

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 375

50th Legislature, 1st Session, 2011

Tracking Number: .183510.1

Short Title: Approval Before PED Emergency Supp. Distr.

Sponsor(s): Representatives James E. Smith and Dennis J. Roch

Analyst: Craig J. Johnson

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FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

Bill Summary:

House Bill 375 amends the *Public School Finance Act* relating to supplemental distributions in law to require state Board of Finance (BOF) approval of emergency supplemental distributions.

Fiscal Impact:

HB 375 does not contain an appropriation.

Fiscal Issues:

- Current law allows the Public Education Department (PED) to make emergency distributions to school districts or state-chartered charter schools in financial need. HB 375 would require the BOF to approve emergency supplemental distributions before districts receive the funds.
- From FY 01 (actuals) through FY 11 (budgeted), the Legislature has appropriated and PED has distributed nearly \$62.0 million in emergency supplemental funds to school districts and charter schools. Historical emergency supplemental distributions are attached.

Substantive Issues:

- School districts encounter unforeseen financial challenges and emergency supplemental funds are provided to address these challenges.
- There has been variation in the financial status and budgeting practices of districts receiving emergency supplemental funding.
- Some districts require additional funds to address true emergencies, while other districts use additional funds to sustain existing services.
- The rationale and criteria used by the public education department to award the funds have been unclear or inconsistent.

Background:

In the past, BOF approval has been required for certain emergency supplemental appropriations. For example, the *General Appropriation Act of 2009* (GAA) included \$4.0 million for emergency support from the appropriation contingency fund. Language included in the GAA of 2009 imposed the following requirements on those funds:

- “A distribution to a school district shall not exceed \$500,000 and shall be made only if:
 - the school district submits an application to the public education department showing that, without the distribution, the school district will have to reduce the number of school district employees or cut education programs so that the quality of public education will be severely damaged, that the school district has used its resources in a prudent manner and that the school district has no other federal, state or local resources to prevent the damage;
 - the application is recommended in writing by the public education department;
 - the application and written recommendation of the department are reviewed by the department of finance and administration and the legislative finance committee; and
 - the application and the distribution are approved by the **state board of finance.**”

BOF has broad statutory responsibilities for supervision of the state’s fiscal affairs and is supported by the Department of Finance and Administration.

During the 2010 interim, the Legislative Education Study Committee (LESC) formed the LESC School Finance Work Group to “evaluate the adequacy and effectiveness of New Mexico’s laws and regulations relating to public school finance, including the financial capacity and controls of school districts and charter schools statewide.” The work group reviewed laws, rules, and policies governing school finance, as well as the need for and use of emergency supplemental appropriations. As a result of presentations and discussions on these topics, the work group concluded that a memorial (HJM 18) was needed to study the process by which emergency supplemental funds are approved and distributed.

Related Bills:

HJM 18 *LESC Emergency Fund Distribution Work Group*