

Amendment No. 575

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

Proposed by: Senator Cegavske

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

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: 5/12/2011

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] require the State Treasurer [to transfer from] , at the direction of the Commission on Economic Development, to invest an amount not to exceed \$50 million of the money in 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] provide 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.~~

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

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

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

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

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

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

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

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

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

48 WHEREAS, The State of Nevada, through the establishment of methods to
49 provide private equity funding to businesses in this State, would provide economic
50 growth and world-class medical care and training and would assist in the creation
51 of high-paying, quality jobs for people living in the State of Nevada; now,
52 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 ~~3.1~~ 3.5 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.~~ **(Deleted by amendment.)**

Sec. 3.5. *“Commission” means the Commission on Economic Development or its successor.*

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) 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.~~ **(Deleted by amendment.)**

Sec. 6. ~~[If the State Treasurer obtains the judicial determination required by subsection 3 of NRS 355.060,]~~

~~1. At the direction of the Commission, the State Treasurer [may transfer] shall invest 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~~ in limited partnerships or 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 Commission determines to be critical to the economic development of this State.

2. The Commission shall ensure that at least 70 percent of all ~~private equity funding provided by the corporation~~ money invested pursuant to subsection 1 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~~ Commission determines to be critical to the economic development of this State.

3. Investments made pursuant to this section may be placed through the use or assistance of:

- (a) External asset managers; or
- (b) Private equity investment firms.

4. Money invested pursuant to this section may not be used to make venture capital investments.

5. 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. 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~~ Commission 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~~ Commission 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.

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

2 355.060 1. The State Controller shall notify the State Treasurer monthly of
3 the amount of uninvested money in the State Permanent School Fund.

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

7 (a) United States bonds.

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

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

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

14 (e) United States treasury notes.

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

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

22 (h) Money market mutual funds that:

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

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

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

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

31 (1) The stock of the corporation is:

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

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

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

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

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

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

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

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

3 *(l) The limited partnerships or limited-liability companies described in*
4 ~~*subsection 1 of section 5*~~ *section 6 of this act.*

5 3. The State Treasurer shall not invest any money in the State Permanent
6 School Fund pursuant to paragraph (i), (j) ~~or~~ (k) ~~for (l)~~ of subsection 2 unless
7 the State Treasurer obtains a judicial determination that the proposed investment or
8 category of investments will not violate the provisions of Section 9 of Article 8 of
9 the Constitution of the State of Nevada. The State Treasurer shall contract for the
10 services of independent contractors to manage any investments of the State
11 Treasurer made pursuant to paragraph (i), (j) or (k) of subsection 2. The State
12 Treasurer shall establish such criteria for the qualifications of such an independent
13 contractor as are appropriate to ensure that each independent contractor has
14 expertise in the management of such investments.

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

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