

LFC Requester:	Ellen Rabin
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**AGENCY BILL ANALYSIS
2019 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: **Date** 2/28/19
Original **Amendment** **Bill No:** HB601
Correction **Substitute**

Sponsor: Rep. Gallegos and others **Agency Code:** 924
Short RESTRICTIONS ON **Person Writing** David Craig/Steve Burrell
Title: CERTAIN SCHOOL FUNDS **Phone:** 827-6537 **Email** David.craig@state.nm.us

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY19	FY20		
	\$40,800.0	Nonrecurring	GF

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	FY20	FY21		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 601 requires school districts and charter schools to sequester certain percentages of their cash balance for emergencies and does not allow the sequestered money to be made available to the legislature for non-district or non-charter appropriation or to be taken credit for as a means to reduce the state equalization guarantee (SEG) appropriation.

The bill appropriates \$40,800,000 from the general fund to the PED for expenditure in FY20 to restore the operational fund cash balances of the school districts and charter schools whose FY17 SEG distributions were reduced in accordance with Laws 2017, Chapter 3, Section 2.

FISCAL IMPLICATIONS

The bill appropriates \$40,800,000 from the general fund into the PED to be allocated to each of those school districts and charter schools that had their SEG reduced as a result of the FY17 cash balance credit. Any unexpended or unencumbered balance remaining at the end of FY20 will revert to the general fund.

Provisions of HB 601 requires school districts and charter school to sequester cash balances based upon size for emergencies, but does not define what qualifies for an emergency to use these cash balances, does not specify when the amounts have to be replaced after an emergency, and does not indicate the role of PED in ensuring the amount sequestered.

Some school districts depend upon supplemental emergency funding yearly and spend all of their available state appropriations such that only via supplemental funding can they achieve a cash balance. Many of these school districts are under 200 MEM. Currently, the appropriation for FY19 is decreased to \$3 million and will require PED to consider a 3 percent target estimated cash balance carryover for FY20. If the provisions of HB 601 were to become law for FY19 awards, PED and very small school districts would be in violation of the law, or would require a supplemental deficiency emergency supplemental appropriation. This need is unlikely to be offset by the increased appropriation in HB 601.

SIGNIFICANT ISSUES

The bill provides that school districts and charter schools must sequester their cash balances for emergencies in the following amounts:

- (1) 10% for very small school districts with fewer than 200 Mem,
- (2) 7% for small school districts with 200 to 2,000 Mem,
- (3) 5% for mid-size school districts with 2,001 to 25,000 Mem,
- (4) 3% for large school districts with over 25,000 Mem.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

In the 2017 Regular Session, the Legislature passed and the Governor signed SB 114 (Laws 2017 Chapter 3) which reduced fiscal year 2017 (FY17) state equalization guarantee (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, that bill (2017's 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.

However, the final version of 2017 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 2017's SB 114 fiscal impact was calculated on estimates for emergency supplemental awards and audited cash, and used an estimate for fund balance (after accruals). Using fund balance would have violated the text 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.

Though termed a cash balance credit, the actual FY17 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 have not made the necessary reductions to right size expenditures to decreased revenues and exceed 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. It is worth noting that although the intent of the Legislature was to reduce cash balances, the local school districts are independent local education agencies with the local control afforded local governments that have independent governing bodies. As such, how solvency measures like 2017's SB 114 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.

HB 601 seeks to restore actual amounts reduced in FY17 in FY 20.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS