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SENATE BILL 159

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

INTRODUCED BY

Vernon D. Asbill

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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