

SENATE BILL NO. 68—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE TREASURER)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public investments.
(BDR 31-399)

FISCAL NOTE: Effect on Local Government: No.
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; revising provisions governing the investment of certain money held by the State; increasing the maximum amount of money the State Treasurer is authorized to transfer from the State Permanent School Fund to a corporation for public benefit to provide private equity funding to certain businesses; revising provisions governing the guarantee of bonds of school districts with money from the State Permanent School Fund; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally prescribes the bonds and other securities that are proper and lawful investments of the State's money and, with one exception, prohibits investment of such money in a reverse-repurchase agreement. (NRS 355.140) **Section 1** of this bill eliminates the prohibition against investment of this money in a reverse-repurchase agreement. **Section 1** authorizes the State Treasurer to invest such money in a reverse-repurchase agreement on the condition that: (1) the appointed custodian is only authorized to transfer the securities underlying the reverse-repurchase agreement at or after the time at which the money to pay the purchase price is transferred to the custodian; (2) the date on which the State commits to repurchase a security purchased by a counterparty or securities of the same issuer, description, issue date and maturity is not more than 90 days after the date on which the counterparty purchased the securities from the State; and (3) the money received by the appointed custodian is used by the State only to purchase securities whose maturity matches or is not longer than the term of the reverse-repurchase agreement.



* S B 6 8 R 1 *

Existing law charges the State Treasurer with the investment of the money in the State Permanent School Fund. (NRS 355.050) If there is a sufficient amount of uninvested money in the Fund, existing law requires the State Treasurer to negotiate for the investment of the money. However, the State Treasurer is prohibited under existing law from making certain investments unless he or she obtains a judicial determination that such an investment does not violate the prohibition in the Nevada Constitution against the State of Nevada 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; NRS 355.060) Upon such a judicial determination, existing law authorizes the State Treasurer to transfer up to \$50,000,000 from the State Permanent School Fund to a corporation for public benefit to provide private equity funding to businesses engaged in certain industries that are located or seeking to locate in Nevada. (NRS 355.270, 355.280) On April 20, 2011, the State Treasurer obtained a judicial determination that investment of money contained in the State Permanent School Fund in the common or preferred stock of a corporation did not violate Section 9 of Article 8 of the Nevada Constitution. (*In re State Treasurer*, No. 11 OC 00092 1B (Nev. First Jud. Dist. Ct. Apr. 20, 2011)) **Section 2** of this bill increases the maximum amount of money the State Treasurer is authorized to transfer from the State Permanent School Fund to the corporation for public benefit to provide such private equity funding from \$50,000,000 to \$75,000,000.

Existing law authorizes the board of trustees of a school district to apply to the State Treasurer for a guarantee agreement whereby money in the State Permanent School Fund may be used to guarantee the payment of the debt service on bonds to be issued by the school district. Under existing law, the State Treasurer is authorized to use money in the State Permanent School Fund to guarantee up to \$40,000,000 in bonds issued by a school district at any one time. (NRS 387.516) **Section 3** of this bill increases the maximum allowable amount of outstanding bonds of a school district that may be so guaranteed to \$60,000,000.

Upon receipt of an application for such a guarantee agreement from a school district, existing law requires the State Treasurer to provide a copy of the application to the Executive Director of the Department of Taxation. The Executive Director is required under existing law to: (1) investigate the ability of the school district to make timely payments on the debt service of the bonds for which the guarantee is requested; and (2) submit a written report of the investigation to the State Board of Finance concerning the opinion of the Executive Director as to whether the school district has the ability to make timely payments on the debt service of the bonds. (NRS 387.516) Existing law prescribes certain conditions under which the State Treasurer is authorized to enter into the guarantee agreement, including a requirement that the State Board of Finance approve the report submitted to it by the Executive Director. (NRS 387.519) **Section 4** of this bill makes an exception to the requirement that the State Board of Finance approve the report if: (1) the bonds proposed to be guaranteed are being issued solely to refund bonds that had been guaranteed in the same manner; and (2) the total principal and interest due in any year on the bonds proposed to be guaranteed does not exceed the total principal and interest due in that year on the bonds being refunded.



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

Section 1. NRS 355.140 is hereby amended to read as follows:

355.140 1. In addition to other investments provided for by a specific statute, the following bonds and other securities are proper and lawful investments of any of the money of this state, of its various departments, institutions and agencies, and of the State Insurance Fund:

(a) Bonds and certificates of the United States;

(b) Bonds, notes, debentures and loans if they are underwritten by or their payment is guaranteed by the United States;

(c) Obligations or certificates of the United States Postal Service, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Agricultural Mortgage Corporation, the Federal Home Loan Banks, the Federal Home Loan Mortgage Corporation or the Student Loan Marketing Association, whether or not guaranteed by the United States;

(d) Bonds of this state or other states of the Union;

(e) Bonds of any county of this state or of other states;

(f) Bonds of incorporated cities in this state or in other states of the Union, including special assessment district bonds if those bonds provide that any deficiencies in the proceeds to pay the bonds are to be paid from the general fund of the incorporated city;

(g) General obligation bonds of irrigation districts and drainage districts in this state which are liens upon the property within those districts, if the value of the property is found by the board or commission making the investments to render the bonds financially sound over all other obligations of the districts;

(h) Bonds of school districts within this state;

(i) Bonds of any general improvement district whose population is 200,000 or more and which is situated in two or more counties of this state or of any other state, if:

(1) The bonds are general obligation bonds and constitute a lien upon the property within the district which is subject to taxation; and

(2) That property is of an assessed valuation of not less than five times the amount of the bonded indebtedness of the district;

(j) Medium-term obligations for counties, cities and school districts authorized pursuant to chapter 350 of NRS;

(k) Loans bearing interest at a rate determined by the State Board of Finance when secured by first mortgages on agricultural lands in this state of not less than three times the value of the



1 amount loaned, exclusive of perishable improvements, and of
2 unexceptional title and free from all encumbrances;

3 (l) Farm loan bonds, consolidated farm loan bonds, debentures,
4 consolidated debentures and other obligations issued by federal land
5 banks and federal intermediate credit banks under the authority of
6 the Federal Farm Loan Act, formerly 12 U.S.C. §§ 636 to 1012,
7 inclusive, and §§ 1021 to 1129, inclusive, and the Farm Credit Act
8 of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, and bonds,
9 debentures, consolidated debentures and other obligations issued by
10 banks for cooperatives under the authority of the Farm Credit Act of
11 1933, formerly 12 U.S.C. §§ 1131 to 1138e, inclusive, and the Farm
12 Credit Act of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, excluding
13 such money thereof as has been received or which may be received
14 hereafter from the Federal Government or received pursuant to some
15 federal law which governs the investment thereof;

16 (m) Negotiable certificates of deposit issued by commercial
17 banks, insured credit unions, savings and loan associations or
18 savings banks;

19 (n) Bankers' acceptances of the kind and maturities made
20 eligible by law for rediscount with Federal Reserve banks or trust
21 companies which are members of the Federal Reserve System,
22 except that acceptances may not exceed 180 days' maturity, and
23 may not, in aggregate value, exceed 20 percent of the total par value
24 of the portfolio as determined at the time of purchase;

25 (o) Commercial paper issued by a corporation organized and
26 operating in the United States or by a depository institution licensed
27 by the United States or any state and operating in the United States
28 that:

29 (1) At the time of purchase has a remaining term to maturity
30 of not more than 270 days; and

31 (2) Is rated by a nationally recognized rating service as
32 "A-1," "P-1" or its equivalent, or better,

33 ➤ except that investments pursuant to this paragraph may not, in
34 aggregate value, exceed 25 percent of the total par value of the
35 portfolio as determined at the time of purchase. If the rating of an
36 obligation is reduced to a level that does not meet the requirements
37 of this paragraph, the State Treasurer shall take such action as he or
38 she deems appropriate to preserve the principal value and integrity
39 of the portfolio as a whole and report to the State Board of Finance
40 any action taken by the State Treasurer pursuant to this paragraph;

41 (p) Notes, bonds and other unconditional obligations for the
42 payment of money, except certificates of deposit that do not qualify
43 pursuant to paragraph (m), issued by corporations organized and
44 operating in the United States or by depository institutions licensed



1 by the United States or any state and operating in the United States
2 that:

3 (1) Are purchased from a registered broker-dealer;

4 (2) At the time of purchase have a remaining term to
5 maturity of not more than 5 years; and

6 (3) Are rated by a nationally recognized rating service as “A”
7 or its equivalent, or better,

8 ➤ except that investments pursuant to this paragraph may not, in
9 aggregate value, exceed 25 percent of the total par value of the
10 portfolio as determined at the time of purchase. If the rating of an
11 obligation is reduced to a level that does not meet the requirements
12 of this paragraph, the State Treasurer shall take such action as he or
13 she deems appropriate to preserve the principal value and integrity
14 of the portfolio as a whole and report to the State Board of Finance
15 any action taken by the State Treasurer pursuant to this paragraph;

16 (q) A bond, note or other obligation issued or unconditionally
17 guaranteed by the International Bank for Reconstruction and
18 Development, the International Finance Corporation or the Inter-
19 American Development Bank that:

20 (1) Is denominated in United States dollars;

21 (2) Is a senior unsecured unsubordinated obligation;

22 (3) At the time of purchase has a remaining term to maturity
23 of 5 years or less; and

24 (4) Is rated by a nationally recognized rating service as “AA”
25 or its equivalent, or better,

26 ➤ except that investments pursuant to this paragraph may not, in
27 aggregate value, exceed 15 percent of the total par value of the
28 portfolio as determined at the time of purchase;

29 (r) A bond, note or other obligation publicly issued in the United
30 States by a foreign financial institution, corporation or government
31 that:

32 (1) Is denominated in United States dollars;

33 (2) Is a senior unsecured unsubordinated obligation;

34 (3) Is registered with the Securities and Exchange
35 Commission in accordance with the provisions of the Securities Act
36 of 1933, 15 U.S.C. §§ 77a et seq., as amended;

37 (4) Is publicly traded;

38 (5) Is purchased from a registered broker-dealer;

39 (6) At the time of purchase has a remaining term to maturity
40 of 5 years or less; and

41 (7) Is rated by a nationally recognized rating service as “AA”
42 or its equivalent, or better,

43 ➤ except that investment pursuant to this paragraph may not, in
44 aggregate value, exceed 10 percent of the total par value of the
45 portfolio as determined at the time of purchase;



(s) Money market mutual funds which:

(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 by the Federal Government or agencies of the Federal Government or in repurchase agreements fully collateralized by such securities;

(t) Collateralized mortgage obligations that are rated by a nationally recognized rating service as “AAA” or its equivalent; and

(u) Asset-backed securities that are rated by a nationally recognized rating service as “AAA” or its equivalent.

2. Repurchase agreements *and reverse-repurchase agreements* are proper and lawful investments of money of the State and the State Insurance Fund for the purchase or sale of securities which are negotiable and of the types listed in subsection 1 if made in accordance with the following conditions:

(a) The State Treasurer shall designate in advance and thereafter maintain a list of qualified counterparties which:

(1) Regularly provide audited and, if available, unaudited financial statements to the State Treasurer;

(2) The State Treasurer has determined to have adequate capitalization and earnings and appropriate assets to be highly credit worthy; and

(3) Have executed a written master repurchase agreement *or master reverse-repurchase agreement, as applicable*, in a form satisfactory to the State Treasurer and the State Board of Finance pursuant to which all repurchase agreements *or reverse-repurchase agreements* are entered into. The master repurchase agreement *and master reverse-repurchase agreement* must require the prompt delivery to the State Treasurer and the appointed custodian of written confirmations of all transactions conducted thereunder, and must be developed giving consideration to the Federal Bankruptcy Act, 11 U.S.C. §§ 101 et seq.

(b) In all repurchase agreements:

(1) At or before the time money to pay the purchase price is transferred, title to the purchased securities must be recorded in the name of the appointed custodian, or the purchased securities must be delivered with all appropriate, executed transfer instruments by physical delivery to the custodian;

(2) The State must enter into a written contract with the custodian appointed pursuant to subparagraph (1) which requires the custodian to:

(I) Disburse cash for repurchase agreements only upon receipt of the underlying securities;



(II) Notify the State when the securities are marked to the market if the required margin on the agreement is not maintained;

(III) Hold the securities separate from the assets of the custodian; and

(IV) Report periodically to the State concerning the market value of the securities;

(3) The market value of the purchased securities must exceed 102 percent of the repurchase price to be paid by the counterparty and the value of the purchased securities must be marked to the market weekly;

(4) The date on which the securities are to be repurchased must not be more than 90 days after the date of purchase; and

(5) The purchased securities must not have a term to maturity at the time of purchase in excess of 10 years.

(c) *In all reverse-repurchase agreements:*

(1) The State must enter into a written contract with the appointed custodian which authorizes the custodian to transfer the securities underlying the reverse-repurchase agreement only at or after the time at which money to pay the purchase price of the securities is transferred to the custodian;

(2) The date on which the State commits to repurchase a security purchased by a counterparty or securities of the same issuer, description, issue date and maturity must not be more than 90 days after the date on which the counterparty purchased the securities from the State; and

(3) Money received by the custodian pursuant to subparagraph (1) may be used by the State only to purchase securities whose maturity matches or is not longer than the term of the reverse-repurchase agreement.

3. As used in ~~subsection 2:~~ this section:

(a) "Counterparty" means a bank organized and operating or licensed to operate in the United States pursuant to federal or state law or a securities dealer which is:

(1) A registered broker-dealer;

(2) Designated by the Federal Reserve Bank of New York as a "primary" dealer in United States government securities; and

(3) In full compliance with all applicable capital requirements.

(b) "Repurchase agreement" means a purchase of securities by the State or State Insurance Fund from a counterparty which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.



~~[4. No money of this state may be invested pursuant to a reverse repurchase agreement, except money invested pursuant to chapter 286 of NRS.]~~

(c) "Reverse-repurchase agreement" means a purchase of securities by a counterparty from the State which commits to repurchase those securities or securities of the same issuer, description, issue date and maturity on or before a specified date for a specified price.

Sec. 2. NRS 355.280 is hereby amended to read as follows:

355.280 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]~~ **\$75,000,000** from the State Permanent School Fund to the corporation for public benefit. 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 NRS 355.270, private equity funding; and

2. Ensure that at least 70 percent of all private equity funding provided by the corporation for public benefit 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 determines will likely meet the targets for investment returns established by the corporation for public benefit for investments authorized by NRS 355.250 to 355.285, inclusive, and comply with sound fiduciary principles.

Sec. 3. NRS 387.516 is hereby amended to read as follows:

387.516 1. The board of trustees of a school district may apply to the State Treasurer for a guarantee agreement whereby money in the State Permanent School Fund is used to guarantee the payment of the debt service on bonds that the school district will issue. The amount of the guarantee for bonds of each school district outstanding at any one time must not exceed ~~[\$40,000,000.]~~ **\$60,000,000.**



2. The application must be on a form prescribed by the State Treasurer. The State Treasurer shall develop the form in consultation with the Executive Director.

3. Medium-term obligations entered into pursuant to the provisions of NRS 350.087 to 350.095, inclusive, are not eligible for guarantee pursuant to NRS 387.513 to 387.528, inclusive.

4. Upon receipt of an application for a guarantee agreement from a school district, the State Treasurer shall provide a copy of the application and any supporting documentation to the Executive Director. As soon as practicable after receipt of a copy of an application, the Executive Director shall investigate the ability of the school district to make timely payments on the debt service of the bonds for which the guarantee is requested. The Executive Director shall submit a written report of the investigation to the State Board of Finance indicating his or her opinion as to whether the school district has the ability to make timely payments on the debt service of the bonds.

Sec. 4. NRS 387.519 is hereby amended to read as follows:

387.519 **1.** The State Treasurer may enter into a guarantee agreement if:

~~(1.)~~ **(a)** The report submitted by the Executive Director indicates that a school district has the ability to make timely payments on the debt service of the bonds;

~~(2. — The)~~

(b) *Except as otherwise provided in subsection 2, the* State Board of Finance approves the report submitted by the Executive Director; and

~~(3.)~~ **(c)** The State Treasurer has determined that the amount of bonds to be guaranteed under the agreement, in addition to the total amount of outstanding bonds guaranteed pursuant to NRS 387.513 to 387.528, inclusive, does not exceed the limitation established by subsection 1 of NRS 387.522.

2. *The requirement that the State Board of Finance approve the report submitted by the Executive Director set forth in paragraph (b) of subsection 1 does not apply if:*

(a) *The bonds proposed to be guaranteed are being issued solely to refund bonds that are guaranteed pursuant to NRS 387.513 to 387.528, inclusive; and*

(b) *The total principal and interest due in any year on the bonds proposed to be guaranteed does not exceed the total principal and interest due in that year on the bonds being refunded.*

Sec. 5. This act becomes effective upon passage and approval.

