

Assembly Bill No. 165—Assemblymen Buckley, Parnell, Conklin, Anderson, Oceguera; Aizley, Arberry, Atkinson, Bobzien, Carpenter, Claborn, Denis, Dondero Loop, Gansert, Goicoechea, Grady, Hardy, Hogan, Horne, Kihuen, Kirkpatrick, Koivisto, Leslie, Manendo, Mastroluca, McClain, Mortenson, Munford, Ohrenschall, Pierce, Segerblom, Smith, Spiegel, Stewart and Woodbury

Joint Sponsors: Senators Care, Wiener, Parks, Horsford, Hardy; Breeden, Coffin, Copening, Mathews and Schneider

CHAPTER.....

AN ACT relating to state financial administration; revising the provisions governing the Fund to Stabilize the Operation of the State Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Fund to Stabilize the Operation of the State Government, also known as the Rainy Day Fund, is a special revenue fund into which surplus state revenues are deposited to be used in case of fiscal emergencies. Under existing law, the State Controller is required to deposit to the credit of the Fund 40 percent of the unrestricted balance of the State General Fund, as of the end of the previous fiscal year, that remains after subtracting an amount equal to 10 percent of all appropriations made from the State General Fund during that fiscal year for the operation of the State Government and the funding of schools. (NRS 353.288) **Section 2** of this bill reduces from 10 percent to 7 percent the amount of the appropriations subtracted in calculating the current transfer to the Fund each biennium that is set forth in existing law. Commencing with the fiscal year that begins on July 1, 2011, **section 2** also requires the State Controller to transfer from the State General Fund to the Fund to Stabilize the Operation of the State Government at the beginning of each fiscal year 1 percent of the total anticipated revenue projected for that fiscal year by the Economic Forum in May of odd-numbered years, as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year. Existing law requires that all projections of revenue and any other information concerning future state revenue contained in the proposed budget for the Executive Department of the State Government be based upon the projections and estimates prepared by the Economic Forum. (NRS 353.228, 353.230)

Section 2 of this bill also increases the maximum balance allowed in the Fund to Stabilize the Operation of the State Government from 15 percent to 20 percent of the total of all appropriations from the State General Fund for the operation of the State Government and the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be transferred to the Fund to Stabilize the Operation of the State Government.

Finally, **section 2** of this bill provides that the money transferred to the Fund to Stabilize the Operation of the State Government is a continuing appropriation solely for the purpose of authorizing the expenditure of the transferred money to offset a budget shortfall or fiscal emergency in certain specified circumstances and clarifies the responsibility for determining whether the specified circumstances



exist. **Section 2** sets forth the procedure for the transfer of money in the Fund to Stabilize the Operation of the State Government to the State General Fund by the Interim Finance Committee after a determination or declaration of such a budget shortfall or fiscal emergency.

Under existing law, the proposed budget for the Executive Department of the State Government for each fiscal year of a biennium is required to include a reserve of not less than 5 percent or more than 10 percent of the total of all proposed appropriations from the State General Fund for the operation of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year. (NRS 353.213) **Section 1** of this bill requires an additional reservation in the proposed biennial budget of an amount equal to 1 percent of the total anticipated revenue projected for each fiscal year of the biennium by the Economic Forum in December of even-numbered years, as adjusted by any changes or adjustments to state revenue recommended in the proposed budget for that biennium. This reserved money, as further adjusted by the Economic Forum in May of odd-numbered years and by any applicable legislation, is the money that will be transferred by the State Controller from the State General Fund to the Fund to Stabilize the Operation of the State Government at the beginning of each fiscal year of the biennium pursuant to **section 2** of this bill. The proposed budget for the period that begins on July 1, 2011, and ends on June 30, 2013, is the first biennial budget for which such a reservation is required.

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

Section 1. NRS 353.213 is hereby amended to read as follows:
353.213 1. In preparing the proposed budget for the Executive Department of the State Government for each biennium, the Chief shall not exceed the limit upon total proposed expenditures for purposes other than construction and reducing any unfunded accrued liability of the State Retirees' Health and Welfare Benefits Fund created by NRS 287.0436 from the State General Fund calculated pursuant to this section. The base for each biennium is the total expenditure, for the purposes limited, from the State General Fund appropriated and authorized by the Legislature for the biennium beginning on July 1, 1975.

2. The limit for each biennium is calculated as follows:

(a) The amount of expenditure constituting the base is multiplied by the percentage of change in population for the current biennium from the population on July 1, 1974, and this product is added to or subtracted from the amount of expenditure constituting the base.

(b) The amount calculated pursuant to paragraph (a) is multiplied by the percentage of inflation or deflation, and this product is added to or subtracted from the amount calculated pursuant to paragraph (a).

(c) Subject to the limitations of this paragraph:



(1) If the amount resulting from the calculations pursuant to paragraphs (a) and (b) represents a net increase over the base biennium, the Chief may increase the proposed expenditure accordingly.

(2) If the amount represents a net decrease, the Chief shall decrease the proposed expenditure accordingly.

(3) If the amount is the same as in the base biennium, that amount is the limit of permissible proposed expenditure.

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3. The proposed budget for each fiscal year of the biennium must provide for a reserve of ~~{not}~~:

(a) *Not* less than 5 percent ~~{not}~~ *or* more than 10 percent of the total of all proposed appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and authorized expenditures from the State General Fund for the regulation of gaming for that fiscal year ~~{~~

~~—3.1 ; and~~

(b) Commencing with the proposed budget for the period that begins on July 1, 2011, and ends on June 30, 2013, 1 percent of the total anticipated revenue for each of the two fiscal years of the biennium for which the budget is proposed, as projected by the Economic Forum for each of those fiscal years pursuant to paragraph (d) of subsection 1 of NRS 353.228 and as adjusted by any changes or adjustments to state revenue that are recommended in the proposed budget for those fiscal years.

4. The revised estimate of population for the State issued by the United States Department of Commerce as of July 1, 1974, must be used, and the Governor shall certify the percentage of increase or decrease in population for each succeeding biennium. The Consumer Price Index published by the United States Department of Labor for July preceding each biennium must be used in determining the percentage of inflation or deflation.

~~{4.}~~ 5. The Chief may exceed the limit to the extent necessary to meet situations in which there is a threat to life or property.

~~{5.}~~ 6. As used in this section, “unfunded accrued liability” means a liability with an actuarially determined value which exceeds the value of the assets in the fund from which payments are made to discharge the liability.

Sec. 2. NRS 353.288 is hereby amended to read as follows:

353.288 1. The Fund to Stabilize the Operation of the State Government is hereby created as a special revenue fund. Except as otherwise provided in subsections ~~{2}~~ 3 and ~~{3.1}~~ 4, each year after the close of the *previous* fiscal year and before the issuance of the



State Controller's annual report, the State Controller shall ~~deposit to the credit of~~ *transfer from the State General Fund to* the Fund ~~[40] to Stabilize the Operation of the State Government:~~

(a) *Forty* percent of the unrestricted balance of the State General Fund, as of the close of the *previous* fiscal year, which remains after subtracting an amount equal to ~~[10]~~ *7* percent of all appropriations made from the State General Fund during that *previous fiscal* year for the operation of all departments, institutions and agencies of State Government and for the funding of schools ~~;~~ *and*

(b) *Commencing with the fiscal year that begins on July 1, 2011, 1 percent of the total anticipated revenue for the fiscal year in which the transfer will be made, as projected by the Economic Forum for that fiscal year pursuant to paragraph (e) of subsection 1 of NRS 353.228 and as adjusted by any legislation enacted by the Legislature that affects state revenue for that fiscal year.*

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

3. The balance in the Fund ~~;~~ *to Stabilize the Operation of the State Government*, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount, must not exceed ~~[15]~~ *20* percent of the total of all appropriations from the State General Fund for the operation of all departments, institutions and agencies of the State Government and for the funding of schools and authorized expenditures from the State General Fund for the regulation of gaming for the fiscal year in which that revenue will be ~~deposited in~~ *transferred to* the Fund ~~;~~ *—3.;* *to Stabilize the Operation of the State Government.*

4. Except as otherwise provided in this subsection and NRS 353.2735, beginning with the fiscal year that begins on July 1, 2003, the State Controller shall, at the end of each quarter of a fiscal year, transfer from the State General Fund to the Disaster Relief Account created pursuant to NRS 353.2735 an amount equal to not more than 10 percent of the aggregate balance in the Fund to Stabilize the Operation of the State Government during the previous quarter, excluding the aggregate balance in the Disaster Relief Account and the Emergency Assistance Subaccount created pursuant to NRS 414.135. The State Controller shall not transfer more than \$500,000 for any quarter pursuant to this subsection.



~~[4. Money]~~

5. The Chief of the Budget Division of the Department of Administration may submit a request to the State Board of Examiners to transfer money from the Fund to Stabilize the Operation of the State Government ~~[may be appropriated only:]~~ to the State General Fund:

(a) If the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for the biennium in which the ~~[appropriation is]~~ transfer will be made ~~[:]~~, *as determined by the Legislature, or the Interim Finance Committee if the Legislature is not in session;* or

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

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

7. If the Interim Finance Committee finds that a transfer recommended by the State Board of Examiners should and may lawfully be made, the Committee shall by resolution establish the amount and direct the State Controller to transfer that amount to the State General Fund. The State Controller shall thereupon make the transfer.

Sec. 2.5. NRS 218.6827 is hereby amended to read as follows:

218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, **353.288** and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee



to determine the action of the Interim Finance Committee as a whole.

3. The Chairman of the Interim Finance Committee may appoint a subcommittee consisting of six members of the Committee to review and make recommendations to the Committee on matters of the State Public Works Board that require prior approval of the Interim Finance Committee pursuant to subsection 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the Chairman appoints such a subcommittee:

(a) The Chairman shall designate one of the members of the subcommittee to serve as the chairman of the subcommittee;

(b) The subcommittee shall meet throughout the year at the times and places specified by the call of the chairman of the subcommittee; and

(c) The Director of the Legislative Counsel Bureau or his designee shall act as the nonvoting recording secretary of the subcommittee.

Sec. 3. 1. The Governor shall provide initially for the reserve required pursuant to paragraph (b) of subsection 3 of NRS 353.213, as amended by section 1 of this act, in the proposed biennial budget for the period that begins on July 1, 2011, and ends on June 30, 2013.

2. The fiscal year that begins on July 1, 2011, is the initial fiscal year in which a transfer of money must be made from the State General Fund to the Fund to Stabilize the Operation of the State Government pursuant to paragraph (b) of subsection 1 of NRS 353.288, as amended by section 2 of this act.

Sec. 4. This act becomes effective on July 1, 2009.

