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HOUSE BILL 158

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Rick Mi era

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; CHANGING THE BASIS FOR  
CALCULATING THE AMOUNT OF EXCESS CASH BALANCE OF SCHOOL  
DISTRICTS AND CHARTER SCHOOLS.

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] secretary determines and certifies to the  
legislative finance committee that the expending of money from

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1 the operational fund for this purpose is necessary for an  
2 adequate public educational program and will not unduly hamper  
3 the school district's current operations.

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

12 C. In addition to the emergency account, school  
13 districts or charter schools may also budget operational fund  
14 cash balances carried forward from the previous fiscal year for  
15 operational expenditures, exclusive of salaries and payroll,  
16 upon specific prior approval of the [~~state superintendent~~]  
17 secretary. The [~~state superintendent~~] secretary shall notify  
18 the legislative finance committee in writing of his approval of  
19 such proposed expenditures. For fiscal years 2004 and 2005,  
20 with the approval of the [~~state superintendent~~] secretary, a  
21 school district or charter school may budget so much of its  
22 operational cash balance as is needed for nonrecurring  
23 expenditures, including capital outlay.

24 D. Notwithstanding the provisions of Subsection C  
25 of this section, beginning with fiscal year 2006, prior to

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1 approval of a school district's or charter school's budget, the  
2 [~~state superintendent~~] secretary shall verify that the  
3 reductions from the state equalization guarantee distribution  
4 have been taken pursuant to this section.

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

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

10 (2) if the current year program cost is five  
11 million dollars (\$5,000,000) but less than ten million dollars  
12 (\$10,000,000), seven and one-half percent of the budgeted  
13 expenditures;

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

18 (4) if the current year program cost is  
19 twenty-five million dollars (\$25,000,000) but less than two  
20 hundred million dollars (\$200,000,000), four and one-half  
21 percent of the budgeted expenditures; and

22 (5) if the current year program cost is two  
23 hundred million dollars (\$200,000,000) or more, for fiscal year  
24 2004, two and one-half percent of the budgeted expenditures  
25 and, for subsequent fiscal years, three percent of the budgeted

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1       expenditures.

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

13                   (1) for a school district or charter school  
14 with a current year program cost that exceeds two hundred  
15 million dollars (\$200,000,000), if the excess cash balance is  
16 greater than twenty percent of the allowable [~~limit~~ ~~calculated~~  
17 ~~pursuant to Subsection E of this section~~] unrestricted,  
18 unreserved operational cash balance and the emergency reserve,  
19 then the reduction pursuant to this subsection shall equal  
20 twenty percent of the allowable [~~limit~~] unrestricted,  
21 unreserved operational cash balance and the emergency reserve;  
22 and

23                   (2) for other school districts and charter  
24 schools, if the excess cash balance is greater than eighteen  
25 percent of the allowable [~~limit~~] unrestricted, unreserved

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1 operational cash balance and the emergency reserve, then the  
2 reduction pursuant to this subsection shall equal eighteen  
3 percent of the allowable [~~limit~~] unrestricted, unreserved  
4 operational cash balance and the emergency reserve.

5 G. In developing budgets, school districts and  
6 charter schools shall not budget current year cash balances  
7 without the approval of the [~~state superintendent~~] secretary.

8 H. A school district or charter school whose  
9 enrollment growth exceeds one percent from the prior year and  
10 whose facility master plan includes the addition of a new  
11 school within two years may request from the [~~state~~  
12 ~~superintendent~~] secretary a waiver of up to fifty percent of  
13 the reduction otherwise required by Subsection F of this  
14 section.

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

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

23 K. For the purposes of this section, "allowable,  
24 unrestricted, unreserved operational cash balance and the  
25 emergency reserve" means the proportional share not

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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. "