

SENATE BILL NO. 122—COMMITTEE ON GOVERNMENT AFFAIRS
(ON BEHALF OF THE LEGISLATIVE COMMITTEE ON EDUCATION)

PREFILED FEBRUARY 3, 2011

Referred to Committee on Finance

SUMMARY—Creates the K-12 Public Education Stabilization Account. (BDR 31-89)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 Fund to Stabilize the Operation of the State Government and requires the
3 State Controller to deposit any money reverted from the State Distributive School
4 Account at the close of each odd-numbered fiscal year into that Account and into
5 the Account for Programs for Innovation and the Prevention of Remediation.
6 (Chapter 353 of NRS) **Section 4** of this bill authorizes the Superintendent of Public
7 Instruction to request from the Legislature, if the Legislature is in session, an
8 allocation from the K-12 Public Education Stabilization Account if a shortfall exists
9 in the State Distributive School Account. If the Legislature is not in session, **section**
10 **5** of this bill authorizes the Superintendent to submit such a request to the Interim
11 Finance Committee. **Section 3** of this bill provides that all available allocations
12 must be made from the K-12 Public Education Stabilization Account to cover a
13 shortfall in the State Distributive School Account before any allocation to cover the
14 shortfall is made from the Fund to Stabilize the Operation of the State Government.

15 Existing law authorizes the Chief of the Budget Division of the Department of
16 Administration, with the approval of the Governor, to set aside reserves to meet
17 emergencies arising during a fiscal year. (NRS 353.225) **Section 6** of this bill limits
18 the amount of money that may be set aside as proposed reserves for the State
19 Distributive School Account and certain other funds and accounts for education to



20 the average that is reserved for all other departments, institutions and agencies.
21 **Section 6** also requires the Chief to submit a request to the Legislature, or if the
22 Legislature is not in session, to the Interim Finance Committee, to determine
23 whether an allocation should be made from the K-12 Public Education Stabilization
24 Account in lieu of setting aside a reserve in the State Distributive School Account
25 and certain other 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 in the Fund to Stabilize the Operation of the*
6 *State Government created by NRS 353.288.*

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

10 **(a)** *Fifty percent of any money which was reverted from the*
11 *State Distributive School Account at the close of the previous*
12 *fiscal year to the Account for Programs for Innovation and the*
13 *Prevention of Remediation created by NRS 385.379. Money*
14 *transferred pursuant to this paragraph to the Account for*
15 *Programs for Innovation and the Prevention of Remediation is*
16 *hereby appropriated as a continuing appropriation solely for the*
17 *purpose of carrying out the provisions of NRS 385.3781 to*
18 *385.379, inclusive.*

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

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

29 **(a)** *The total anticipated apportionments pursuant to NRS*
30 *387.124 for the fiscal year in which the transfer pursuant to*
31 *paragraph (b) of subsection 2 is made;*

32 **(b)** *The total anticipated local revenue pursuant to NRS*
33 *387.1235 for the fiscal year in which the transfer pursuant to*
34 *paragraph (b) of subsection 2 is made; and*



1 (c) The amount established by the Legislature for the
2 reduction of pupil-teacher ratios pursuant to NRS 388.700 for the
3 fiscal year in which the transfer pursuant to paragraph (b) of
4 subsection 2 is made.

5 4. The money in the K-12 Public Education Stabilization
6 Account may only be allocated by the Legislature, or if the
7 Legislature is not in session, by the Interim Finance Committee,
8 pursuant to sections 2 to 5, inclusive, of this act. Not more than
9 50 percent of the money in the Account may be so allocated in
10 even-numbered fiscal years.

11 5. Except as otherwise provided in subsection 3, the interest
12 and income earned on the sum of:

13 (a) The money in the K-12 Public Education Stabilization
14 Account; and

15 (b) Unexpended appropriations made to the Account from the
16 State General Fund,

17 ↪ must be credited to the Account. If the amount of such credit
18 would cause the Account to exceed the maximum allowed balance
19 in the Account established pursuant to subsection 3, the amount of
20 such excess credit must be deposited for credit to the Fund to
21 Stabilize the Operation of the State Government or, if the amount
22 of such excess credit would cause that Fund to exceed the
23 maximum allowed balance in that Fund established pursuant to
24 subsection 3 of NRS 353.288, the amount of such excess credit
25 must be deposited for credit to the State General Fund.

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

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

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

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

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



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

3 (b) No allocation to cover the shortfall may be made from the
4 Fund to Stabilize the Operation of the State Government until all
5 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 transmission*
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 and direct the State Controller to transfer that*
18 *amount to the State Distributive School Account, giving first*
19 *priority to the shortfall in the State Distributive School Account.*
20 *The 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 **Sec. 6.** NRS 353.225 is hereby amended to read as follows:

44 353.225 1. ~~It~~ **Subject to the requirements of subsections 2**
45 **and 3, in** order to provide some degree of flexibility to meet



1 emergencies arising during each fiscal year in the expenditures for
2 the State Distributive School Account in the State General Fund and
3 for operation and maintenance of the various departments,
4 institutions and agencies of the Executive Department of the State
5 Government, the Chief, with the approval in writing of the
6 Governor, may require the State Controller or the head of each such
7 department, institution or agency to set aside a reserve in such
8 amount as the Chief may determine, out of the total amount
9 appropriated or out of other funds available from any source
10 whatever to the department, institution or agency.

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

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



1 *Fund. If the Legislature or the Interim Finance Committee adopts*
2 *such a resolution, only the difference between the proposed*
3 *amount of reserves determined pursuant to subsection 2 and the*
4 *allocation made by resolution pursuant to this subsection may be*
5 *set aside as reserves in the State Distributive School Account, the*
6 *Account for Programs for Innovation and the Prevention of*
7 *Remediation created by NRS 385.379, the Grant Fund for*
8 *Incentives for Licensed Educational Personnel created by NRS*
9 *391.166, or any other account established for administration by*
10 *the Department of Education for other educational programs for*
11 *the school districts, charter schools and university schools for*
12 *profoundly gifted pupils.*

13 **4.** At any time during the fiscal year this reserve or any portion
14 of it may be returned to the appropriation or other fund to which it
15 belongs and may be added to any one or more of the allotments, if
16 the Chief so orders in writing.

17 **Sec. 7.** This act becomes effective on July 1, 2011.

