

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Eighty-first Session
February 11, 2021**

The Senate Committee on Judiciary was called to order by Chair Melanie Scheible at 1:02 p.m. on Thursday, February 11, 2021, Online. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Melanie Scheible, Chair
Senator Nicole J. Cannizzaro, Vice Chair
Senator James Ohrenschall
Senator Dallas Harris
Senator James A. Settelmeyer
Senator Ira Hansen

COMMITTEE MEMBERS ABSENT:

Senator Keith F. Pickard (Excused)

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Nicolas Anthony, Counsel
Sally Ramm, Committee Secretary

OTHERS PRESENT:

Kate Marshall, Lieutenant Governor
Jeff Saling, Executive Director, Co-Founder, StartupNV
Colin Caine, Las Vegas Global Economic Alliance
Douglas Erwin, Economic Development Authority of Western Nevada
Bill Arent, Economic & Urban Development Department, City of Las Vegas
Erin M. Houston, Deputy of Securities, Office of the Secretary of State

CHAIR SCHEIBLE:

We open the meeting on Senate Bill (S.B.) 9.

SENATE BILL 9: Creates an exemption from licensing requirements for investment advisers to certain private funds. (BDR 7-423)

LIEUTENANT GOVERNOR KATE MARSHALL:

Late last summer, my office was approached by Jeff Saling and some other members of the business community. Mr. Saling is the founder of StartupNV, providing training and resources for local entrepreneurs. In my experience as State Treasurer and my experience now as Lieutenant Governor, Nevada entrepreneurs do not have a nourishing and enriching environment in terms of how businesses can expand and how they can survive. It is an issue that the Legislature and the Constitutional Officers have been working on for some time, and there is still room for improvement.

Mr. Saling conveyed a need to update Nevada's blue sky laws as they have been in place since the 1990s. These laws can be used to attract and retain startup, early-stage investment capital. Nevada is often considered a flyover state in terms of people who want to invest. That is exacerbated when talking about startups because normally a startup cannot go to Hollywood, Wall Street or the fancy halls of Boston for capital and mentoring. A startup has to go to friends, family and community members once it gets past the credit card stage to expand, grow and increase the awareness of what it is doing in products and services. Blue sky laws are state laws regarding the offering and selling of securities. They are intended to allow people to invest while protecting them from being taken advantage of by fraud, speculative investing and other financial activities that we do not want to occur in our State. Investment law in Nevada has not been updated in 30 years. At that time, it was written in alignment with federal law.

Today, we seek to align Nevada's laws with federal laws and with 23 other states that have crafted model legislation. The bill before you is the same model legislation—for Nevada—written by the North American Securities Administrators Association (NASAA). It complies with federal law and makes us consistent with the other 23 states. Those states include Utah, Arizona and Idaho. Modernizing our laws will give us a competitive advantage and a level playing field with the states around us. This bill will help us to nourish and nurture our entrepreneurial system in Nevada. I would like to turn our testimony over to Mr. Saling.

JEFF SALING (Executive Director, Co-Founder, StartupNV):

I have a presentation to share ([Exhibit B](#)). We began StartupNV in 2017 out of frustration. I spent my career with seven enterprise software startups. Three of them went to an initial public offering (IPO), one was acquired, one is still in startup mode and two failed. I came to Nevada in 2009 in the middle of the third startup, which was the second IPO, with the idea that I would start my next company here.

When it came time to start the company in 2010, I could not find the capital I needed. I realized that Nevada lacked a startup ecosystem. As a result of this lack of funding, I left on airplanes every week to do my startup work in Seattle, Washington, and Austin, Texas. By 2016, my company was working in an incubator program called the Capital Factory in Austin. I loved the atmosphere and wanted to join a similar incubator, but when I returned home, I found no business incubators in Nevada. There are 1,800 of them around the Country.

To address this lack of resources, some colleagues and I decided to pay it forward, so we formed StartupNV, a nonprofit business incubator and accelerator, to help grow Nevada's startup ecosystem. More than 550 companies applied to get into our program. We brought in and mentored 48 companies, with 20 of them raising over \$60 million in startup capital. The sad part is that less than one percent of that startup capital came from Nevada investors. That is not a great sign of a healthy ecosystem. For our startup ecosystem to be successful, we need early-stage capital to come from local resources. That is an important ingredient in what makes the startup ecosystem successful. Senate Bill 9 helps us solve an important part of that puzzle.

The page 2 graphic of [Exhibit B](#) is the entrepreneur's journey through the fundraising process and shows where S.B. 9 will have the most impact. All startups begin with an idea and proceed from left to right through the stages you see. Outside investment usually begins with friends and family when the concept has to be validated. It proceeds with larger and growing capital requirements to build a product and go to market as the company matures. Organizations like angel groups, pre-seed funds, seed funds and venture funds that provide capital for these early-stage startups and S.B. 9 are the subjects of my talk today.

With a vibrant community providing capital, startups hire staff, grow jobs, spend money in the local community, grow rapidly, hopefully establish a

successful business and eventually have a successful exit by acquisition or IPO. Then the founders, investors and employees have a great payday. After the payday, these folks are successful and many of them consider retirement. They buy a few cool toys for their hobbies. Usually after about 90 or 120 days, they are bored and do one or two things. They start another company, become an angel investor or both. That cycle is what we would like to see happen in Nevada. Without a vibrant community providing capital at these early stages, startups struggle and very few, if any, of these things happen.

The laws and regulations covering this area of private investments are called blue sky laws as described by Lieutenant Governor Marshall. The current situation is messy and confusing ([Exhibit C](#)). Investors can handle the risk of the vagaries of startup businesses, but when the laws and regulations governing their investments are not clear or overly complex, investors stay on the sidelines or invest elsewhere. We have some confusing rules and laws in Nevada. They are inconsistent or are in conflict with federal regulations that cover the same activities. Nevada's laws see founders who are raising capital for their own startups as salespersons and want them to hold licenses like stockbrokers who are selling stocks.

When somebody wants to raise an investment fund to make investments in startups, the rules we have today are murky, and the roles of the founders and fund managers are often conflated. It is unclear when licenses are required, meaning deals can be litigated and unwound. No serious professional fund will form under these circumstances, and no serious investor will consider relocating and investing here. They might come here or move here, but they are going to invest elsewhere. Over 80 percent of all the capital raised in the early stages for startups comes from local investors who want to support local startups, and investors typically invest within 37 miles of their homes or of the startups. This is not a good situation in Nevada, where we consistently rank near the bottom for startup access to early-stage capital.

There is a straightforward fix for this. We can make our laws consistent with federal standards and keep them that way over time. Investors understand and are accustomed to complying with federal rules. That clarity and consistency will remove the barriers and clear a path for local investment that drives early-stage startups, whether that local investment is from local citizens or those thinking of moving here. North American Securities Administrators

Association has created model legislation that 23 other states have adopted and is introduced in S.B. 9. This bill makes Nevada law consistent with federal laws.

If we follow this path, investment in our local early-stage startups will increase from the paltry annual total of \$2 million to \$5 million in a good year, to five times that amount or more. If you follow the models generated by software like Inplan Financial, which we were fortunate to see through the courtesy of the City of Las Vegas, every dollar of private investment generates between \$18 and \$20 in economic activity. That means that hundreds of millions of dollars of new economic activity are generated. This produces diversification of all the different types of business and high-growth startups without taking anything away from our existing industries here in the State. Senate Bill 9 will help the funding at an earlier stage so smaller local funds get started because the laws will be clear. Early funding then attracts and incentivizes the formation of larger, later-stage funds because the earlier funding has created exciting options for the larger funds to consider.

In summary, the NASAA model legislation puts us on par with other states and with federal regulations. This clarity and consistency will remove barriers to capital growth and make early-stage investments possible in a manner that everyone in the investing community already understands, as they are already operating under these federal rules. From there, we can start to see more rapid local capital creation in Nevada with investment in early stage startups and job growth. This new law will have the biggest impact in Las Vegas and in the rural areas where no early-stage startup funds exist today, and will help northern Nevada attract new funds as well.

As a final note, not the least important, more capital options will make it easier to create funds to invest in underserved communities. Specialty funds for female founders, Black and Hispanic founders, veterans and others will be formed. This will provide needed access to early-stage startup capital for all Nevadans.

Many organizations across the State support this work. Nine of them have submitted letters reflecting that support: Mike Kazmierski ([Exhibit D](#)), Bill Arent ([Exhibit E](#)), Robert C. Hooper ([Exhibit F](#)), Joshua Leavitt ([Exhibit G](#)), Scott Nielson ([Exhibit H](#)), Michael Brown ([Exhibit I](#)), Sam Males ([Exhibit J](#)), Kenneth Evans ([Exhibit K](#)), and Bo Bernhard ([Exhibit L](#)).

SENATOR OHRENSCHALL:

You reference the 23 states that have passed a law similar to this. Have there been any problems or issues in those states, or has it been smooth sailing?

LIEUTENANT GOVERNOR KATE MARSHALL:

I have not heard of any problems in other states adopting this model legislation. Please remember that these were fully vetted by the Securities and Exchange Commission (SEC) prior to being implemented. We are not creating these in a vacuum. We are following the SEC.

JEFF SALING:

I am not aware of any trouble outside the normal course of business. The laws we are proposing are the same as the federal laws. I imagine that people run afoul of the laws to some degree in every state. There is nothing extra or clever that we are trying to do.

SENATOR SETTELMAYER:

I thank the Lieutenant Governor for reaching out and having discussions with me about issues and concerns with S.B. 9. This made the meeting more efficient. I would like to move the bill out right now because it is a great bill.

CONNOR CAIN (Las Vegas Global Economic Alliance):

I am testifying on behalf of Las Vegas Global Economic Alliance, which believes this bill will help bolster the growth of startups in southern Nevada. We echo our colleagues who have submitted letters encouraging your support.

DOUGLAS ERWIN (Senior Vice President, Economic Development Authority of Western Nevada):

I am here to express my support for S.B. 9. For many years I have worked with entrepreneurs and investors to help grow the northern Nevada ecosystem, and the differences between our blue sky laws and federal laws have been mentioned numerous times. Access to capital continues to be the primary challenge facing entrepreneurs in our community. A recent survey demonstrated that although we have made great strides in the past eight years to create a seed fund and other angel investments, we desperately need additional funding to help support the growth of this ecosystem. This bill levels the playing field with federal guidelines and does not increase any additional risk, so entrepreneurs can compete for capital. More importantly, it helps eliminate

ambiguity for investors looking to create new funds in the community, which are desperately needed.

BILL ARENT (Economic and Urban Development Department, City of Las Vegas):
The City of Las Vegas strongly supports S.B. 9. We submitted a letter in favor of this bill [Exhibit E](#).

ERIN M. HOUSTON (Deputy of Securities, Office of the Secretary of State):
The Securities Division administers the provisions of *Nevada Revised Statutes* (NRS) 90 and 91 and the corresponding *Nevada Administrative Code* (NAC) administrative codes. I am testifying in the neutral position ([Exhibit M](#)) because the Division has no opposition to the exemption to licensing sought in S.B. 9. However, the language providing the exemption would be more easily administered and amended as appropriate if adopted as a regulatory addition to NAC-90. As you have heard, S.B. 9 closely mirrors the model rule promulgated by NASAA, and it is deeply intertwined with corresponding federal rules that are regularly updated. The Secretary of State's Office can regularly update NAC-90, as opposed to a statutory change which can take years.

Nevada Revised Statutes 90.340C, subsection 2 gives the Securities Administrator the authority to adopt regulations that carve out further exemptions to licensing. The Division has already included the privately funded advisor exemption that exactly mirrors the language of this bill in a current update to NAC-90. The process for updating NAC-90, including being published for the purpose of seeking comment from the public, is ongoing and is expected to be formally adopted over the summer. Our proposed regulations are a large update and comments from our constituents are appreciated ([Exhibit N](#)).

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Senate Committee on Judiciary
February 11, 2021
Page 8

CHAIR SCHEIBLE:

Mr. Eucher's testimony was in support of the bill even though he called in during the neutral time as well as the support time. I understand that we are all learning this new system and want to make sure the record is clear that the City of Las Vegas supports this bill.

The meeting is adjourned at 1:44 p.m.

RESPECTFULLY SUBMITTED:

Sally Ramm,
Committee Secretary

APPROVED BY:

Senator Melanie Scheible, Chair

DATE: _____

DATE 02/11/2021		EXHIBIT SUMMARY		
Bill	Exhibit Letter	Begins on Page	Witness / Entity	Description
S.B. 9	A	1		Agenda
S.B. 9	B	1	Jeff Saling / StartupNV	Introductory Presentation
S.B. 9	C	1	Jeff /Saling / StartupNV	Private and Small Investment Advisor Exemption
S.B. 9	D	1	Mike Kazmierski / Economic Development Authority of Western Nevada	Support Statement
S.B. 9	E	1	Bill Arent / Economic & Urban Development Department	Support Statement
S.B. 9	F	1	Robert C. Hooper / Northern Nevada Development Authority	Support Statement
S.B. 9	G	1	Joshua Leavitt / Society for Information Management Las Vegas Chapter	Support Statement
S.B. 9	H	1	Scott Nielson / Nielson Consulting	Support Statement
S.B. 9	I	1	Michael Brown / Governor's Office of Economic Development	Support Statement
S.B. 9	J	1	Sam Males / Nevada Small Business Development Center	Support Statement
S.B. 9	K	1	Kenneth Evans / Urban Chamber of Commerce	Support Statement
S.B. 9	L	1	Bo J. Bernhard / University of Nevada, Las Vegas	Support Statement

S.B. 9	M	1	Erin Houston / Secretary of State's Office	Neutral Letter
S.B. 9	N	1	Erin Houston / Secretary of State's Office	Proposed Regulations