

SENATE BILL NO. 435—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE LEGISLATIVE COMMITTEE
ON EDUCATION)

MARCH 25, 2013

Referred to Committee on Finance

SUMMARY—Creates the K-12 Public Education Stabilization Account. (BDR 31-202)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public financial administration; creating the K-12 Public Education Stabilization Account; reallocating money reverted from the State Distributive School Account; revising provisions governing the setting aside of reserves out of appropriated or other funds to meet emergencies; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 2** of this bill creates the K-12 Public Education Stabilization Account
2 within the State General Fund and requires the State Controller to deposit any
3 money reverted from the State Distributive School Account at the close of each
4 odd-numbered fiscal year into the K-12 Public Education Stabilization Account and
5 into the Account for Programs for Innovation and the Prevention of Remediation.
6 **Sections 4 and 5** of this bill authorize the Superintendent of Public Instruction to
7 submit a request to the Legislature or, if the Legislature is not in session, to the
8 Interim Finance Committee, for an allocation from the K-12 Public Education
9 Stabilization Account. **Section 3** of this bill requires that all available allocations be
10 made from the K-12 Public Education Stabilization Account to cover a shortfall in
11 the State Distributive School Account before any allocation to cover the shortfall is
12 made from the Account to Stabilize the Operation of the State Government.

13 **Section 6** of this bill limits the amount of money that may be set aside as
14 proposed reserves to meet emergencies during a fiscal year for the State
15 Distributive School Account and certain other funds and accounts for education to
16 the average that is reserved for all other departments, institutions and agencies.
17 **Section 6** also requires the Chief of the Budget Division of the Department of
18 Administration to submit a request to the Legislature or, if the Legislature is not in



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19 session, to the Interim Finance Committee, to determine whether an allocation
20 should be made from the K-12 Public Education Stabilization Account in lieu of
21 setting aside a reserve in the State Distributive School Account and certain other
22 funds and accounts for education.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 353 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this
3 act.

4 **Sec. 2. 1. *The K-12 Public Education Stabilization Account***
5 ***is hereby created within the State General Fund.***

6 ***2. The State Controller shall, after the close of each odd-***
7 ***numbered fiscal year and before the issuance of the State***
8 ***Controller's annual report, transfer from the State General Fund:***

9 ***(a) Fifty percent of any money which was reverted from the***
10 ***State Distributive School Account at the close of the previous***
11 ***fiscal year to the Account for Programs for Innovation and the***
12 ***Prevention of Remediation created by NRS 385.379. Money***
13 ***transferred pursuant to this paragraph to the Account for***
14 ***Programs for Innovation and the Prevention of Remediation is a***
15 ***continuing appropriation solely for the purpose of carrying out the***
16 ***provisions of NRS 385.3781 to 385.379, inclusive.***

17 ***(b) Except as otherwise provided in subsection 3, 50 percent of***
18 ***any money which was reverted from the State Distributive School***
19 ***Account at the close of the previous fiscal year to the K-12 Public***
20 ***Education Stabilization Account. Money transferred pursuant to***
21 ***this paragraph to the K-12 Public Education Stabilization Account***
22 ***is a continuing appropriation solely for the purpose of authorizing***
23 ***the expenditure of the transferred money for the purposes set forth***
24 ***in sections 2 to 5, inclusive, of this act.***

25 ***3. The balance in the K-12 Public Education Stabilization***
26 ***Account must not exceed 20 percent of the combined sum of:***

27 ***(a) The total anticipated apportionments pursuant to NRS***
28 ***387.124 for the fiscal year in which the transfer pursuant to***
29 ***paragraph (b) of subsection 2 is made;***

30 ***(b) The total anticipated local funds available pursuant to NRS***
31 ***387.1235 for the fiscal year in which the transfer pursuant to***
32 ***paragraph (b) of subsection 2 is made; and***

33 ***(c) The amount appropriated by the Legislature, if any, to***
34 ***carry out the program to reduce the ratio of pupils per class per***
35 ***licensed teacher prescribed in NRS 388.700, 388.710 and 388.720***
36 ***for the fiscal year in which the transfer pursuant to paragraph (b)***
37 ***of subsection 2 is made.***



1 4. *The money in the K-12 Public Education Stabilization*
2 *Account may only be allocated by the Legislature or, if the*
3 *Legislature is not in session, by the Interim Finance Committee,*
4 *pursuant to sections 2 to 5, inclusive, of this act. Not more than 50*
5 *percent of the money in the Account may be so allocated in even-*
6 *numbered fiscal years.*

7 5. *Except as otherwise provided in subsection 3, the interest*
8 *and income earned on the sum of:*

9 (a) *The money in the K-12 Public Education Stabilization*
10 *Account; and*

11 (b) *Unexpended appropriations made to the K-12 Public*
12 *Education Stabilization Account from the State General Fund,*
13 *↪ must be credited to the Account. If the amount of such credit*
14 *would cause the K-12 Public Education Stabilization Account to*
15 *exceed the maximum allowed balance in the Account established*
16 *pursuant to subsection 3, the amount of such excess credit must be*
17 *deposited for credit to the Account to Stabilize the Operation of the*
18 *State Government or, if the amount of such excess credit would*
19 *cause the Account to Stabilize the Operation of the State*
20 *Government to exceed the maximum allowed balance in that*
21 *Account established pursuant to subsection 3 of NRS 353.288, the*
22 *amount of such excess credit must be deposited for credit to the*
23 *State General Fund.*

24 6. *The money in the K-12 Public Education Stabilization*
25 *Account must not be used to replace or supplant money otherwise*
26 *available from other sources for the operation of the K-12 public*
27 *schools in this State.*

28 7. *The actual or projected balance of money in the K-12*
29 *Public Education Stabilization Account must not be included in*
30 *the calculation of the basic support guarantee per pupil*
31 *established for each school year pursuant to NRS 387.122 or the*
32 *basic support guarantee for special education program units*
33 *established pursuant to NRS 387.122 and 387.1221.*

34 **Sec. 3.** 1. *For the purposes of sections 4 and 5 of this act, a*
35 *shortfall exists in the State Distributive School Account if the*
36 *projections of local funds available pursuant to NRS 387.1235 are*
37 *at least 2 percent less than what was anticipated when the*
38 *Legislature determined the amount of basic support for the*
39 *biennium.*

40 2. *If a shortfall exists in the State Distributive School*
41 *Account:*

42 (a) *An allocation to cover the shortfall must be made from the*
43 *K-12 Public Education Stabilization Account in accordance with*
44 *the provisions of section 4 or 5 of this act before any allocation to*



1 cover the shortfall is made from the Account to Stabilize the
2 Operation of the State Government; and

3 (b) No allocation to cover the shortfall may be made from the
4 Account to Stabilize the Operation of the State Government until
5 all money which is available in the K-12 Public Education
6 Stabilization Account for allocation to cover the shortfall has been
7 so allocated.

8 **Sec. 4.** 1. If there is a shortfall in the State Distributive
9 School Account and the Legislature is in session, the
10 Superintendent of Public Instruction may submit a request for an
11 allocation from the K-12 Public Education Stabilization Account
12 to the Director of the Legislative Counsel Bureau for transmittal
13 to the Legislature.

14 2. If the Legislature finds that an allocation should be made
15 from the K-12 Public Education Stabilization Account, the
16 Legislature shall by resolution establish the amount and purpose
17 of the allocation, giving first priority to the shortfall in the State
18 Distributive School Account, and direct the State Controller to
19 transfer that amount to the State Distributive School Account. The
20 State Controller shall thereupon make the transfer.

21 **Sec. 5.** 1. If there is a shortfall in the State Distributive
22 School Account and the Legislature is not in session, the
23 Superintendent of Public Instruction may submit a request to the
24 State Board of Examiners for an allocation from the K-12 Public
25 Education Stabilization Account by the Interim Finance
26 Committee.

27 2. The State Board of Examiners shall consider the request
28 and may require additional information from the Superintendent
29 of Public Instruction as the Board deems appropriate. If the State
30 Board of Examiners finds that an allocation should be made, the
31 Board shall recommend the amount of the allocation to the
32 Interim Finance Committee for its independent evaluation and
33 action. The Interim Finance Committee is not bound to follow the
34 recommendations of the State Board of Examiners.

35 3. If the Interim Finance Committee, after independent
36 determination, finds that an allocation should and may lawfully be
37 made from the K-12 Public Education Stabilization Account, the
38 Committee shall by resolution establish the amount and purpose
39 of the allocation, giving first priority to the shortfall in the State
40 Distributive School Account, and direct the State Controller to
41 transfer that amount to the State Distributive School Account. The
42 State Controller shall thereupon make the transfer.

43 4. In acting upon a request for an allocation, the Interim
44 Finance Committee shall consider, among other things:

45 (a) The need for the allocation; and



1 ***(b) The intent of the Legislature in creating the K-12 Public***
2 ***Education Stabilization Account.***

3 **Sec. 6.** NRS 353.225 is hereby amended to read as follows:

4 353.225 1. ~~##~~ ***Except as otherwise provided in subsections***
5 ***2 and 3, in*** order to provide some degree of flexibility to meet
6 emergencies arising during each fiscal year in the expenditures for
7 the State Distributive School Account in the State General Fund and
8 for operation and maintenance of the various departments,
9 institutions and agencies of the Executive Department of the State
10 Government, the Chief, with the approval in writing of the
11 Governor, may require the State Controller or the head of each such
12 department, institution or agency to set aside a reserve in such
13 amount as the Chief may determine, out of the total amount
14 appropriated or out of other funds available from any source
15 whatever to the department, institution or agency.

16 2. ***Any reserve that is required to be set aside pursuant to***
17 ***subsection 1 is required in the State Distributive School Account,***
18 ***the Account for Programs for Innovation and the Prevention of***
19 ***Remediation created by NRS 385.379, the Grant Fund for***
20 ***Incentives for Licensed Educational Personnel created by NRS***
21 ***391.166, or any other account or fund established for***
22 ***administration by the Department of Education for other***
23 ***educational programs for the school districts, charter schools and***
24 ***university schools for profoundly gifted pupils, the amount of any***
25 ***proposed reserves in each of those accounts and funds, when***
26 ***combined and calculated as a percentage of the appropriations***
27 ***from the State General Fund in those accounts and funds, must***
28 ***not exceed the average percentage of reserves for all other***
29 ***accounts and funds that include appropriations from the State***
30 ***General Fund for the operation of all departments, institutions***
31 ***and agencies of the State Government and authorized***
32 ***expenditures from the State General Fund for the regulation of***
33 ***gaming for that fiscal year.***

34 3. ***Before setting aside any reserves in the State Distributive***
35 ***School Account, the Account for Programs for Innovation and the***
36 ***Prevention of Remediation created by NRS 385.379, the Grant***
37 ***Fund for Incentives for Licensed Educational Personnel created***
38 ***by NRS 391.166, or any other account or fund established for***
39 ***administration by the Department of Education for other***
40 ***educational programs for the school districts, charter schools and***
41 ***university schools for profoundly gifted pupils, the Chief must***
42 ***make a request to the Legislature or, if the Legislature is not in***
43 ***session, to the Interim Finance Committee, to determine whether***
44 ***an allocation should be made from the K-12 Public Education***
45 ***Stabilization Account created by section 2 of this act in lieu of***



1 *setting aside the reserve. If the Legislature or the Interim Finance*
2 *Committee finds that an allocation should be made from the K-12*
3 *Public Education Stabilization Account in lieu of a reserve, the*
4 *Legislature or the Interim Finance Committee shall by resolution*
5 *establish the amount and the purpose of the allocation and direct*
6 *the State Controller to transfer that amount to the appropriate*
7 *account or fund. If the Legislature or Interim Finance Committee*
8 *adopts such a resolution, only the difference between the proposed*
9 *amount of reserves determined pursuant to subsection 2 and the*
10 *allocation made by resolution pursuant to this subsection may be*
11 *set aside as reserves in the State Distributive School Account, the*
12 *Account for Programs for Innovation and the Prevention of*
13 *Remediation created by NRS 385.379, the Grant Fund for*
14 *Incentives for Licensed Educational Personnel created by NRS*
15 *391.166, or any other account or fund established for*
16 *administration by the Department of Education for other*
17 *educational programs for the school districts, charter schools and*
18 *university schools for profoundly gifted pupils.*

19 *4. In considering whether to make an allocation from the*
20 *K-12 Public Education Stabilization Account in lieu of setting*
21 *aside a reserve pursuant to subsection 3, the Interim Finance*
22 *Committee shall consider, among other things:*

23 *(a) The effect of the setting aside of a reserve; and*

24 *(b) The intent of the Legislature in creating the K-12 Public*
25 *Education Stabilization Account.*

26 **5.** At any time during the fiscal year ~~this~~ a reserve or any
27 portion of it may be returned to the appropriation or other fund to
28 which it belongs and may be added to any one or more of the
29 allotments, if the Chief so orders in writing.

30 **Sec. 7.** NRS 353.288 is hereby amended to read as follows:

31 353.288 1. The Account to Stabilize the Operation of the
32 State Government is hereby created in the State General Fund.
33 Except as otherwise provided in subsections 3 and 4, each year after
34 the close of the previous fiscal year and before the issuance of the
35 State Controller's annual report, the State Controller shall transfer
36 from the State General Fund to the Account to Stabilize the
37 Operation of the State Government:

38 (a) Forty percent of the unrestricted balance of the State General
39 Fund, as of the close of the previous fiscal year, which remains after
40 subtracting an amount equal to 7 percent of all appropriations made
41 from the State General Fund during that previous fiscal year for the
42 operation of all departments, institutions and agencies of State
43 Government and for the funding of schools; and

44 (b) Commencing with the fiscal year that begins on July 1,
45 2013, 1 percent of the total anticipated revenue for the fiscal year in



1 which the transfer will be made, as projected by the Economic
2 Forum for that fiscal year pursuant to paragraph (e) of subsection 1
3 of NRS 353.228 and as adjusted by any legislation enacted by the
4 Legislature that affects state revenue for that fiscal year.

5 2. Money transferred pursuant to subsection 1 to the Account
6 to Stabilize the Operation of the State Government is a continuing
7 appropriation solely for the purpose of authorizing the expenditure
8 of the transferred money for the purposes set forth in this section.

9 3. The balance in the Account to Stabilize the Operation of the
10 State Government must not exceed 20 percent of the total of all
11 appropriations from the State General Fund for the operation of all
12 departments, institutions and agencies of the State Government and
13 for the funding of schools and authorized expenditures from the
14 State General Fund for the regulation of gaming for the fiscal year
15 in which that revenue will be transferred to the Account to Stabilize
16 the Operation of the State Government.

17 4. Except as otherwise provided in this subsection and NRS
18 353.2735, beginning with the fiscal year that begins on July 1, 2003,
19 the State Controller shall, at the end of each quarter of a fiscal year,
20 transfer from the State General Fund to the Disaster Relief Account
21 created pursuant to NRS 353.2735 an amount equal to not more than
22 10 percent of the aggregate balance in the Account to Stabilize the
23 Operation of the State Government during the previous quarter. The
24 State Controller shall not transfer more than \$500,000 for any
25 quarter pursuant to this subsection.

26 5. ~~The~~ *Except as otherwise provided in section 3 of this act,*
27 *the* Chief of the Budget Division of the Department of
28 Administration may submit a request to the State Board of
29 Examiners to transfer money from the Account to Stabilize the
30 Operation of the State Government to the State General Fund:

31 (a) If the total actual revenue of the State falls short by 5 percent
32 or more of the total anticipated revenue for the biennium in which
33 the transfer will be made, as determined by the Legislature, or the
34 Interim Finance Committee if the Legislature is not in session; or

35 (b) If the Legislature, or the Interim Finance Committee if the
36 Legislature is not in session, and the Governor declare that a fiscal
37 emergency exists.

38 6. The State Board of Examiners shall consider a request made
39 pursuant to subsection 5 and shall, if it finds that a transfer should
40 be made, recommend the amount of the transfer to the Interim
41 Finance Committee for its independent evaluation and action. The
42 Interim Finance Committee is not bound to follow the
43 recommendation of the State Board of Examiners.

44 7. If the Interim Finance Committee finds that a transfer
45 recommended by the State Board of Examiners should and may



1 lawfully be made, the Committee shall by resolution establish the
2 amount and direct the State Controller to transfer that amount to the
3 State General Fund. The State Controller shall thereupon make
4 the transfer. *In considering whether to make a transfer from the*
5 *Account to Stabilize the Operation of the State Government to the*
6 *State General Fund, the Interim Finance Committee shall*
7 *consider, among other things:*

8 (a) *The effect of the transfer on the balance in the Account*
9 *and the State General Fund; and*

10 (b) *The intent of the Legislature in creating the Account to*
11 *Stabilize the Operation of the State Government.*

12 8. In addition to the manner of allocation authorized pursuant
13 to subsections 5, 6 and 7, the money in the Account to Stabilize the
14 Operation of the State Government may be allocated directly by the
15 Legislature to be used for any other purpose.

16 **Sec. 8.** This act becomes effective on July 1, 2013.

