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HOUSE BILL 86

**49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010**

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; ALLOWING SCHOOL DISTRICTS  
AND CHARTER SCHOOLS TO RETAIN CASH BALANCES.

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), eighteen percent of the~~  
6 ~~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), ten percent of the budgeted~~  
14 ~~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), eight percent of~~  
18 ~~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. However:~~

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

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

22 ~~G.] D.~~ In developing operating budgets, school  
23 districts and charter schools shall not budget current year  
24 cash balances without the approval of the secretary.

25 ~~[H. A school district or charter school whose~~

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

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

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

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

22 ~~L. For the purposes of this section, "allowable,~~  
23 ~~unrestricted, unreserved operational cash balance and the~~  
24 ~~emergency reserve" means the proportional share not~~  
25 ~~attributable to revenue derived from the school district~~

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1 ~~property tax, forest reserve funds and impact aid for which the~~  
2 ~~state takes credit in determining a school district's or~~  
3 ~~charter school's state equalization guarantee distribution.]"~~

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