

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 750

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
CHANGING THE BASIS FOR CALCULATING THE AMOUNT OF EXCESS CASH
BALANCE OF SCHOOL DISTRICTS AND CHARTER SCHOOLS; EASING
RESTRICTIONS ON 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
secretary determines and certifies to the legislative finance

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underscored material = new
[bracketed material] = delete

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

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

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

24 D. ~~[Notwithstanding the provisions of Subsection C~~
25 ~~of this section]~~ Beginning with fiscal year 2006, prior to

1 approval of a school district's or charter school's budget, the
2 secretary shall verify that the reductions from the state
3 equalization guarantee distribution have been taken pursuant to
4 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~~] fifteen percent
9 of the budgeted expenditures;

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

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

18 (4) if the current year program cost is
19 twenty-five million dollars (\$25,000,000) or more but less than
20 two hundred million dollars (\$200,000,000), [~~four and one-half~~]
21 seven 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~~
24 ~~year 2004, two and one-half percent of the budgeted~~
25 ~~expenditures and, for subsequent fiscal years, three~~] five

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1 percent of the budgeted expenditures.

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

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

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

4 G. In developing budgets, school districts and
 5 charter schools shall not budget current year cash balances
 6 without the approval of the secretary.

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

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

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

21 [~~K.~~] J. For the purposes of this section,
 22 "allowable, unrestricted, unreserved operational cash balance
 23 and the emergency reserve" means the proportional share not
 24 attributable to revenue derived from the school district
 25 property tax, forest reserve funds and impact aid for which the

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1 state takes credit in determining a school district's or
2 charter school's state equalization guarantee distribution."

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