LFC Requester:	Sunny Liu, LFC

AGENCY BILL ANALYSIS
2018 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment** ____
Correction ____ **Substitute** ____

Date January 29, 2018
Bill No: HB141

Sponsor: Rep. James G. Townsend
Rep. Jimmie C. Hall
Rep. Randal S. Crowder
Rep. David M. Gallegos
Rep. David E. Adkins

Agency Code: 924

Short Title: SCHOOL DISTRICT CASH BALANCES

Person Writing Jane Henzerling
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY18	FY19		
	$40,833.2	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

HB 141 appropriates $40.83 million to the Public Education Department (PED) to restore the operational fund cash balances of school districts and charter schools whose fiscal year 2017 state equalization guarantee (SEG) distributions were reduced in accordance with Laws 2017, Chapter 3, Section 2 as the result of past solvency measures.

Any amount unexpended or unencumbered at the end of FY19 shall revert to the General Fund.

FISCAL IMPLICATIONS

In the 2017 Regular Session, the Legislature passed and the Governor signed SB 114 (Laws 2017 Chapter 3) which reduced FY17 SEG distributions, applied as a credit for cash balances, on the basis of the proportionate share of a school district's or charter school's FY16 program cost. As introduced, SB 114 would have reduced SEG distributions by $50 million, ostensibly to be offset with school district and charter school cash balances that were deemed to be high.

The final version of SB 114 signed into law created hold harmless provisions for school districts receiving supplemental emergency awards and any school district or charter school with audited Operational Fund cash balances less than three percent of the prior year (FY16) program cost. In addition, the SB 114 fiscal impact was calculated on **estimates** for emergency supplemental awards and audited cash, and used an **estimate** for fund balance after accruals, meaning anticipated expenditures that would ultimately be reimbursed to the cash pool. Using fund balance would have violated the letter of the law and resulted in negative cash positions. Calculating the credit amount on **actual** emergency supplemental awards and hold harmless provisions for school districts and charter schools with less than three percent **(instead of estimates),** and on the **audited cash basis** of the Operational Fund (as provided in law) effectively reduced the amount of SEG credit that could be taken from $50 million to $40.83 million (See attachment).

HB 141 would restore the actual amounts reduced in FY17.

SIGNIFICANT ISSUES

Though termed a cash balance credit, the actual reduction was operationalized as a reduction to FY17 SEG payments. The actual fiscal impacts of FY17 SEG reductions varied between school districts and charter schools. Some school districts and charter schools may not have made the necessary reductions to right size expenditures to align with decreased revenues and could have exceeded budget authority to spend. This is a violation of law and entities are held responsible for violations. Still others may have taken the opposite approach and determined that there was enough room in the Operating Budget to reduce expenditures and maintain cash balance amounts with no reductions.

It is worth noting that although the intent of the Legislature was to reduce cash balances, local school districts are independent local education agencies with the control afforded to local governments with independent governing bodies. As such, how solvency measures like SB 114 from FY17 are operationalized with regard to impacts to cash balances or expenditures are within the purview of the local school board and charter school governing council, provided they adhere to budget authority and other state requirements for finances.

To emphasize the point, some districts and charter schools were able to find room in the existing FY17 Operating Budget to reduce expenditures and maintain cash balance amounts with **no reductions**. As a result of these local decisions, it is possible that some districts and charter schools will receive SEG replacement funds when the reduction had no significant on the operating budget, causing a cash windfall situation to exist.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

Whereas HB 141 does not require monies be distributed through the SEG, PED would distribute the monies on the same entity-by-entity calculation (total $40.83 million) as the FY17 reduction in a single payment as soon as monies become available in FY19.

The PED will amend its frequently asked questions (FAQ) memo to explain to new administrators and business office staff some of the more unusual aspects of FY17's SB114 including the calculation of cash balances as a percent of program cost (instead of budgeted or actual expenditures) and how the size of the credit did not scale with the size of the cash balance. This FAQ answered many questions at implementation and will be used to educate stakeholders again.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS