

Testimony on LD 1518

John Harker
Mount Vernon

Senator Rafferty , Representative Murphy, members of the Education and Cultural Affairs Committee,

My name is John Harker. I am a resident of Mount Vernon. Last year I tried to get the RSU38 School Board to spend just \$35,000 of the 1 million dollars of unobligated balance to directly help students. The Board did not even know they had an unobligated balance and when I told them they had over 1 million dollars, that was a surprise. They did not know about the laws on use of unobligated balances.

This proposed bill came about from my experience last year and later discussions with the DOE, and discussions with the Auditor of the district. In each case I saw how the law could be clarified to help school boards and to help citizens effectively use the funds to directly help students.

There are two sections of existing law that deal with unobligated balances and **they do conflict with each other even though one takes precedent.**

The older Section (15004) is very clear, and has the title “Unexpended balances”. The other section, Section 15689-B.6. is related to payment of state subsidies and use of the unobligated balances. Section (15004) is subservient to 15689-B.6. based on the language in the newer section that states clearly: **“Notwithstanding any other law.”**

My intent was to bring this to your attention so that you can fix the main issue of conflicting law. Typically when you have used the phrase : **“Notwithstanding any other law.”** You later go back and try to get rid of or amend previous conflicting statutes to remove the conflict.

The older 15004 section of law allows for any amount of unexpended balances, the unexpended balances must be credited to educational programming and, must be credited for the following year.

The newer 15689 section of the law allows districts to utilize the unobligated balances for *“any unit needs”*, and to *“disburse”* the funds over a three year period. In addition, the state limits the amount of funds that can be held over, and forces the districts to disburse some of the funds to reduce the town’s obligations.

The changes I made were:

1. I changed the language of what the unit can use the funds for in the newer section. I used **“Educational Program”** rather than **“the Unit’s needs”**. This is consistent with the older 15004 section. If you keep the existing language **“the Units needs”**, that allows the units to potentially use funds for major capital expenditures, which probably was not the intent of this section of law. However, you may also be able to use the terms **“Essential Programs and Services”** or **“General Fund”** definition because Educational Program is not currently defined in state law, but is in federal law.

Federal Definition of Education Program:

"Education program" is defined as any program principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution. 34 CFR § 99.3

2. I changed the newer section to allow for up to a 5% unobligated balance. When looking at the RSU 38 cash flow expenditures, I found 5% to be consistent with the needs of RSU 38 for adequate cash flow during the lowest cash point in the budget year.
3. I eliminated the requirement to reduce local town obligations and to report back to the DOE. It is very cumbersome and impossible to comply with record-keeping and reporting requirements to the DOE because many of the districts do not get their audits done for up to two years. It is those audits that determine the unobligated balance that is left and how much should be reduced from the towns obligation. It is much simpler just to take the unobligated balance, whatever it is above 5%, and spend it out in the following three years. It will logically offset the local or state share. There is also a problem with the three year extension. Most districts reset the unobligated balance every year, and a workaround usually is to put the funds into a reserve account, so perhaps the three year requirement could be eliminated as well.
4. I changed the terms "credit to" and "dispursed" to "spend" in each section in order to make sure the funds are spent. RSU 38, as an example, always increases the budget such that they come in under budget at the end of the year. Therefor they do not have to "Spend" the "dispursed" or "credited to" unobligated balance. If you say "Spend", then the unobligated portion that was credited to the next year would have to be spent before the town share.
5. Finally, I have suggested that the Units be required to keep separate cash accounting for the unobligated balances so that the amounts left are easy to report to the Boards on a monthly basis. Schools typically just keep one cash account for all general fund expenditures and mix the State, Local and unobligated cash in that one account .

Now, let me bring up just one more point. In the law it is clear that the State's intent of education law is to allow districts to control the education of their children.. And when I tried to get the DOE and the AG to weigh in on this issue, they just directed me back to the districts, citing the intent of the legislature. Now, I ask you, why are you regulating the use of the unobligated balances to begin with? Would it not be better to just eliminate both sections of law and let unexpended balances accumulate up to whatever the Townspeople allow in a particular district and let them spend it the way they wish? Just asking.

Thank you for your attention to this issue.