regional school
92 district agreement to the contrary, the district shall establish a special reserve fund for
93 extraordinary and unforeseen expenditures, which fund shall be called the Supplemental Reserve
94 Fund to Ensure Fiscal Stability. This fund shall be separate from and in addition to any amounts
95 appropriated under section 16G½ of chapter 71 of the General Laws.

96 (b) Commencing with fiscal year 2014 and for all following fiscal years, the school
97 committee shall include in its proposed budget a supplemental reserve fund sum, as determined
98 under this act.

99 (c) The supplemental reserve fund sum for fiscal year 2014 shall be an amount equal to
100 0.25 per cent of the gross amount of the regional district budget for the prior fiscal year as
101 determined by the commissioner; the supplemental reserve fund sum for fiscal year 2015 shall be
102 an amount equal to 0.50 per cent of the gross amount of the regional district budget for the prior
103 fiscal year as determined by the commissioner; the supplemental reserve fund sum for fiscal year
104 2016 shall be an amount equal to 0.75 per cent of the gross amount of the regional district budget
105 for the prior fiscal year as determined by the commissioner; the supplemental reserve fund sum
106 for fiscal year 2017 shall be an amount equal to 1 per cent of the gross amount of the regional
107 district budget for the prior fiscal year as determined by the commissioner; and the supplemental
108 reserve fund sum for fiscal year 2018 and each subsequent fiscal year shall be an amount equal
109 to 1.5 per cent of the gross amount of the regional district budget for the prior fiscal year as
110 determined by the commissioner.

111 (d) In each year the amount required to be included in the budget for the supplemental
112 reserve fund may be reduced by the amount, if any, remaining in the supplemental reserve fund
113 established for the preceding year after all expenditures have been made from it as authorized in
114 this act, and this remaining amount shall be retained in the supplemental reserve fund for the
115 current fiscal year.

116 (e) Transfers or expenditures may be authorized from the supplemental reserve fund of
117 any fiscal year during that fiscal year only, and then only by the school committee with the
118 approval of the commissioner. Requests for transfers or expenditures shall be made by the
119 superintendent and shall be accompanied by a written statement detailing the amount and the
120 reason for the transfer or expenditure. Except for transfers or expenditures that are authorized in
121 this act, there shall be no other transfers or reductions in the amount of this fund.

122 (f) All amounts required by this act to be included in the district budget for each fiscal
123 year shall be included in the calculation of assessments to the member towns by the regional
124 school district treasurer.

125 SECTION 7. (a) No official of the district, except in the case of an emergency involving
126 the health and safety of the people or their property, shall knowingly expend or cause to be
127 expended in any fiscal year any sum in excess of that official's departmental or other
128 appropriation duly made in accordance with the law, nor commit the district, nor cause it to be
129 committed, to any obligation for the future payment of money in excess of that appropriation,
130 with the exception of court judgments.

131 (b) An official who intentionally violates this section shall be personally liable to the
132 district for any amounts expended in excess of an appropriation which the district does not
133 recover from the persons to whom the amounts were paid. The superior court or a single justice
134 of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the district
135 under this act and to order such other relief as the court finds appropriate to prevent further
136 violations of this section. A violation of this section shall be considered sufficient cause for
137 removal of an official.

138 (c) For the purposes of this section, "official" shall mean a permanent, temporary or
139 acting district department head; a member of the school committee; or any other district
140 employee with authority to authorize or approve the expenditure of funds. For the purposes of
141 this section, "emergency" shall mean a major disaster including, but not limited to, flood,
142 drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise,
143 which poses an unexpected and immediate threat to the health and safety of persons or property.

144 SECTION 8. (a) If a finance control board is established by the secretary pursuant to
145 section 3 of this act, it shall consist of 5 members: the secretary or his designee, the
146 commissioner of revenue or her designee, the deputy commissioner of the division of local
147 services of the department of revenue or his designee, the commissioner or his designee, and the
148 chairman of the school committee or his designee. Members of the board who are employees or
149 officers of the commonwealth or the district shall serve without compensation. The board shall
150 initiate and assure the implementation of appropriate initiatives to secure the financial stability of
151 the school district. Until the board ceases to exist, no appropriation, borrowing authorization or
152 transfer shall take effect until approved by the board. As used in this section, "appropriation"
153 means each line item in the district budget, and "transfer" means adjustments between or among
154 line items under the district's procedures.

155 (b) Notwithstanding any general or special law or the regional school district agreement
156 to the contrary, the board shall have the following authority: (i) The authority, by majority vote,
157 to amend at any time any appropriation, borrowing authority, transfer, or other spending
158 authority. The authority to amend, under this section, shall include the power to increase or

159 decrease an existing appropriation, borrowing authorization, transfer or spending authority; the
160 authority to eliminate an existing appropriation, borrowing authorization, transfer or spending
161 authority; and the power to create an appropriation, transfer or spending authority. In exercising
162 its authority under this clause, the board may act with respect to district spending purposes that
163 are not the subject of separately identified appropriations. (ii) Notwithstanding section 16B of
164 chapter 71 of the General Laws, or any other general or special law to the contrary, if there is no
165 annual budget lawfully established for a fiscal year by the first day of that fiscal year, the
166 authority, by majority vote, to establish a budget for that fiscal year that it considers appropriate
167 and to amend, as provided for above, the appropriations during that fiscal year. (iii) The
168 authority, by majority vote, to encumber or impound, at any time, any unexpended or
169 unencumbered appropriation or spending authority of any kind notwithstanding the prior
170 approval of the board of that appropriation or spending authority. To the extent that funds
171 previously encumbered or impounded remain encumbered or impounded at the conclusion of the
172 fiscal year, these amounts shall revert to the district's excess and deficiency account. (iv) In
173 addition to and without limitation of the other authority in this section, the independent authority,
174 by majority vote, to establish, set, raise or lower any fee or charge, for any service or other
175 district activity, otherwise within the authority of the district to establish, set, raise or lower. No
176 fee or charge shall be established, set, raised or lowered without written notice to the school
177 committee and superintendent at least 45 days before the effective date of such action.

178 (c) Action by the board, under authority of this act, shall in all respects constitute valid
179 and lawful action by the district for purposes of chapters 44, 70 and 71 of the General Laws and
180 for all school finance and other matters.

181 (d) In each fiscal year during which the board continues in existence, the superintendent
182 shall, at the same time as the annual budget is submitted to the school committee, provide to the
183 board a copy of the proposed annual budget, together with a supporting revenue and expenditure
184 statement in such detail as the board may prescribe. The board shall review this budgetary
185 information and may issue a report of its findings. In order to promote and ensure the fiscal
186 stability of the district, the board may also require the filing of a detailed annual work plan by
187 each district official with the power to make contracts or incur liabilities on behalf of the district,
188 setting forth certain actions which may be implemented by each official to ensure greater
189 efficiency in the delivery of services by the district. Each work plan shall be in such detail as the
190 board may prescribe, and may include, but not be limited to: (i) a plan for improved financial and
191 spending controls; (ii) budget guidelines and objectives for the fiscal year; (iii) a professional and
192 nonprofessional staffing plan; and (iv) a plan for other proposed savings to be implemented. Any
193 work plan submitted by a district official shall be approved by the superintendent and the school
194 committee prior to submission to the board. During the course of each fiscal year in which the
195 board is in existence, the board may require that status reports be filed with the board by these
196 district officials on a quarterly basis. The board shall have full authority to waive any reporting

197 or filing requirements contained in this section. The board may prepare reports of its findings and
198 issue recommendations for further action to the superintendent and the school committee.

199 (e) During such time as the board shall be in existence, the powers and authority assigned
200 to the commissioner in sections 2, 3, 4, and 6 of this act shall be transferred to and exercised by
201 the board.

202 (f) At the end of each fiscal year, the board may, by majority vote, elect to continue in
203 operation for the succeeding fiscal year. Prior to taking such vote, the board shall provide the
204 school committee with the opportunity to comment. If the board does not elect to continue in
205 operation for the succeeding fiscal year, its existence shall end as of the last day of the fiscal
206 year.

207 SECTION 9. The commissioner of revenue may distribute state aid payments payable to
208 the district on June 30, 2013, or such earlier date as may be recommended by the commissioner
209 and the director.

210 SECTION 10. This act shall take effect upon its passage.