

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 **Section 5** of this bill requires the State Treasurer to form an independent  
11 corporation for public benefit, the purpose of which is to act as a limited partner of  
12 limited partnerships or a shareholder or member of limited-liability companies that  
13 provide private equity funding to businesses that engage in certain industries.  
14 **Sections 6 and 8** of this bill authorize the State Treasurer to transfer from the State  
15 Permanent School Fund to this corporation an amount not to exceed \$50 million, if  
16 the State Treasurer obtains a judicial determination that such a use of that money  
17 will not violate Article 8, Section 9 of the Nevada Constitution. **Section 6** requires  
18 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.

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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



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*



1 (b) Engaged primarily in one or more of the following  
2 industries:

- 3 (1) Health care and life sciences.
- 4 (2) Cyber security.
- 5 (3) Homeland security and defense.
- 6 (4) Alternative energy.
- 7 (5) Advanced materials and manufacturing.
- 8 (6) Information technology.
- 9 (7) Any other industry that the board of directors of the

10 corporation for public benefit determines to be critical to the  
11 economic development of this State.

12 2. The corporation for public benefit created pursuant to  
13 subsection 1 may place investments through the use or assistance  
14 of:

- 15 (a) External asset managers; or
- 16 (b) Venture capital and private equity investment firms.

17 **Sec. 6.** If the State Treasurer obtains the judicial  
18 determination required by subsection 3 of NRS 355.060, the State  
19 Treasurer may transfer an amount not to exceed \$50 million from  
20 the State Permanent School Fund to the corporation for public  
21 benefit created pursuant to section 5 of this act. Such a transfer  
22 must be made pursuant to an agreement that requires the  
23 corporation for public benefit to:

24 1. Provide, through the limited partnerships or limited-  
25 liability companies described in subsection 1 of section 5 of this  
26 act, private equity funding; and

27 2. Ensure that at least 70 percent of all private equity funding  
28 provided by the corporation is provided to businesses:

- 29 (a) Located in this State or seeking to locate in this State; and
- 30 (b) Engaged primarily in one or more of the following

31 industries:

- 32 (1) Health care and life sciences.
- 33 (2) Cyber security.
- 34 (3) Homeland security and defense.
- 35 (4) Alternative energy.
- 36 (5) Advanced materials and manufacturing.
- 37 (6) Information technology.
- 38 (7) Any other industry that the board of directors of the

39 corporation for public benefit created pursuant to section 5 of this  
40 act determines to be critical to the economic development of this  
41 State.

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

43 1. Adopt such regulations as he or she deems necessary to  
44 carry out the provisions of sections 2 to 7, inclusive, of this act,  
45 including, without limitation, the performance of such audits and



1 *the submission of such reports as he or she deems appropriate to*  
2 *ensure compliance with the provisions of sections 2 to 7, inclusive,*  
3 *of this act and the regulations adopted pursuant to this section.*  
4 *The regulations may include criteria for determining eligibility for*  
5 *and use of private equity funding, but the corporation for public*  
6 *benefit established pursuant to section 5 of this act must have sole*  
7 *authority for the approval of applications for and the management*  
8 *of private equity funding provided pursuant to sections 2 to 7,*  
9 *inclusive, of this act.*

10 2. *Provide the corporation for public benefit created pursuant*  
11 *to section 5 of this act with such assistance as is necessary to carry*  
12 *out the provisions of sections 2 to 7, inclusive, of this act and*  
13 *comply with the regulations adopted pursuant to this section.*

14 **Sec. 8.** NRS 355.060 is hereby amended to read as follows:

15 355.060 1. The State Controller shall notify the State  
16 Treasurer monthly of the amount of uninvested money in the State  
17 Permanent School Fund.

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

21 (a) United States bonds.

22 (b) Obligations or certificates of the Federal National Mortgage  
23 Association, the Federal Home Loan Banks, the Federal Home Loan  
24 Mortgage Corporation, the Federal Farm Credit Banks Funding  
25 Corporation or the Student Loan Marketing Association, whether or  
26 not guaranteed by the United States.

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

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

29 (e) United States treasury notes.

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

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

38 (h) Money market mutual funds that:

39 (1) Are registered with the Securities and Exchange  
40 Commission;

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

43 (3) Invest only in securities issued or guaranteed as to  
44 payment of principal and interest by the Federal Government, or its



1 agencies or instrumentalities, or in repurchase agreements that are  
2 fully collateralized by such securities.

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

6 (1) The stock of the corporation is:

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

8 (II) Traded in the over-the-counter market, if the price  
9 quotations for the over-the-counter stock are quoted by the National  
10 Association of Securities Dealers Automated Quotations System  
11 (NASDAQ);

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

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

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

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

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

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

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

39 3. The State Treasurer shall not invest any money in the State  
40 Permanent School Fund pursuant to paragraph (i), (j), ~~(k)~~ (k) *or (l)*  
41 of subsection 2 unless the State Treasurer obtains a judicial  
42 determination that the proposed investment or category of  
43 investments will not violate the provisions of Section 9 of Article 8  
44 of the Constitution of the State of Nevada. The State Treasurer shall  
45 contract for the services of independent contractors to manage any



- 1 investments of the State Treasurer made pursuant to paragraph (i),  
2 (j) or (k) of subsection 2. The State Treasurer shall establish such  
3 criteria for the qualifications of such an independent contractor as  
4 are appropriate to ensure that each independent contractor has  
5 expertise in the management of such investments.
- 6 4. In addition to the investments authorized by subsection 2,  
7 the State Treasurer may make loans of money from the State  
8 Permanent School Fund to school districts pursuant to  
9 NRS 387.526.
- 10 5. No part of the State Permanent School Fund may be invested  
11 pursuant to a reverse-repurchase agreement.



