

ASSEMBLY BILL NO. 241—ASSEMBLYMEN SMITH, CONKLIN,  
OCEGUERA, BOBZIEN, KIRKPATRICK; AND DIAZ

MARCH 7, 2011

Referred to Committee on Ways and Means

SUMMARY—Creates stabilization accounts for public education funding. (BDR 31-147)

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; creating the Nevada System of Higher Education Stabilization 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 **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 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 Fund to Stabilize the Operation of the State Government.  
13 **Section 6** of this bill creates the Nevada System of Higher Education  
14 Stabilization Account within the Fund to Stabilize the Operation of the State  
15 Government and requires the State Controller to deposit any money reverted from  
16 the Nevada System of Higher Education at the close of the previous fiscal year into  
17 that Account. **Section 6** authorizes the Board of Regents of the University of  
18 Nevada to request an allocation from the Account to offset any reserves required to  
19 be set aside by the Nevada System of Higher Education.



\* A B 2 4 1 \*

**Section 7** of this bill limits the amount of money that may be set aside as proposed reserves to meet emergencies during a fiscal year for the State Distributive School Account and certain other funds and accounts for education to the average that is reserved for all other departments, institutions and agencies. **Section 7** also requires the Chief of the Budget Division of the Department of Administration to submit a request to the Legislature or, if the Legislature is not in session, to the Interim Finance Committee, to determine whether an allocation should be made from the K-12 Public Education Stabilization Account in lieu of setting aside a reserve in the State Distributive School Account and certain other funds and accounts for education.

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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 6, inclusive, of this act.

**Sec. 2. 1. *The K-12 Public Education Stabilization Account is hereby created in the Fund to Stabilize the Operation of the State Government created by NRS 353.288.***

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

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

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

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

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



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

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

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

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

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

18       (b) Unexpended appropriations made to the Account from the  
19 State General Fund,

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

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

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

39       Sec. 3. 1. For the purposes of sections 4 and 5 of this act, a  
40 shortfall exists in the State Distributive School Account if the  
41 projections of local revenue pursuant to NRS 387.1235 are at least  
42 2 percent less than what was anticipated when the Legislature  
43 determined the amount of basic support for the biennium.

44       2. If a shortfall exists in the State Distributive School  
45 Account:



1       (a) *An allocation to cover the shortfall must be made from the*  
2 *K-12 Public Education Stabilization Account in accordance with*  
3 *the provisions of section 4 or 5 of this act before any allocation to*  
4 *cover the shortfall is made from the Fund to Stabilize the*  
5 *Operation of the State Government; and*

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

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

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

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

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

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



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

3     (a) The need for the allocation; and

4     (b) The intent of the Legislature in creating the K-12 Public  
5 Education Stabilization Account.

6     **Sec. 6.** 1. The Nevada System of Higher Education  
7 Stabilization Account is hereby created in the Fund to Stabilize the  
8 Operation of the State Government created by NRS 353.288.

9     2. Except as otherwise provided in subsection 3, the State  
10 Controller shall, after the close of the previous fiscal year and  
11 before the issuance of the State Controller's annual report,  
12 transfer from the State General Fund to the Nevada System of  
13 Higher Education Stabilization Account any money which was  
14 reverted from the Nevada System of Higher Education to the State  
15 General Fund at the close of the previous fiscal year. Money  
16 transferred pursuant to this subsection to the Nevada System of  
17 Higher Education Stabilization Account is hereby appropriated as  
18 a continuing appropriation solely for the purpose of authorizing  
19 the expenditure of the transferred money for the purposes set forth  
20 in this section.

21     3. The balance in the Nevada System of Higher Education  
22 Stabilization Account must not exceed 10 percent of the combined  
23 sum of:

24     (a) Money appropriated by the Legislature to the Nevada  
25 System of Higher Education for operating expenses; and

26     (b) Any revenue from taxes ad valorem approved by the  
27 Legislature for expenditure by the Nevada System of Higher  
28 Education.

29     4. Except as otherwise provided in subsection 3, the interest  
30 and income earned on the sum of:

31     (a) The money in the Nevada System of Higher Education  
32 Stabilization Account; and

33     (b) Unexpended appropriations made to the Nevada System of  
34 Higher Education Stabilization Account from the State General  
35 Fund,

36     ↪ must be credited to the Nevada System of Higher Education  
37 Stabilization Account. If the amount of such credit would cause  
38 the Account to exceed the maximum allowed balance in the  
39 Account established pursuant to subsection 3, the amount of such  
40 excess credit must be deposited for credit to the Fund to Stabilize  
41 the Operation of the State Government or, if the amount of such  
42 excess credit would cause that Fund to exceed the maximum  
43 allowed balance in that Fund established pursuant to subsection 3  
44 of NRS 353.288, the amount of such excess credit must be  
45 deposited for credit to the State General Fund.



1       5. *The money in the Nevada System of Higher Education*  
2 *Stabilization Account must not be used to replace or supplant*  
3 *money otherwise available from other sources for the operation of*  
4 *the Nevada System of Higher Education.*

5       6. *The money in the Nevada System of Higher Education*  
6 *Stabilization Account may only be allocated by the Legislature or,*  
7 *if the Legislature is not in session, by the Interim Finance*  
8 *Committee pursuant to subsection 7, 8 or 9.*

9       7. *If the Board of Regents of the University of Nevada is*  
10 *required to set aside any reserves pursuant to NRS 353.225 or*  
11 *other specific statute and the Legislature is in session, the Board*  
12 *of Regents may submit a request for an allocation from the*  
13 *Nevada System of Higher Education Stabilization Account to*  
14 *the Director of the Legislative Counsel Bureau for transmission to*  
15 *the Legislature. If the Legislature finds that an allocation should*  
16 *be made from the Nevada System of Higher Education*  
17 *Stabilization Account, the Legislature shall by resolution establish*  
18 *the amount and purpose of the allocation and direct the State*  
19 *Controller to transfer that amount to the Nevada System of Higher*  
20 *Education. The State Controller shall thereupon make the*  
21 *transfer.*

22       8. *If the Board of Regents of the University of Nevada is*  
23 *required to set aside any reserves pursuant to NRS 353.225 or*  
24 *other specific statute and the Legislature is not in session, the*  
25 *Board of Regents may submit a request for an allocation from*  
26 *the Nevada System of Higher Education Stabilization Account to*  
27 *the State Board of Examiners. The State Board of Examiners*  
28 *shall consider the request and shall, if it finds that an allocation*  
29 *should be made, recommend the amount of the allocation to the*  
30 *Interim Finance Committee for its independent evaluation and*  
31 *action. The Interim Finance Committee is not bound to follow the*  
32 *recommendations of the State Board of Examiners.*

33       9. *If the Interim Finance Committee, after independent*  
34 *determination, finds that an allocation should and may lawfully be*  
35 *made from the Nevada System of Higher Education Stabilization*  
36 *Account, the Committee shall by resolution establish the amount*  
37 *and purpose of the allocation and direct the State Controller to*  
38 *transfer that amount to the Nevada System of Higher Education.*  
39 *The State Controller shall thereupon make the transfer. In acting*  
40 *upon a request for an allocation, the Interim Finance Committee*  
41 *shall consider, among other things:*

42       (a) *The need for the allocation; and*

43       (b) *The intent of the Legislature in creating the Nevada System*  
44 *of Higher Education Stabilization Account.*



1     10. *An allocation to offset any reserves required to be set*  
2 *aside by the Board of Regents of the University of Nevada*  
3 *pursuant to NRS 353.225 or other specific statute must be made*  
4 *from the Nevada System of Higher Education Stabilization*  
5 *Account in accordance with this section before any allocation is*  
6 *made from the Fund to Stabilize the Operation of the State*  
7 *Government for the same purpose. No allocation may be made*  
8 *from the Fund to Stabilize the Operation of the State Government*  
9 *to offset any reserves required to be set aside by the Board of*  
10 *Regents of the University of Nevada pursuant to NRS 353.225 or*  
11 *other specific statute until all money which is available in the*  
12 *Nevada System of Higher Education Stabilization Account has*  
13 *been allocated.*

14     **Sec. 7.** NRS 353.225 is hereby amended to read as follows:

15     353.22 1. ~~HH~~ *Subject to the requirements of subsections 2*  
16 *and 3, in* order to provide some degree of flexibility to meet  
17 emergencies arising during each fiscal year in the expenditures for  
18 the State Distributive School Account in the State General Fund and  
19 for operation and maintenance of the various departments,  
20 institutions and agencies of the Executive Department of the State  
21 Government, the Chief, with the approval in writing of the  
22 Governor, may require the State Controller or the head of each such  
23 department, institution or agency to set aside a reserve in such  
24 amount as the Chief may determine, out of the total amount  
25 appropriated or out of other funds available from any source  
26 whatever to the department, institution or agency.

27     2. *If the Chief determines that a reserve pursuant to*  
28 *subsection 1 is required in the State Distributive School Account,*  
29 *the Account for Programs for Innovation and the Prevention of*  
30 *Remediation created by NRS 385.379, the Grant Fund for*  
31 *Incentives for Licensed Educational Personnel created by NRS*  
32 *391.166, or any other account established for administration by*  
33 *the Department of Education for other educational programs for*  
34 *the school districts, charter schools and university schools for*  
35 *profoundly gifted pupils, the amount of any proposed reserves in*  
36 *each of those accounts and the Grant Fund, when combined and*  
37 *calculated as a percentage of the general fund appropriations in*  
38 *those accounts and the Grant Fund, must not exceed the average*  
39 *percentage of reserves for all other accounts and funds that*  
40 *include general fund appropriations for the operation of all*  
41 *departments, institutions and agencies of the State Government*  
42 *and authorized expenditures from the State General Fund for the*  
43 *regulation of gaming for that fiscal year.*

44     3. *Before setting aside any reserves in the State Distributive*  
45 *School Account, the Account for Programs for Innovation and the*





1 *Prevention of Remediation created by NRS 385.379, the Grant*  
2 *Fund for Incentives for Licensed Educational Personnel created*  
3 *by NRS 391.166, or any other account established for*  
4 *administration by the Department of Education for other*  
5 *educational programs for the school districts, charter schools and*  
6 *university schools for profoundly gifted pupils, the Chief must*  
7 *make a request to the Legislature or, if the Legislature is not in*  
8 *session, to the Interim Finance Committee, to determine whether*  
9 *an allocation should be made from the K-12 Public Education*  
10 *Stabilization Account created by section 2 of this act in lieu of*  
11 *setting aside the reserve. If the Legislature or the Interim Finance*  
12 *Committee finds that an allocation should be made from the K-12*  
13 *Public Education Stabilization Account in lieu of a reserve, the*  
14 *Legislature or the Interim Finance Committee shall by resolution*  
15 *establish the amount and the purpose of the allocation and direct*  
16 *the State Controller to transfer that amount to the State General*  
17 *Fund. If the Legislature or the Interim Finance Committee adopts*  
18 *such a resolution, only the difference between the proposed*  
19 *amount of reserves determined pursuant to subsection 2 and the*  
20 *allocation made by resolution pursuant to this subsection may be*  
21 *set aside as reserves in the State Distributive School Account, the*  
22 *Account for Programs for Innovation and the Prevention of*  
23 *Remediation created by NRS 385.379, the Grant Fund for*  
24 *Incentives for Licensed Educational Personnel created by NRS*  
25 *391.166, or any other account established for administration by*  
26 *the Department of Education for other educational programs for*  
27 *the school districts, charter schools and university schools for*  
28 *profoundly gifted pupils.*

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

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

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

36 *5. At any time during the fiscal year this reserve or any portion*  
37 *of it may be returned to the appropriation or other fund to which it*  
38 *belongs and may be added to any one or more of the allotments, if*  
39 *the Chief so orders in writing.*

40 **Sec. 8.** NRS 353.288 is hereby amended to read as follows:

41 353.288 1. The Fund to Stabilize the Operation of the State  
42 Government is hereby created as a special revenue fund. Except as  
43 otherwise provided in subsections 3 and 4, each year after the close  
44 of the previous fiscal year and before the issuance of the State  
45 Controller's annual report, the State Controller shall transfer from





1 the State General Fund to the Fund to Stabilize the Operation of the  
2 State Government:

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

9 (b) Commencing with the fiscal year that begins on July 1,  
10 2011, 1 percent of the total anticipated revenue for the fiscal year in  
11 which the transfer will be made, as projected by the Economic  
12 Forum for that fiscal year pursuant to paragraph (e) of subsection 1  
13 of NRS 353.228 and as adjusted by any legislation enacted by the  
14 Legislature that affects state revenue for that fiscal year.

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

19 3. The balance in the Fund to Stabilize the Operation of the  
20 State Government, excluding the aggregate balance in the Disaster  
21 Relief Account and the Emergency Assistance Subaccount, must not  
22 exceed 20 percent of the total of all appropriations from the State  
23 General Fund for the operation of all departments, institutions and  
24 agencies of the State Government and for the funding of schools and  
25 authorized expenditures from the State General Fund for the  
26 regulation of gaming for the fiscal year in which that revenue will  
27 be transferred to the Fund to Stabilize the Operation of the State  
28 Government.

29 4. Except as otherwise provided in this subsection and NRS  
30 353.2735, beginning with the fiscal year that begins on July 1, 2003,  
31 the State Controller shall, at the end of each quarter of a fiscal year,  
32 transfer from the State General Fund to the Disaster Relief Account  
33 created pursuant to NRS 353.2735 an amount equal to not more than  
34 10 percent of the aggregate balance in the Fund to Stabilize the  
35 Operation of the State Government during the previous quarter,  
36 excluding the aggregate balance in the Disaster Relief Account and  
37 the Emergency Assistance Subaccount created pursuant to NRS  
38 414.135. The State Controller shall not transfer more than \$500,000  
39 for any quarter pursuant to this subsection.

40 5. ~~[The]~~ *Except as otherwise provided in sections 3 and 6 of*  
41 *this act,* the Chief of the Budget Division of the Department of  
42 Administration may submit a request to the State Board of  
43 Examiners to transfer money from the Fund to Stabilize the  
44 Operation of the State Government to the State General Fund:



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

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

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

14 7. If the Interim Finance Committee finds that a transfer  
15 recommended by the State Board of Examiners should and may  
16 lawfully be made, the Committee shall by resolution establish the  
17 amount and direct the State Controller to transfer that amount to  
18 the State General Fund. The State Controller shall thereupon make  
19 the transfer. *In considering whether to make a transfer from the*  
20 *Fund to Stabilize the Operation of the State Government to the*  
21 *State General Fund, the Interim Finance Committee shall*  
22 *consider, among other things:*

23 (a) *The effect of transfer on the balance in the Funds; and*

24 (b) *The intent of the Legislature in creating the Fund to*  
25 *Stabilize the Operation of the State Government.*

26 8. In addition to the manner of allocation authorized pursuant  
27 to subsections 5, 6 and 7, the money in the Fund to Stabilize the  
28 Operation of the State Government may be allocated directly by the  
29 Legislature to be used for any other purpose.

30 **Sec. 9.** This act becomes effective on July 1, 2011.

