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HOUSE BILL 59

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Rick Miera

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; MAKING CASH BALANCE CREDITS
PROPORTIONAL TO THE SIZE OF THE EXCESS CASH BALANCE.

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
committee that the expending of money from the operational fund
for this purpose is necessary for an adequate public

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1 educational program and will not unduly hamper the school
2 district's current operations.

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

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

22 D. Beginning with fiscal year 2007, prior to
23 approval of a school district's or charter school's budget, the
24 secretary shall verify that the reductions from the state
25 equalization guarantee distribution have been taken pursuant to

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1 this section.

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

4 (1) if the current year program cost is less
5 than five million dollars (\$5,000,000), [~~fifteen~~] eighteen
6 percent of the budgeted expenditures;

7 (2) if the current year program cost is five
8 million dollars (\$5,000,000) or more but less than ten million
9 dollars (\$10,000,000), twelve percent of the budgeted
10 expenditures;

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

15 (4) if the current year program cost is
16 twenty-five million dollars (\$25,000,000) or more but less than
17 two hundred million dollars (\$200,000,000), [~~seven~~] eight
18 percent of the budgeted expenditures; and

19 (5) if the current year program cost is two
20 hundred million dollars (\$200,000,000) or more, five percent of
21 the budgeted expenditures.

22 F. Except as otherwise provided in this section,
23 for the 2006 and subsequent fiscal years, the secretary shall
24 reduce the state equalization guarantee distribution,
25 calculated pursuant to Section 22-8-25 NMSA 1978, to each

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1 school district or charter school by an amount equal to the
2 school district's or charter school's excess cash balance. As
3 used in this section, "excess cash balance" means the
4 difference between a school district's or a charter school's
5 actual operational cash balance and the allowable limit
6 calculated pursuant to Subsection E of this section.

7 [~~Provided~~] However [~~that~~]:

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

17 (2) for other school districts and charter
18 schools, if the excess cash balance is greater than eighteen
19 percent of the allowable [~~limit, then~~], unrestricted,
20 unreserved operational cash balance and the emergency reserve,
21 the reduction pursuant to this subsection shall equal eighteen
22 percent of the allowable [~~limit~~], unrestricted, unreserved
23 operational cash balance and the emergency reserve.

24 G. In developing budgets, school districts and
25 charter schools shall not budget current year cash balances

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1 without the approval of the secretary.

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

8 I. Upon application by a school district, the
9 secretary may waive all or a portion of the reduction otherwise
10 required by Subsection F of this section if the secretary finds
11 that the school district's excess balance is needed to provide
12 the local match required under the Public School Capital Outlay
13 Act or to recoup an amount paid as the district's share
14 pursuant to Section 22-24-5.7 NMSA 1978.

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

23 L. 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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1 attributable to revenue derived from the school district
2 property tax, forest reserve funds and impact aid for which the
3 state takes credit in determining a school district's or
4 charter school's state equalization guarantee distribution."

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