

**Amendment No. 566**

Senate Amendment to Senate Bill No. 75 (BDR 31-523)

**Proposed by:** Senator Kieckhefer

**Amendment Box:** Consistent with Amendment No. 565.

**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: No

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

BFG/BAW



Date: 5/7/2011

S.B. No. 75—Establishes a program to provide private equity funding to businesses engaged in certain industries in this State. (BDR 31-523)



SENATE BILL NO. 75—SELECT COMMITTEE ON  
ECONOMIC GROWTH AND EMPLOYMENT

(ON BEHALF OF THE STATE TREASURER)

PREFILED DECEMBER 15, 2010

Referred to Select Committee on Economic  
Growth and Employment

SUMMARY—Establishes a program to provide private equity funding to businesses engaged in certain industries in this State. (BDR 31-523)

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; establishing a program to provide private equity funding to businesses engaged in certain industries in this State; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the State is prohibited from donating or loaning state money or credit, or subscribing to or being interested in the stock of any company, association or corporation, except a corporation that is formed for educational or charitable purposes. (Nev. Const. Art. 8, § 9) Existing law also requires the State Treasurer to negotiate for the investment of money in the State Permanent School Fund. However, the State Treasurer is prohibited from making certain investments unless he or she obtains a judicial determination that such an investment does not violate the provisions of Section 9 of Article 8 of the Nevada Constitution. (NRS 355.060)

**Section 5** of this bill requires the State Treasurer to form an independent corporation for public benefit, the purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses that engage in certain industries. **Sections 6 and 8** of this bill authorize the State Treasurer to transfer from the State Permanent School Fund to this corporation an amount not to exceed \$50 million, if the State Treasurer obtains a judicial determination that such a use of that money will not violate Article 8, Section 9 of the Nevada Constitution. **Section 6** requires this transfer to be made pursuant to an agreement which requires 70 percent of the private equity funding provided by the corporation to be provided to businesses engaged in certain industries that are located or seeking to locate in Nevada.

WHEREAS, NRS 355.060 authorizes the State Treasurer to invest money in the State Permanent School Fund in certain investments; and

1 WHEREAS, The State Treasurer seeks to invest money in the State Permanent  
2 School Fund in accordance with sound and prudent investment principles which  
3 include a primary emphasis on the preservation of assets followed by an emphasis  
4 on return; and

5 WHEREAS, A greater return on Permanent School Fund money invested by the  
6 State Treasurer will have a direct beneficial impact on Nevada schools and  
7 students; and

8 WHEREAS, The availability of private equity funding for investment in health  
9 care and life sciences, cyber security, homeland security and defense, alternative  
10 energy, advanced materials and manufacturing, information technology and other  
11 industries critical to economic development in this State would assist the State of  
12 Nevada in diversifying the economic base of the State; and

13 WHEREAS, The availability of private equity funding for investment in health  
14 care and life sciences, cyber security, homeland security and defense, alternative  
15 energy, advanced materials and manufacturing, information technology and other  
16 industries critical to economic development in this State would attract new  
17 businesses and investment to the State of Nevada, resulting in high-paying, quality  
18 jobs; and

19 WHEREAS, The availability of private equity funding for investment in health  
20 care and life sciences, cyber security, homeland security and defense, alternative  
21 energy, advanced materials and manufacturing, information technology and other  
22 industries critical to economic development in this State would create greater  
23 exposure for institutions of the Nevada System of Higher Education through  
24 expanded projects designed around health care and life sciences, cyber security,  
25 homeland security and defense, alternative energy, advanced materials and  
26 manufacturing, information technology and other industries critical to economic  
27 development in this State; and

28 WHEREAS, The availability of private equity funding for investment in health  
29 care and life sciences, cyber security, homeland security and defense, alternative  
30 energy, advanced materials and manufacturing, information technology and other  
31 industries critical to economic development in this State would encourage  
32 innovation and cooperation among institutions of the Nevada System of Higher  
33 Education and private sector businesses located in the State of Nevada; and

34 WHEREAS, The availability of private equity funding for investment in health  
35 care and life sciences, cyber security, homeland security and defense, alternative  
36 energy, advanced materials and manufacturing, information technology other  
37 industries critical to economic development in this State would increase the ability  
38 of institutions of the Nevada System of Higher Education, businesses in the State of  
39 Nevada and nonprofit corporations and organizations in the State of Nevada to  
40 compete more successfully for federal and private research and development  
41 funding; and

42 WHEREAS, The availability of private equity funding for investment in health  
43 care and life sciences research and development would provide for advanced  
44 medical care being available to people living in and visiting the State of Nevada;  
45 and

46 WHEREAS, The State of Nevada, through the establishment of methods to  
47 provide private equity funding to businesses in this State, would provide economic  
48 growth and world-class medical care and training and would assist in the creation  
49 of high-paying, quality jobs for people living in the State of Nevada; now,  
50 therefore,

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

**Section 1.** Chapter 355 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

**Sec. 2.** *As used in sections 2 to 7, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 and 4 of this act have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Corporation for public benefit” means a corporation that is recognized as exempt pursuant to section 501(c)(3) of the Internal Revenue Code of 1986, future amendments to that section and the corresponding provisions of future internal revenue laws.*

**Sec. 4.** *“Private equity funding” means an investment in or a purchase of securities in operating businesses that are not publicly traded on a stock exchange.*

**Sec. 5. 1.** *The State Treasurer shall cause to be formed in this State an independent corporation for public benefit, the general purpose of which is to act as a limited partner of limited partnerships or a shareholder or member of limited-liability companies that provide private equity funding to businesses:*

- (a) *Located in this State or seeking to locate in this State; and*
- (b) *Engaged primarily in one or more of the following industries:*

- (1) *Health care and life sciences.*
- (2) *Cyber security.*
- (3) *Homeland security and defense.*
- (4) *Alternative energy.*
- (5) *Advanced materials and manufacturing.*
- (6) *Information technology.*
- (7) *Any other industry that the board of directors of the corporation for public benefit determines to be critical to the economic development of this State.*

**2.** *The corporation for public benefit created pursuant to subsection 1 may place investments through the use or assistance of:*

- (a) *External asset managers; or*
- (b) *~~Venture capital and private~~ Private equity investment firms.*

**3.** *Money received pursuant to section 6 of this act by the corporation for public benefit created pursuant to subsection 1 may not be used to make venture capital investments.*

**4.** *As used in this section, “venture capital” means equity, near-equity and seed capital financing, including, without limitation, early stage research and development capital for start-up enterprises, and other equity, near-equity or seed capital for growth and expansion of entrepreneurial enterprises.*

**Sec. 6.** *If the State Treasurer obtains the judicial determination required by subsection 3 of NRS 355.060, the State Treasurer may transfer an amount not to exceed \$50 million from the State Permanent School Fund to the corporation for public benefit created pursuant to section 5 of this act. Such a transfer must be made pursuant to an agreement that requires the corporation for public benefit to:*

**1.** *Provide, through the limited partnerships or limited-liability companies described in subsection 1 of section 5 of this act, private equity funding; and*

**2.** *Ensure that at least 70 percent of all private equity funding provided by the corporation is provided to businesses:*

- (a) *Located in this State or seeking to locate in this State; and*
- (b) *Engaged primarily in one or more of the following industries:*
  - (1) *Health care and life sciences.*

(2) *Cyber security.*

(3) *Homeland security and defense.*

(4) *Alternative energy.*

(5) *Advanced materials and manufacturing.*

(6) *Information technology.*

(7) *Any other industry that the board of directors of the corporation for public benefit created pursuant to section 5 of this act determines to be critical to the economic development of this State.*

**Sec. 7. The State Treasurer shall:**

1. *Adopt such regulations as he or she deems necessary to carry out the provisions of sections 2 to 7, inclusive, of this act, including, without limitation, the performance of such audits and the submission of such reports as he or she deems appropriate to ensure compliance with the provisions of sections 2 to 7, inclusive, of this act and the regulations adopted pursuant to this section. The regulations may include criteria for determining eligibility for and use of private equity funding, but the corporation for public benefit established pursuant to section 5 of this act must have sole authority for the approval of applications for and the management of private equity funding provided pursuant to sections 2 to 7, inclusive, of this act.*

2. *Provide the corporation for public benefit created pursuant to section 5 of this act with such assistance as is necessary to carry out the provisions of sections 2 to 7, inclusive, of this act and comply with the regulations adopted pursuant to this section.*

**Sec. 8.** NRS 355.060 is hereby amended to read as follows:

355.060 1. The State Controller shall notify the State Treasurer monthly of the amount of uninvested money in the State Permanent School Fund.

2. Whenever there is a sufficient amount of money for investment in the State Permanent School Fund, the State Treasurer shall proceed to negotiate for the investment of the money in:

(a) United States bonds.

(b) Obligations or certificates of the Federal National Mortgage Association, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation, the Federal Farm Credit Banks Funding Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States.

(c) Bonds of this state or of other states.

(d) Bonds of any county of the State of Nevada.

(e) United States treasury notes.

(f) Farm mortgage loans fully insured and guaranteed by the ~~Farmers Home Administration~~ *Farm Service Agency* of the United States Department of Agriculture.

(g) Loans at a rate of interest of not less than 6 percent per annum, secured by mortgage on agricultural lands in this state of not less than three times the value of the amount loaned, exclusive of perishable improvements, of unexceptional title and free from all encumbrances.

(h) Money market mutual funds that:

(1) Are registered with the Securities and Exchange Commission;

(2) Are rated by a nationally recognized rating service as "AAA" or its equivalent; and

(3) Invest only in securities issued or guaranteed as to payment of principal and interest by the Federal Government, or its agencies or instrumentalities, or in repurchase agreements that are fully collateralized by such securities.

(i) Common or preferred stock of a corporation created by or existing under the laws of the United States or of a state, district or territory of the United States, if:

1 (1) The stock of the corporation is:

2 (I) Listed on a national stock exchange; or

3 (II) Traded in the over-the-counter market, if the price quotations for  
4 the over-the-counter stock are quoted by the National Association of Securities  
5 Dealers Automated Quotations System (NASDAQ);

6 (2) The outstanding shares of the corporation have a total market value of  
7 not less than \$50,000,000;

8 (3) The maximum investment in stock is not greater than 50 percent of the  
9 book value of the total investments of the State Permanent School Fund;

10 (4) Except for investments made pursuant to paragraph (k), the amount of  
11 an investment in a single corporation is not greater than 3 percent of the book value  
12 of the assets of the State Permanent School Fund; and

13 (5) Except for investments made pursuant to paragraph (k), the total  
14 amount of shares owned by the State Permanent School Fund is not greater than 5  
15 percent of the outstanding stock of a single corporation.

16 (j) A pooled or commingled real estate fund or a real estate security that is  
17 managed by a corporate trustee or by an investment advisory firm that is registered  
18 with the Securities and Exchange Commission, either of which may be retained by  
19 the State Treasurer as an investment manager. The shares and the pooled or  
20 commingled fund must be held in trust. The total book value of an investment made  
21 under this paragraph must not at any time be greater than 5 percent of the total book  
22 value of all investments of the State Permanent School Fund.

23 (k) Mutual funds or common trust funds that consist of any combination of the  
24 investments listed in paragraphs (a) to (j), inclusive.

25 *(l) The limited partnerships or limited-liability companies described in*  
26 *subsection 1 of section 5 of this act.*

27 3. The State Treasurer shall not invest any money in the State Permanent  
28 School Fund pursuant to paragraph (i), (j), ~~(k)~~ (k) *or (l)* of subsection 2 unless the  
29 State Treasurer obtains a judicial determination that the proposed investment or  
30 category of investments will not violate the provisions of Section 9 of Article 8 of  
31 the Constitution of the State of Nevada. The State Treasurer shall contract for the  
32 services of independent contractors to manage any investments of the State  
33 Treasurer made pursuant to paragraph (i), (j) or (k) of subsection 2. The State  
34 Treasurer shall establish such criteria for the qualifications of such an independent  
35 contractor as are appropriate to ensure that each independent contractor has  
36 expertise in the management of such investments.

37 4. In addition to the investments authorized by subsection 2, the State  
38 Treasurer may make loans of money from the State Permanent School Fund to  
39 school districts pursuant to NRS 387.526.

40 5. No part of the State Permanent School Fund may be invested pursuant to a  
41 reverse-repurchase agreement.