

ASSEMBLY BILL NO. 520—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF THE GOVERNOR)

MARCH 23, 2009

Referred to Committee on Ways and Means

SUMMARY—Makes various changes relating to state financial administration. (BDR 31-1167)

FISCAL NOTE: Effect on Local Government: No.
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 state financial administration; making various changes relating to state financial administration; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a certain amount of money remaining in the State General Fund at the end of a fiscal year be deposited into the Fund to Stabilize the Operation of the State Government, also known as the Rainy Day Fund. Such money may only be appropriated if the total actual revenue of the State falls short by 5 percent or more of the total anticipated revenue for that biennium, or if the Legislature and the Governor declare that a fiscal emergency exists. (NRS 353.288) **Section 14** of this bill requires that all unrestricted money remaining in the State General Fund at the end of a fiscal year that does not exceed 10 percent of the total of certain legislative appropriations from the State General Fund be deposited into the Fund to Stabilize the Operation of the State Government. **Section 14** further directs any additional unrestricted money remaining in the State General Fund be deposited into five new stabilization funds created in **sections 4-8** of this bill. These funds are designated to provide contingency money for the Department of Health and Human Services, capital improvement projects and one-shot appropriations, K-12 education through the State Distributive School Account, the Nevada System of Higher Education and for governmental functions not addressed by the other funds. **Sections 4-9** of this bill provide restrictions on the use and appropriation of the money in the stabilization funds.

Under existing law, the Chief of the Budget Division of the Department of Administration is required to prepare a proposed budget for the Executive Department of the State Government for each biennium for the Governor's approval and submission to the Legislature. In preparing that proposed budget, the Chief is prohibited from exceeding a limit on total proposed expenditures calculated with a formula involving a base budget that is equal to the total



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expenditures in the 1975-1977 biennium, which is multiplied by a certain population growth percentage obtained from the United States Department of Commerce and an inflation or deflation percentage based on figures from the United States Department of Labor. (NRS 353.213) **Section 12** of this bill revises that formula by requiring first an estimation of the total proposed expenditures, which utilizes a base equal to the total expenditures from fiscal years 2005-2007, and provides for the population growth percentage to be determined using figures from the State Demographer, and for the inflation or deflation percentage to be based on a comparison between the most recent estimate of the Economic Forum of the state and local government consumption expenditures and gross investment component of the Gross Domestic Product to the same component as calculated in the last quarter of 2006 by the Bureau of Economic Analysis of the United States Department of Commerce. **Section 12** further provides that the actual total proposed expenditures in the Governor's proposed budget be based on a comparison between the estimation of total proposed expenditures, the total legislative appropriations made in the previous biennium and the most recent forecast for revenues in the State General Fund made by the Economic Forum.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. *As used in NRS 353.150 to 353.246, inclusive, and sections 2 to 9, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 353.155 and section 3 of this act have the meanings ascribed to them in those sections.*

Sec. 3. *"One-time expenditure" means an expenditure designated by legislative appropriation for a particular purpose that is not required on an ongoing basis.*

Sec. 4. 1. *The Department of Health and Human Services Stabilization Fund is hereby created as a special revenue fund.*

2. *When revenues in the State General Fund for a fiscal year exceed the total of the legislative appropriations from the State General Fund for that fiscal year, interest and income on the money in the Department of Health and Human Services Stabilization Fund, after deducting any applicable charges, may be appropriated for use by the Director of the Department of Health and Human Services for one-time expenditures.*

3. *When the total of the legislative appropriations from the State General Fund for a fiscal year exceed the revenues in the State General Fund for that fiscal year, money in the Department of Health and Human Services Stabilization Fund may be appropriated for use pursuant to section 9 of this act.*

Sec. 5. 1. *The Fund for Capital Improvement Projects and One-Shot Expenditures is hereby created as a special revenue*



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1 *fund. The interest and income earned on the money in the Fund,*
2 *after deducting any applicable charges, must be credited to the*
3 *Fund.*

4 2. *When revenues in the State General Fund for a fiscal year*
5 *exceed the total of the legislative appropriations from the State*
6 *General Fund for that fiscal year, money in the Fund for Capital*
7 *Improvement Projects and One-Shot Expenditures may be*
8 *appropriated for capital improvement projects of the State and*
9 *one-time expenditures.*

10 3. *When the total of the legislative appropriations from the*
11 *State General Fund for a fiscal year exceed the revenues in the*
12 *State General Fund for that fiscal year, money in the Fund for*
13 *Capital Improvement Projects and One-Shot Expenditures may be*
14 *appropriated to make up any such shortfall.*

15 **Sec. 6.** 1. *The Fund to Stabilize K-12 Education is hereby*
16 *created as a special revenue fund.*

17 2. *When revenue deposited by law in the State Distributive*
18 *School Account in the State General Fund for a fiscal year*
19 *exceeds the total of the legislative appropriations from the State*
20 *Distributive School Account for that fiscal year:*

21 (a) *The excess revenue must be transferred to the Fund to*
22 *Stabilize K-12 Education; and*

23 (b) *The interest and income earned on the money in the Fund,*
24 *after deducting any applicable charges, may be appropriated for*
25 *one-time expenditures on K-12 education.*

26 3. *When the total of the legislative appropriations from the*
27 *State Distributive School Account for a fiscal year exceeds the*
28 *revenues in the State Distributive School Account for that fiscal*
29 *year, money in the Fund to Stabilize K-12 Education may be*
30 *appropriated to make up any such shortfall.*

31 **Sec. 7.** 1. *The General Governmental Functions*
32 *Stabilization Fund is hereby created as a special revenue fund.*
33 *The interest and income earned on the money in the Fund, after*
34 *deducting any applicable charges, must be credited to the Fund.*

35 2. *Money from the Fund may be appropriated only as*
36 *provided for in section 9 of this act.*

37 **Sec. 8.** 1. *The Nevada System of Higher Education*
38 *Stabilization Fund is hereby created as a special revenue fund.*
39 *Except as otherwise provided in subsection 2, money from the*
40 *Fund may be appropriated only as provided for in section 9 of this*
41 *act.*

42 2. *When revenues in the State General Fund for a fiscal year*
43 *exceed the total of the legislative appropriations from that State*
44 *General Fund for that fiscal year, interest and income on the*
45 *money in the Nevada System of Higher Education Stabilization*



Fund, after deducting any applicable charges, may be appropriated for use by the Nevada System of Higher Education on one-time expenditures.

Sec. 9. *1. When the legislative appropriations from the State General Fund for a fiscal year exceed the revenues in the State General Fund for that fiscal year, money in the Funds created pursuant to sections 4, 7 and 8 of this act may be appropriated for use by:*

(a) The Department of Health and Human Services;

(b) The Nevada System of Higher Education; and

(c) General governmental programs other than programs of the Department of Health and Human Services and the Nevada System of Higher Education and programs funded from the State Distributive School Account.

2. Appropriations made pursuant to this section must be made to the Department of Health and Human Services, the Nevada System of Higher Education and all other departments, institutions and agencies of State Government, excluding those funded by the State Distributive School Account, in proportion to the share of each, respectively, of the legislative appropriations for that fiscal year.

Sec. 10. NRS 353.155 is hereby amended to read as follows:

353.155 ~~[As used in NRS 353.150 to 353.246, inclusive,]~~
“Chief” means the Chief of the Budget Division of the Department of Administration.

Sec. 11. NRS 353.185 is hereby amended to read as follows:

353.185 The powers and duties of the Chief are:

1. To appraise the quantity and quality of services rendered by each agency in the Executive Department of the State Government, and the needs for such services and for any new services.

2. To develop plans for improvements and economies in organization and operation of the Executive Department, and to install such plans as are approved by the respective heads of the various agencies of the Executive Department, or as are directed to be installed by the Governor or the Legislature.

3. To cooperate with the State Public Works Board in developing comprehensive, long-range plans for capital improvements and the means for financing them.

4. To devise and prescribe the forms for reports on the operations of the agencies in the Executive Department to be required periodically from the several agencies in the Executive Department, and to require the several agencies to make such reports.

5. To prepare the executive budget report for the Governor’s approval and submission to the Legislature.



6. To prepare a proposed budget for the Executive Department of the State Government for the next 2 fiscal years, which must:

(a) Present a complete financial plan for the next 2 fiscal years;
(b) Set forth all proposed expenditures for the administration, operation and maintenance of the departments, institutions and agencies of the Executive Department of the State Government, including those operating on funds designated for specific purposes by the Constitution or otherwise, which must include a separate statement of:

(1) The anticipated expense, including personnel, for the operation and maintenance of each capital improvement to be constructed during the next 2 fiscal years and of each capital improvement constructed on or after July 1, 1999, which is to be used during those fiscal years or a future fiscal year; and

(2) The proposed source of funding for the operation and maintenance of each capital improvement, including personnel, to be constructed during the next 2 fiscal years;

(c) Set forth all charges for interest and debt redemption during the next 2 fiscal years, including, without limitation, the debt service on the note or notes authorized by NRS 349.074 as if the note or notes were issued in the amount necessary to comply with ~~the minimum reserve requirements in~~ NRS 353.213.

(d) Set forth all expenditures for capital projects to be undertaken and executed during the next 2 fiscal years, and which must, to the extent practicable, provide that each capital project which exceeds a cost of \$10,000,000 be scheduled to receive funding for design and planning during one biennium and funding for construction in the subsequent biennium; and

(e) Set forth the anticipated revenues of the State Government, and any other additional means of financing the expenditures proposed for the next 2 fiscal years.

7. To examine and approve work programs and allotments to the several agencies in the Executive Department, and changes therein.

8. To examine and approve statements and reports on the estimated future financial condition and the operations of the agencies in the Executive Department of the State Government and the several budgetary units that have been prepared by those agencies and budgetary units, before the reports are released to the Governor, to the Legislature or for publication.

9. To receive and deal with requests for information as to the budgetary status and operations of the executive agencies of the State Government.



10. To prepare such statements of unit costs and other statistics relating to cost as may be required from time to time, or requested by the Governor or the Legislature.

11. To do and perform such other and further duties relative to the development and submission of an adequate proposed budget for the Executive Department of the State Government of the State of Nevada as the Governor may require.

Sec. 12. NRS 353.213 is hereby amended to read as follows:

353.213 1. ~~It is~~ *Except as otherwise provided in this section,* 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~~ *estimated* 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~~ *2005*.

2. The limit *upon total proposed expenditures imposed pursuant to subsection 1* for each biennium is ~~calculated as follows~~:

~~(a) The~~ *estimated by multiplying 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~~ *2006, then multiplying the product* 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.~~

~~The proposed budget for each fiscal year of the biennium must provide for a reserve of not less than 5 percent nor 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. *In preparing the proposed budget for the upcoming biennium, the Chief shall compare the limit upon total proposed expenditures estimated pursuant to subsection 2 with the most recent forecast by the Economic Forum of revenues in the State General Fund pursuant to NRS 353.228 and the total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium as follows:*

(a) *If the most recent forecast by the Economic Forum of revenues in the State General Fund is greater than the limit upon total proposed expenditures estimated pursuant to subsection 2, then the amount of the proposed budget cannot exceed the limit upon total proposed expenditures estimated pursuant to subsection 2.*

(b) *If the most recent forecast by the Economic Forum of revenues in the State General Fund is less than the limit upon total proposed expenditures estimated pursuant to subsection 2 and:*

(1) *Greater than the total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium, then the amount of the proposed budget cannot exceed the most recent forecast by the Economic Forum of revenues in the State General Fund; or*

(2) *Less than the total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium, then the amount of the proposed budget cannot exceed the smaller of:*

(I) *The total expenditures, for the purposes limited in subsection 1, from the State General Fund appropriated and authorized by the Legislature for the current biennium; or*

(II) *The most recent forecast by the Economic Forum of revenues in the State General Fund plus the amounts available for appropriation from the special revenue funds created in NRS 353.288 and sections 4 to 8, inclusive, of this act.*

4. ~~The [revised estimate] percentage of change in 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] to be used in the calculations made pursuant to subsection 2 is the ratio of the forecast of the~~



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1 *population of the State made on July 1 of the second fiscal year of*
2 *the upcoming biennium by the demographer employed pursuant to*
3 *NRS 360.283 to the population of the State on July 1, 2006. The*
4 *percentage of inflation or deflation ~~[-]~~ to be used in the calculations*
5 *made pursuant to subsection 2 is the ratio of the most recent*
6 *estimate by the Economic Forum pursuant to NRS 353.228 of the*
7 *state and local government consumption expenditures and gross*
8 *investment component of the Gross Domestic Product of the*
9 *United States for the September to December quarter of the second*
10 *fiscal year of the upcoming biennium to the value of the state and*
11 *local government consumption expenditures and gross investment*
12 *component of the Gross Domestic Product of the United States for*
13 *the September 2006 to December 2006 quarter as specified by the*
14 *Bureau of Economic Analysis of the United States Department of*
15 *Commerce.*

16 ~~[4-]~~ 5. The Chief may exceed the limit to the extent necessary
17 to meet situations in which there is a threat to life or property.

18 ~~[5-]~~ 6. As used in this section, "unfunded accrued liability"
19 means a liability with an actuarially determined value which
20 exceeds the value of the assets in the fund from which payments are
21 made to discharge the liability.

22 **Sec. 13.** NRS 353.228 is hereby amended to read as follows:

23 353.228 1. The Economic Forum impaneled pursuant to NRS
24 353.226 shall:

25 (a) Make such projections for economic indicators as it deems
26 necessary to ensure that an accurate estimate is produced pursuant to
27 ~~[paragraph (b);]~~ *paragraphs (b) and (c);*

28 (b) Provide an accurate estimate of the revenue that will be
29 collected by the State for general, unrestricted uses, and not for
30 special purposes, during the biennium that begins on July 1 of the
31 year following the date on which the Economic Forum was
32 empaneled;

33 (c) *Provide an accurate estimate of the state and local*
34 *government consumption expenditures and gross investment*
35 *component of the Gross Domestic Product of the United States as*
36 *required pursuant to NRS 353.213, based on information from the*
37 *Legislative Counsel Bureau, the Budget Division of the*
38 *Department of Administration and other sources as provided in*
39 *subsection 4;*

40 (d) Request such technical assistance as the Economic Forum
41 deems necessary from the Technical Advisory Committee created
42 by NRS 353.229;

43 ~~[(d)]~~ (e) On or before December 1 of the year in which the
44 Economic Forum was empaneled, prepare a written report of its
45 projections of economic indicators and estimate of future state



1 revenue required by paragraphs (a) , ~~(b)~~ (b) and (c) and present
2 the report to the Governor and the Legislature; and

3 ~~(e)~~ (f) On or before May 1 of the year following the year in
4 which the Economic Forum was empaneled, prepare a written report
5 confirming or revising the projections of economic indicators and
6 estimate of future state revenue contained in the report prepared
7 pursuant to paragraph ~~(d)~~ (e) and present the report to the
8 Governor and the Legislature.

9 2. The Economic Forum may make preliminary projections of
10 economic indicators and estimates of future state revenue at any
11 time. Any such projections and estimates must be made available to
12 the various agencies of the State through the Chief.

13 3. The Economic Forum may request information directly from
14 any state agency. A state agency that receives a reasonable request
15 for information from the Economic Forum shall comply with the
16 request as soon as is reasonably practicable after receiving the
17 request.

18 4. To carry out its duties pursuant to this section, the Economic
19 Forum may consider any information received from the Technical
20 Advisory Committee and any other information received from
21 independent sources.

22 5. Copies of the projections and estimates made pursuant to
23 this section must be made available to the public by the Director of
24 the Legislative Counsel Bureau for the cost of reproducing the
25 material.

26 **Sec. 14.** NRS 353.288 is hereby amended to read as follows:

27 353.288 1. The Fund to Stabilize the Operation of the State
28 Government is hereby created as a special revenue fund. Except as
29 otherwise provided in subsections 2 ~~and 3~~ , 3 and 4, each year
30 after the close of the fiscal year and before the issuance of the State
31 Controller's annual report, the State Controller shall deposit to the
32 credit of the Fund ~~40 percent~~ *all* of the unrestricted balance of the
33 State General Fund ~~which remains~~ *which remains* as of the close of the fiscal
34 year . ~~[, which remains after subtracting an amount equal to 10~~
35 ~~percent of all appropriations made from the State General Fund~~
36 ~~during that year for the operation of all departments, institutions and~~
37 ~~agencies of State Government and for the funding of schools.]~~ *The*
38 *interest and income earned on the money in the Fund, after*
39 *deducting any applicable charges, must be credited to the Fund.*

40 2. The balance in the Fund, excluding the aggregate balance in
41 the Disaster Relief Account and the Emergency Assistance
42 Subaccount, must not exceed ~~15~~ 10 percent of the total of all
43 appropriations from the State General Fund for the operation of all
44 departments, institutions and agencies of the State Government and
45 for the funding of schools and authorized expenditures from the



1 State General Fund for the regulation of gaming for the fiscal year
2 in which that revenue will be deposited in the Fund.

3 3. *The portion of the unrestricted balance of the State*
4 *General Fund remaining at the close of the fiscal year that*
5 *exceeds the limit set forth in subsection 2 must be deposited by the*
6 *State Controller as follows:*

7 (a) *Twenty-five percent to the Fund for Capital Improvement*
8 *Projects and One-Shot Expenditures created in section 5 of this*
9 *act.*

10 (b) *The remainder to the Department of Health and Human*
11 *Services Stabilization Fund created pursuant to section 4 of this*
12 *act, the Fund to Stabilize K-12 Education created pursuant to*
13 *section 6 of this act, the General Governmental Functions*
14 *Stabilization Fund created pursuant to section 7 of this act and the*
15 *Nevada System of Higher Education Stabilization Fund created*
16 *pursuant to section 8 of this act. The deposits into these funds*
17 *pursuant to this paragraph must be made in a proportion equal to*
18 *the legislative appropriations in the current biennium to the*
19 *Department of Health and Human Services, the State Distributive*
20 *School Account of the State General Fund, the Nevada System of*
21 *Higher Education and all other departments, institutions and*
22 *agencies of State Government, respectively.*

23 4. Except as otherwise provided in this subsection and NRS
24 353.2735, beginning with the fiscal year that begins on July 1, 2003,
25 the State Controller shall, at the end of each quarter of a fiscal year,
26 transfer from the State General Fund to the Disaster Relief Account
27 created pursuant to NRS 353.2735 an amount equal to not more than
28 10 percent of the aggregate balance in the Fund to Stabilize the
29 Operation of the State Government during the previous quarter,
30 excluding the aggregate balance in the Disaster Relief Account and
31 the Emergency Assistance Subaccount created pursuant to NRS
32 414.135. The State Controller shall not transfer more than \$500,000
33 for any quarter pursuant to this subsection.

34 ~~[4.]~~ 5. Money from the Fund to Stabilize the Operation of the
35 State Government may be appropriated only ~~[-~~

36 ~~—(a) If~~ if the total actual revenue of the State falls short ~~[by 5~~
37 ~~percent or more]~~ of the total ~~[anticipated revenue]~~ of the legislative
38 ~~appropriations~~ for the biennium in which the appropriation is made
39 ~~[- or~~

40 ~~—(b) If the Legislature and the Governor declare that a fiscal~~
41 ~~emergency exists.] and the balances in the stabilization funds~~
42 ~~created pursuant to sections 4 to 8, inclusive, of this act have been~~
43 ~~depleted, except that, in no case may the balance of the Fund be~~
44 ~~appropriated below an amount equal to 5 percent of the legislative~~



1 *appropriations for the biennium in which the appropriation is*
2 *made.*

3 **Sec. 15.** NRS 387.030 is hereby amended to read as follows:

4 387.030 All money derived from interest on the State
5 Permanent School Fund, together with all money derived from other
6 sources provided by law, must:

7 1. Be placed in the State Distributive School Account which is
8 hereby created in the State General Fund; and

9 2. Except as otherwise provided in NRS 387.528 ~~§~~ *and*
10 *section 6 of this act*, be apportioned among the several school
11 districts and charter schools of this State at the times and in the
12 manner provided by law.

13 **Sec. 16.** This act becomes effective on July 1, 2009.

