

SENATE BILL NO. 64—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 for the investment of state money in certificates of deposit at a reduced rate of interest to provide lending institutions with money for loans at a reduced rate of interest to certain eligible entities. (BDR 31-522)

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 state obligations; establishing a program for the investment of state money in certificates of deposit at a reduced rate of interest to provide qualified lending institutions with money for loans at a reduced rate of interest to certain eligible entities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law authorizes the State Treasurer to invest the money of this State in
2 certificates of deposit issued by commercial banks, insured credit unions or savings
3 and loan associations. (NRS 355.140) **Section 9** of this bill requires the State
4 Treasurer to establish the Linked Deposit Program, whereby the State Treasurer
5 may, in an aggregate amount not to exceed \$20,000,000, invest in certificates of
6 deposit with commercial banks, insured credit unions or insured savings and loan
7 associations at a reduced rate of interest on the condition that the lending institution
8 link the value of each such certificate of deposit to a loan at a reduced rate of
9 interest to certain small businesses, political subdivisions of this State and
10 institutions of higher education in this State. **Section 9** also provides that the rate of
11 interest paid to the State on the deposit is not to be more than 2 percentage points
12 below the market rate for such a deposit, and that the loan rate of interest is to be
13 equal to the rate of interest paid to the State on the deposit. **Section 9** further



requires the lending institution to sign an agreement with the State Treasurer specifying the terms of such a deposit and its linked loan.

Section 11 of this bill requires a lending institution that participates in the Linked Deposit Program to apply the institution's standard lending criteria to determine the creditworthiness of an eligible applicant seeking a loan. **Section 11** also limits such loans to an amount not to exceed \$500,000 and to a term of not more than 5 years. **Section 12** of this bill requires that, for loans made to certain eligible entities, a preference be given to certain in-state businesses that engage in the production and sale of fuel or power derived from renewable energy sources. Under **sections 16.5, 17.5 and 18** of this bill, upon a determination by the Attorney General that a preference for the granting of linked deposit loans for certain businesses which are at least 51-percent owned by a woman or a member of a racial or ethnic minority is constitutional and the issuance of a proclamation by the Governor to that effect, a preference must be given to certain in-state businesses which are at least 51-percent owned by a member of a racial or ethnic minority, a woman or a person who is a veteran discharged from the Armed Forces of the United States under other than dishonorable conditions. **Section 13** of this bill authorizes certain out-of-state businesses to apply for such a loan if they provide certain information, including, without limitation, proof of their intent to open a facility or office in this State and proof that 60 percent of the persons they intend to employ at that facility or office hold a valid Nevada driver's license or identification card. **Sections 12, 13 and 16.5** also limit the types of businesses that are eligible to participate in the Linked Deposit Program and require eligible businesses to use the proceeds from the loan for certain purposes. **Sections 14 and 15** of this bill authorize political subdivisions of this State and institutions of higher education in this State to obtain a loan under the Program and to use the proceeds for certain purposes.

Section 17 of this bill prohibits the State Treasurer from making any new investments through the Linked Deposit Program after June 30, 2015.

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 16, inclusive, of this act.

Sec. 2. *The Legislature hereby declares that the public policy of this State is to benefit the general welfare of the people of this State by improving the state economy through the encouragement of lending at reduced rates of interest to minority-owned and certain other small businesses, political subdivisions of this State and institutions of higher education in this State.*

Sec. 3. *As used in sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 4. "Eligible entity" means:

1. *A business that meets the requirements of section 12 or 13 of this act;*



2. A political subdivision of this State that meets the requirements of section 14 of this act; or

3. An institution of higher education in this State that meets the requirements of section 15 of this act.

Sec. 5. *"Linked deposit" means a certificate of deposit issued pursuant to section 9 of this act to the State Treasurer by a qualified lending institution.*

Sec. 6. *"Linked Deposit Program" means the loan program established pursuant to section 9 of this act.*

Sec. 7. (Deleted by amendment.)

Sec. 8. *"Qualified lending institution" means a commercial bank, an insured savings and loan association or an insured credit union in this State that meets the eligibility requirements of section 10 of this act.*

Sec. 9. 1. *The State Treasurer shall establish the Linked Deposit Program to increase the availability of loans at a reduced rate of interest to eligible entities.*

2. *The State Treasurer may invest in certificates of deposit at a reduced rate of interest with qualified lending institutions upon receipt of the form required pursuant to subsection 2 of section 11 of this act. Each certificate of deposit issued pursuant to this section by a qualified lending institution to the State Treasurer must be linked to a loan at a reduced rate of interest made by the qualified lending institution to an eligible entity.*

3. *The total amount invested in linked deposits by the State Treasurer at any one time may not exceed, in the aggregate, \$20,000,000.*

4. *Upon receipt of the form required pursuant to subsection 2 of section 11 of this act:*

(a) The State Treasurer may place a linked deposit with the lending institution at a rate of interest that is not more than 2 percentage points below the market rate for such a deposit at that lending institution. The State Treasurer shall determine and calculate all linked deposit rates of interest.

(b) The qualified lending institution shall enter into a deposit agreement with the State Treasurer, which must include, without limitation, terms that specify:

(1) The rate of interest to be paid on the deposit;

(2) The rate of interest to be charged for the loan linked to the deposit;

(3) That the qualified lending institution shall:

(I) Loan an amount equal to the amount of the deposit placed by the State Treasurer pursuant to paragraph (a) to an eligible entity at a rate of interest that is reduced from the current market rate for such a loan in the same amount as the reduction



1 *in rate of interest received by the State Treasurer for the linked*
2 *deposit;*

3 *(II) Verify that the entity is eligible for such a loan*
4 *pursuant to the applicable provisions of section 12, 13, 14 or 15 of*
5 *this act;*

6 *(III) Collect and provide the State Treasurer with any*
7 *information that is requested by the State Treasurer pertaining to*
8 *the loan and the eligible entity; and*

9 *(IV) Immediately notify the State Treasurer if the*
10 *eligible entity becomes ineligible for the Linked Deposit Program*
11 *during the term of the loan;*

12 *(4) That the rate of interest to be paid on the deposit placed*
13 *by the State Treasurer pursuant to paragraph (a) will revert to the*
14 *current market rate at the time the eligible entity becomes*
15 *ineligible for the Linked Deposit Program; and*

16 *(5) Any other requirements that are necessary to carry out*
17 *the Linked Deposit Program.*

18 *5. The State Treasurer shall:*

19 *(a) Prepare a report highlighting the benefits of the Linked*
20 *Deposit Program;*

21 *(b) Make the report prepared pursuant to paragraph (a)*
22 *available on the Internet website of the State Treasurer; and*

23 *(c) Provide to the Legislature a copy of the report prepared*
24 *pursuant to paragraph (a).*

25 **Sec. 10.** *To qualify for participation in the Linked Deposit*
26 *Program, a lending institution must:*

27 *1. Be a commercial bank organized under chapter 659 of*
28 *NRS, an insured savings and loan association organized under*
29 *chapter 673 of NRS or an insured credit union organized under*
30 *chapter 678 of NRS;*

31 *2. Agree to advertise actively to and inform potentially*
32 *eligible entities of the availability of loans at a reduced rate of*
33 *interest through the Linked Deposit Program;*

34 *3. Apply for qualification to offer loans pursuant to the*
35 *Linked Deposit Program on a form provided by the State*
36 *Treasurer; and*

37 *4. Agree to gather and provide to the State Treasurer the*
38 *following information for each person who submits an application*
39 *to the lending institution for a loan pursuant to the Linked Deposit*
40 *Program:*

41 *(a) Whether the lending institution approved the application*
42 *for the loan;*

43 *(b) If the applicant for the loan is a natural person, the race,*
44 *ethnicity and gender of the natural person and whether that*



1 *person is a veteran of the Armed Forces of the United States who*
2 *was discharged under other than dishonorable conditions; and*

3 *(c) If the applicant for the loan is not a natural person, a*
4 *political subdivision of this State or an institution of higher*
5 *education, the race, ethnicity and gender of each natural person*
6 *with an ownership interest in the applicant and whether a natural*
7 *person with an ownership interest in the applicant is a veteran of*
8 *the Armed Forces of the United States who was discharged under*
9 *other than dishonorable conditions.*

10 **Sec. 11.** 1. *A qualified lending institution that desires to*
11 *receive a linked deposit must accept and review applications for*
12 *linked deposit loans from eligible entities on a form provided by*
13 *the State Treasurer. The lending institution shall apply the*
14 *standard lending criteria of the lending institution to determine*
15 *the creditworthiness of each eligible entity.*

16 2. *A qualified lending institution must submit to the State*
17 *Treasurer a form provided by the State Treasurer for each loan*
18 *made pursuant to the Linked Deposit Program. The form must*
19 *include, without limitation, verification by the qualified lending*
20 *institution that the eligible entity meets the requirements of this*
21 *section and the applicable provisions of section 12, 13, 14 or 15 of*
22 *this act, and that the use of the proceeds as specified in the loan*
23 *meets the applicable requirements of section 12, 13, 14 or 15 of*
24 *this act.*

25 3. *A loan made pursuant to the Linked Deposit Program must*
26 *not:*

27 *(a) Exceed \$500,000; or*

28 *(b) Have a term of more than 5 years.*

29 **Sec. 12.** *Except as otherwise provided in section 13 of this*
30 *act:*

31 1. *To be eligible for a loan pursuant to the Linked Deposit*
32 *Program, a business must:*

33 *(a) Employ not more than 100 employees;*

34 *(b) Be headquartered in this State;*

35 *(c) Maintain offices or operating facilities in this State;*

36 *(d) Transact business in this State;*

37 *(e) Be organized for profit;*

38 *(f) Satisfy the standard lending criteria of the qualified lending*
39 *institution;*

40 *(g) Submit verification of eligibility for a linked deposit loan to*
41 *the qualified lending institution on a form provided by the State*
42 *Treasurer; and*

43 *(h) Submit an application for a linked deposit loan to the*
44 *qualified lending institution on a form provided by the qualified*
45 *lending institution.*



2. *In determining which eligible business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal, to a business engaged in the production and sale of fuel or power derived from renewable energy as defined by NRS 701.070.*

3. *An eligible business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:*

(a) *Working capital;*

(b) *Acquiring real property;*

(c) *Establishing a line of credit;*

(d) *Financing of accounts receivable;*

(e) *Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and*

(f) *Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.*

4. *The following types of businesses are not eligible for a loan pursuant to the Linked Deposit Program:*

(a) *A nonprofit business;*

(b) *A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;*

(c) *A speculative real estate development company;*

(d) *A subsidiary of a business located in a foreign country;*

(e) *A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and*

(f) *A business that engages in any illegal activity.*

Sec. 13. 1. *To be eligible for a loan pursuant to the Linked Deposit Program, an out-of-state business must:*

(a) *Employ not more than 100 employees;*

(b) *Be organized for profit;*

(c) *Satisfy the standard lending criteria of the qualified lending institution;*

(d) *Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer;*

(e) *Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution;*

(f) *Provide proof satisfactory to the State Treasurer that the business intends to open a facility or office in this State within 180 days after receiving a linked deposit loan;*



(g) Provide proof satisfactory to the State Treasurer that the business intends to employ at the facility or office located in this State at least 10 full-time employees; and

(h) Provide proof satisfactory to the State Treasurer that at least 60 percent of the persons that the business intends to employ at the facility or office located in this State hold a valid driver's license or identification card issued by the Department of Motor Vehicles.

2. An eligible out-of-state business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

(a) Working capital;

(b) Acquiring real property;

(c) Establishing a line of credit;

(d) Financing of accounts receivable;

(e) Opening a facility or office in this State;

(f) Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and

(g) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.

3. The following types of out-of-state businesses are not eligible for a loan pursuant to the Linked Deposit Program:

(a) A nonprofit business;

(b) A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;

(c) A speculative real estate development company;

(d) A subsidiary of a business located in a foreign country;

(e) A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and

(f) A business that engages in any illegal activity.

Sec. 14. 1. To be eligible for a loan pursuant to the Linked Deposit Program, a political subdivision of this State must:

(a) Satisfy the standard lending criteria of the qualified lending institution;

(b) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(c) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. An eligible political subdivision of this State:

(a) Shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:



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(1) *Financing capital improvements;*
(2) *Capital outlay; and*
(3) *Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act; and*

(b) Shall not use the proceeds from a loan received pursuant to the Linked Deposit Program to meet operating expenses.

Sec. 15. *1. To be eligible for a loan pursuant to the Linked Deposit Program, an institution of higher education, as defined by NRS 385.102, must:*

(a) Satisfy the standard lending criteria of the qualified lending institution;

(b) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(c) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. An eligible institution of higher education:

(a) Shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

(1) Financing capital improvements; and

(2) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act; and

(b) Shall not use the proceeds from a loan received pursuant to the Linked Deposit Program to meet operating expenses.

Sec. 16. *The State Treasurer shall adopt regulations necessary to carry out the provisions of sections 2 to 16, inclusive, of this act.*

Sec. 16.5. Section 12 of this act is hereby amended to read as follows:

Sec. 12. Except as otherwise provided in section 13 of this act:

1. To be eligible for a loan pursuant to the Linked Deposit Program, a business must:

(a) Employ not more than 100 employees;

(b) Be headquartered in this State;

(c) Maintain offices or operating facilities in this State;

(d) Transact business in this State;

(e) Be organized for profit;

(f) Satisfy the standard lending criteria of the qualified lending institution;



(g) Submit verification of eligibility for a linked deposit loan to the qualified lending institution on a form provided by the State Treasurer; and

(h) Submit an application for a linked deposit loan to the qualified lending institution on a form provided by the qualified lending institution.

2. In determining which eligible business will receive a linked deposit loan, preference must be given, if the qualifications of the applicants are equal **[4]**:

(a) First, to a business which is at least 51-percent owned by a resident of this State who is:

(1) A member of a racial or ethnic minority;

(2) A woman; or

(3) A veteran of the Armed Forces of the United States who was discharged under other than dishonorable conditions.

(b) Second, to a business engaged in the production and sale of fuel or power derived from renewable energy as defined by NRS 701.070.

3. An eligible business shall use the proceeds from a loan received pursuant to the Linked Deposit Program for:

(a) Working capital;

(b) Acquiring real property;

(c) Establishing a line of credit;

(d) Financing of accounts receivable;

(e) Purchasing equipment, other than equipment that would substantially replace the work function of employees and result in a reduction of the employee workforce; and

(f) Any other purpose authorized by the regulations adopted by the State Treasurer pursuant to section 16 of this act.

4. The following types of businesses are not eligible for a loan pursuant to the Linked Deposit Program:

(a) A nonprofit business;

(b) A financial business primarily engaged in the business of lending, including, without limitation, a bank, finance company or pawnbroker;

(c) A speculative real estate development company;

(d) A subsidiary of a business located in a foreign country;

(e) A business that previously has defaulted on a loan received pursuant to the Linked Deposit Program or federally assisted financing; and

(f) A business that engages in any illegal activity.



Sec. 17. Notwithstanding the provisions of section 9 of this act, the State Treasurer shall not accept a form for a loan from the Linked Deposit Program established pursuant to section 9 of this act or invest in a certificate of deposit at a reduced rate of interest after June 30, 2015.

Sec. 17.5. 1. At the end of each quarter, a qualified lending institution shall provide to the State Treasurer the information gathered by the qualified lending institution pursuant to subsection 4 of section 10 of this act.

2. The State Treasurer shall compile the information provided pursuant to subsection 1 and provide the information to the Attorney General.

3. The Attorney General shall use the information provided pursuant to subsection 2 to determine whether providing a preference for the receipt of a loan pursuant to the Linked Deposit Program established pursuant to section 9 of this act to a business which is at least 51-percent owned by a woman or a member of a racial or ethnic minority is consistent with the requirements of the Nevada Constitution and the United States Constitution.

4. If the Attorney General determines that providing a preference for the receipt of a loan pursuant to the Linked Deposit Program to a business which is at least 51-percent owned by a woman or a member of a racial or ethnic minority is consistent with the requirements of the Nevada Constitution and the United States Constitution, the Attorney General must notify the Governor in writing of that determination.

5. Upon receipt of the determination of the Attorney General pursuant to subsection 4, the Governor shall issue a proclamation to that effect.

6. As used in this section, "qualified lending institution" has the meaning ascribed to it in section 8 of this act.

Sec. 18. 1. This section and sections 1 to 16, inclusive, 17 and 17.5 of this act become effective upon passage and approval for the purpose of adopting regulations and on October 1, 2011, for all other purposes.

2. Section 16.5 of this act becomes effective upon a proclamation by the Governor pursuant to subsection 5 of section 17.5 of this act.

