

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; LIMITING SCHOOL DISTRICT AND
CHARTER SCHOOL OPERATIONAL CASH BALANCES; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 22-8-41 NMSA 1978 (being Laws 1967, Chapter 16,
Section 99, as amended) is amended to read:

"22-8-41. RESTRICTION ON OPERATIONAL FUNDS--EMERGENCY
ACCOUNTS--CASH BALANCES.--

A. A school district shall not expend money from its operational fund for the acquisition of a building site or for the construction of a new structure, unless the school district has bonded itself to practical capacity or the state superintendent determines and certifies to the legislative finance committee that the expending of money from the operational fund for this purpose is necessary for an adequate public educational program and will not unduly hamper the school district's current operations.

B. A school district or charter school may budget out of cash balances carried forward from the previous fiscal year an amount not to exceed five percent of its proposed operational fund expenditures for the ensuing fiscal year as an emergency account. Money in the emergency account shall be used only for unforeseen expenditures incurred after the annual budget was approved and shall not be expended without the prior written approval of the state superintendent.

C. In addition to the emergency account, school districts or charter

H
E
C
/
H
B

7
4
5
P
a
g
e

1

schools may also budget operational fund cash balances carried forward from the previous fiscal year for operational expenditures, exclusive of salaries and payroll, upon specific prior approval of the state superintendent. The state superintendent shall notify the legislative finance committee in writing of his approval of such proposed expenditures. For fiscal years 2004 and 2005, with the approval of the state superintendent, a school district or charter school may budget so much of its operational cash balance as is needed for nonrecurring expenditures, including capital outlay.

H
E
C
/
H
B
7
4
5
P
a
g
e
2

D. Notwithstanding the provisions of Subsection C of this section, beginning with fiscal year 2006, prior to approval of a school district's or charter school's budget, the state superintendent shall verify that the reductions from the state equalization guarantee distribution have been taken pursuant to this section.

E. The allowable limit for a school district's or charter school's ending operational cash balance is:

(1) if the current year program cost is less than five million dollars (\$5,000,000), nine percent of the budgeted expenditures;

(2) if the current year program cost is five million dollars (\$5,000,000) but less than ten million dollars (\$10,000,000), seven and one-half percent of the budgeted expenditures;

(3) if the current year program cost is ten million dollars (\$10,000,000) but less than twenty-five million dollars (\$25,000,000), six percent of the budgeted expenditures;

(4) if the current year program cost is twenty-five million dollars (\$25,000,000) but less than two hundred million dollars (\$200,000,000), four and one-

half percent of the budgeted expenditures; and

(5) if the current year program cost is two hundred million dollars (\$200,000,000) or more, for fiscal year 2004, two and one-half percent of the budgeted expenditures and, for subsequent fiscal years, three percent of the budgeted expenditures.

F. Except as otherwise provided in this section, for the 2006 and subsequent fiscal years, the state superintendent shall reduce the state equalization guarantee distribution, calculated pursuant to Section 22-8-25 NMSA 1978, to each school district or charter school by an amount equal to the school district's or charter school's excess cash balance. As used in this section, "excess cash balance" means the difference between a school district's or a charter school's actual operational cash balance and the allowable limit calculated pursuant to Subsection E of this section. Provided, however, that:

(1) for a school district or charter school with a current year program cost that exceeds two hundred million dollars (\$200,000,000), if the excess cash balance is greater than twenty percent of the allowable limit calculated pursuant to Subsection E of this section, then the reduction pursuant to this subsection shall equal twenty percent of the allowable limit; and

(2) for other school districts and charter schools, if the excess cash balance is greater than eighteen percent of the allowable limit, then the reduction pursuant to this subsection shall equal eighteen percent of the allowable limit.

G. In developing budgets, school districts and charter schools shall not budget current year cash balances without the approval of the state superintendent.

H. A school district or charter school whose enrollment growth exceeds

H
E
C
/
H
B

7
4
5
P
a
g
e

3

one percent from the prior year and whose facility master plan includes the addition of a new school within two years may request from the state superintendent a waiver of up to fifty percent of the reduction otherwise required by Subsection F of this section.

H
E
C
/
H
B

I. Notwithstanding the provisions of Subsection F of this section, for fiscal year 2004, the reduction from the state equalization guarantee distribution shall be the greater of the amount calculated pursuant to that subsection or ten dollars (\$10.00) per MEM.

7
4
5
P
a
g
e

J. For the purposes of this section, "operational cash balance" means the allowable, unrestricted, unreserved operational cash balance and the emergency reserve.

4

K. For the purposes of this section, "allowable, unrestricted, unreserved operational cash balance and the emergency reserve" means the proportional share not attributable to revenue derived from the school district property tax, forest reserve funds and impact aid for which the state takes credit in determining a school district's or charter school's state equalization guarantee distribution."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.