

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.

~

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



19 private equity funding provided by the corporation to be provided to businesses
20 engaged in certain industries that are located or seeking to locate in Nevada.

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

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

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

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

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

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

35 WHEREAS, The availability of private equity funding for
36 investment in health care and life sciences, cyber security, homeland
37 security and defense, alternative energy, advanced materials and
38 manufacturing, information technology and other industries critical
39 to economic development in this State would encourage innovation
40 and cooperation among institutions of the Nevada System of Higher



* S B 7 5 R 1 *

1 Education and private sector businesses located in the State of
2 Nevada; and

3 WHEREAS, The availability of private equity funding for
4 investment in health care and life sciences, cyber security, homeland
5 security and defense, alternative energy, advanced materials and
6 manufacturing, information technology other industries critical to
7 economic development in this State would increase the ability of
8 institutions of the Nevada System of Higher Education, businesses
9 in the State of Nevada and nonprofit corporations and organizations
10 in the State of Nevada to compete more successfully for federal and
11 private research and development funding; and

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

16 WHEREAS, The State of Nevada, through the establishment of
17 methods to provide private equity funding to businesses in this
18 State, would provide economic growth and world-class medical care
19 and training and would assist in the creation of high-paying, quality
20 jobs for people living in the State of Nevada; now, therefore,
21

22 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
23 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
24

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

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

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

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

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

44 *(a) Located in this State or seeking to locate in this State; and*



* S B 7 5 R 1 *

(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.

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.



* S B 7 5 R 1 *

(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.



1 (h) Money market mutual funds that:

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

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

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

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

13 (1) The stock of the corporation is:

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

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

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

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

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

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

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

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

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



* S B 7 5 R 1 *

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

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

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

