

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:

1 Under existing law, the State is prohibited from donating or loaning state
2 money or credit, or subscribing to or being interested in the stock of any company,
3 association or corporation, except a corporation that is formed for educational or
4 charitable purposes. (Nev. Const. Art. 8, § 9) Existing law also requires the State
5 Treasurer to negotiate for the investment of money in the State Permanent School
6 Fund. However, the State Treasurer is prohibited from making certain investments
7 unless he or she obtains a judicial determination that such an investment does not
8 violate the provisions of Section 9 of Article 8 of the Nevada Constitution.
9 (NRS 355.060)

10 **Sections 6 and 8** of this bill require the State Treasurer, at the direction of the
11 Commission on Economic Development, to invest an amount not to exceed \$50
12 million of the money in the State Permanent School Fund to provide private equity
13 funding to businesses engaged in certain industries that are located or seeking to
14 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
41 Education and private sector businesses located in the State of
42 Nevada; and

43 WHEREAS, The availability of private equity funding for
44 investment in health care and life sciences, cyber security, homeland
45 security and defense, alternative energy, advanced materials and



1 manufacturing, information technology other industries critical to
2 economic development in this State would increase the ability of
3 institutions of the Nevada System of Higher Education, businesses
4 in the State of Nevada and nonprofit corporations and organizations
5 in the State of Nevada to compete more successfully for federal and
6 private research and development funding; and

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

11 WHEREAS, The State of Nevada, through the establishment of
12 methods to provide private equity funding to businesses in this
13 State, would provide economic growth and world-class medical care
14 and training and would assist in the creation of high-paying, quality
15 jobs for people living in the State of Nevada; now, therefore,

16
17 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
18 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
19

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

23 **Sec. 2.** *As used in sections 2 to 7, inclusive, of this act, unless*
24 *the context otherwise requires, the words and terms defined in*
25 *sections 3.5 and 4 of this act have the meanings ascribed to them*
26 *in those sections.*

27 **Sec. 3.** (Deleted by amendment.)

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

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

33 **Sec. 5.** (Deleted by amendment.)

34 **Sec. 6. 1.** *At the direction of the Commission, the State*
35 *Treasurer shall invest an amount not to exceed \$50 million from*
36 *the State Permanent School Fund in limited partnerships or*
37 *limited-liability companies that provide private equity funding to*
38 *businesses:*

39 (a) *Located in this State or seeking to locate in this State; and*
40 (b) *Engaged primarily in one or more of the following*
41 *industries:*

- 42 (1) *Health care and life sciences.*
43 (2) *Cyber security.*
44 (3) *Homeland security and defense.*
45 (4) *Alternative energy.*



- 1 (5) *Advanced materials and manufacturing.*
2 (6) *Information technology.*
3 (7) *Any other industry that the Commission determines to*
4 *be critical to the economic development of this State.*

5 2. *The Commission shall ensure that at least 70 percent of all*
6 *money invested pursuant to subsection 1 is provided to businesses:*

- 7 (a) *Located in this State or seeking to locate in this State; and*
8 (b) *Engaged primarily in one or more of the following*
9 *industries:*
10 (1) *Health care and life sciences.*
11 (2) *Cyber security.*
12 (3) *Homeland security and defense.*
13 (4) *Alternative energy.*
14 (5) *Advanced materials and manufacturing.*
15 (6) *Information technology.*
16 (7) *Any other industry that the Commission determines to*
17 *be critical to the economic development of this State.*

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

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

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

24 5. *As used in this section, “venture capital” means equity,*
25 *near-equity and seed capital financing, including, without*
26 *limitation, early stage research and development capital for start-*
27 *up enterprises, and other equity, near-equity or seed capital for*
28 *growth and expansion of entrepreneurial enterprises.*

29 **Sec. 7. The State Treasurer shall:**

30 1. *Adopt such regulations as he or she deems necessary to*
31 *carry out the provisions of sections 2 to 7, inclusive, of this act,*
32 *including, without limitation, the performance of such audits and*
33 *the submission of such reports as he or she deems appropriate to*
34 *ensure compliance with the provisions of sections 2 to 7, inclusive,*
35 *of this act and the regulations adopted pursuant to this section.*
36 *The regulations may include criteria for determining eligibility for*
37 *and use of private equity funding, but the Commission must have*
38 *sole authority for the approval of applications for and the*
39 *management of private equity funding provided pursuant to*
40 *sections 2 to 7, inclusive, of this act.*

41 2. *Provide the Commission with such assistance as is*
42 *necessary to carry out the provisions of sections 2 to 7, inclusive,*
43 *of this act and comply with the regulations adopted pursuant to*
44 *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
3 Treasurer monthly of the amount of uninvested money in the State
4 Permanent School Fund.

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

8 (a) United States bonds.

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

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

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

16 (e) United States treasury notes.

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

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

25 (h) Money market mutual funds that:

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

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

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

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

37 (1) The stock of the corporation is:

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

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

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



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

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

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

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

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

24 *(l) The limited partnerships or limited-liability companies*
25 *described in section 6 of this act.*

26 3. The State Treasurer shall not invest any money in the State
27 Permanent School Fund pursuant to paragraph (i), (j) or (k) of
28 subsection 2 unless the State Treasurer obtains a judicial
29 determination that the proposed investment or category of
30 investments will not violate the provisions of Section 9 of Article 8
31 of the Constitution of the State of Nevada. The State Treasurer shall
32 contract for the services of independent contractors to manage any
33 investments of the State Treasurer made pursuant to paragraph (i),
34 (j) or (k) of subsection 2. The State Treasurer shall establish such
35 criteria for the qualifications of such an independent contractor as
36 are appropriate to ensure that each independent contractor has
37 expertise in the management of such investments.

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

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

