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HOUSE BILL 87

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

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO FISCAL SOLVENCY; RAISING THE CASH BALANCE CAPS FOR
SCHOOL DISTRICTS FOR FISCAL YEARS 2011 AND 2012.

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; except for fiscal years 2011 and 2012,
7 the allowable limit shall be twenty percent;

8 (2) if the current year program cost is five
9 million dollars (\$5,000,000) or more but less than ten million
10 dollars (\$10,000,000), twelve percent of the budgeted
11 expenditures; except for fiscal years 2011 and 2012, the
12 allowable limit shall be fourteen percent;

13 (3) if the current year program cost is ten
14 million dollars (\$10,000,000) or more but less than twenty-five
15 million dollars (\$25,000,000), ten percent of the budgeted
16 expenditures; except for fiscal years 2011 and 2012, the
17 allowable limit shall be twelve percent;

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), eight percent of
21 the budgeted expenditures; except for fiscal years 2011 and
22 2012, the allowable limit shall be ten percent; and

23 (5) if the current year program cost is two
24 hundred million dollars (\$200,000,000) or more, five percent of
25 the budgeted expenditures; except for fiscal years 2011 and

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1 2012, the allowable limit shall be seven percent.

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. However:

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

20 (2) for other school districts and charter
21 schools, if the excess cash balance is greater than eighteen
22 percent of the allowable, unrestricted, unreserved operational
23 cash balance and the emergency reserve, the reduction pursuant
24 to this subsection shall equal eighteen percent of the
25 allowable, unrestricted, unreserved operational cash balance

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1 and the emergency reserve.

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

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

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

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

23 K. For the purposes of this section, "operational
24 cash balance" means the allowable, unrestricted, unreserved
25 operational cash balance and the emergency reserve.

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