

Amendment No. 863

Assembly Amendment to Senate Bill No. 305 Third Reprint (BDR 31-933)

Proposed by: Assemblywoman Torres

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 305—SENATORS D. HARRIS, SPEARMAN, HANSEN, NEAL; DALY,
LANGE, OHRENSCHALL, SCHEIBLE AND STONE

MARCH 16, 2023

JOINT SPONSORS: ASSEMBLYMEN CARTER, D’SILVA, DURAN, GONZÁLEZ, NGUYEN,
TAYLOR, THOMAS AND TORRES

Referred to Committee on Government Affairs

SUMMARY—Provides for the establishment of a retirement savings program for private sector employees. (BDR 31-933)

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 employment; creating the Board of Trustees of the Nevada Employee Savings Trust; prescribing the membership, powers, duties and limitations of the Board; authorizing the Board to create the Nevada Employee Savings Trust Program; prescribing certain required attributes of the Program; creating the Nevada Employee Savings Trust Administrative Fund and specifying the sources and uses of money deposited therein; creating the Nevada Employee Savings Trust and prescribing the manner of its administration; providing for the confidentiality of certain information; providing civil immunity to certain persons and entities in connection with the Program; making certain persons fiduciaries with respect to participants in the Program; prohibiting certain persons from engaging in certain financial transactions in connection with the Program; requiring the preparation and submission of certain annual reports; making an appropriation to the Office of the State Treasurer for costs related to the administration of the Program; requiring the Board to conduct a study on the feasibility of including independent contractors in the Program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing federal law provides for individual retirement accounts and individual retirement
2 annuities by which persons may save money for retirement under favorable income tax
3 treatment. (26 U.S.C. §§ 408, 408A) This bill establishes the Nevada Employee Savings Trust
4 under the direction of a board of trustees with the power to establish a similar program and to
5 encourage private employees to establish such accounts.

6 **Section 19** of this bill creates the Board of Trustees of the Nevada Employee Savings
7 Trust and establishes its membership. **Section 20** of this bill establishes certain powers and
8 duties of the Board. In particular, **section 20** authorizes and empowers the Board to: (1)
9 design, establish and operate the Nevada Employee Savings Trust Program; and (2) adopt
10 regulations, rules and procedures for the establishment and operation of the Program and to
11 take such other actions necessary or desirable to establish and operate the Program.

12 **Section 21** of this bill requires the State Treasurer to provide staff support to the Board
13 within the limits of appropriations and authorizes the State Treasurer to provide administrative
14 support to the Board.

15 **Section 22** of this bill provides that an act or undertaking of the Board does not constitute
16 a debt of the State of Nevada, or any political subdivision thereof, or a pledge of the full faith
17 and credit of the State of Nevada, or of any political subdivision thereof, and is payable solely
18 from the assets controlled by the Board. **Section 22** also prohibits the Board from imposing
19 any obligations on the State or pledging the credit of the State.

20 **Section 23** of this bill establishes certain attributes that the Board must include in the
21 Program, including: (1) that covered employers must automatically enroll all covered
22 employees in the Program or in a similar program offered by a trade association or chamber of
23 commerce, unless a covered employee opts out of the Program or, if applicable, the similar
24 program offered by a trade association or chamber of commerce; (2) that contributions to a
25 covered employee's Individual Retirement Account must be withheld from the employee's
26 compensation at the rate set by the Board unless the employee elects not to contribute or to
27 contribute at a different rate; (3) that a covered employee may withdraw contributions to meet
28 a financial or other emergency; and (4) that the Board must prepare informational materials,
29 disclosure statements, forms and instructions concerning the Program for distribution by
30 covered employers to covered employees.

31 **Section 24** of this bill creates the Nevada Employee Savings Trust Administrative Fund
32 in the State Treasury, specifies the sources of money that must be deposited in the Fund and
33 requires the Board to use money in the Fund solely to pay the administrative costs and
34 expenses of the Board and the Program.

35 **Section 25** of this bill authorizes the Board to borrow money or enter into certain long-
36 term procurement contracts with financial providers until the Board determines that the
37 Program is financially self-sustaining.

38 **Section 26** of this bill creates the Nevada Employee Savings Trust as an instrumentality
39 of the State and requires the Board to appoint a Trustee of the Trust. **Section 26** requires that
40 the assets of all Individual Retirement Accounts established by covered employees through
41 the Program be allocated to the Trust and invested, managed and administered for the
42 exclusive purposes of providing benefits to the covered employees and defraying the
43 reasonable expenses of the Board, Program and Trust. **Section 26** also establishes certain
44 investment guidelines and practices.

45 **Section 27** of this bill provides that, except to the extent necessary to administer the
46 Program, personal information relating to individual participants in the Program and
47 information relating to individual accounts established or maintained through the Program is
48 confidential and must be maintained as confidential, unless the person who provides the
49 information or is the subject of the information expressly agrees in writing to the disclosure of
50 the information.

51 **Section 28** of this bill provides a grant of immunity from civil liability to covered
52 employers for the consequences of various decisions made by employees or the Board in
53 connection with the Program, including, for example, an employee's decision to participate in
54 or opt out of the Program, an investment decision made by the participant or the Board or a
55 loss, failure to realize a gain or other adverse consequence incurred by a person as a result of
56 participating in the Program. **Section 28** also provides that a covered employer or other
57 employer must not be deemed to be a fiduciary in relation to the Program.

58 **Section 29** of this bill absolves the State and any employee or officer thereof, the Board
59 and any member of the Board or employee thereof and the Program from any responsibility or
60 civil liability for the actions of certain other persons in connection with the Program,
61 including, for example, a person's failure to comply with provisions of the Internal Revenue
62 Code, the payment of benefits or a loss, failure to realize a gain or other adverse consequence
63 incurred by a person as a result of participating in the Program. **Section 29** also provides that
64 the debts, contracts and obligations of the Board, Program or Trust are not the debts, contracts

65 and obligations of the State, and neither the faith and credit nor the taxing power of the State
 66 is pledged directly or indirectly to the payment of the debts, contracts and obligations of the
 67 Board, Program or Trust.

68 **Section 30** of this bill provides that members of the Board, the Trustee and certain other
 69 persons involved in the administration of the Trust are fiduciaries with respect to the
 70 participants in the Program.

71 **Section 31** of this bill prohibits members of the Board, its staff and persons who serve as
 72 administrators of the Program from engaging in certain financial transactions in connection
 73 with the Program.

74 **Section 32** of this bill requires the Board to obtain an annual independent audit of the
 75 Board, Program and Trust and to annually submit audited financial reports to the Governor,
 76 State Controller and Legislature.

77 **Section 35** of this bill requires, with certain exceptions, the Board to establish the
 78 Program and implement its provisions so that covered employees are able to make
 79 contributions to an Individual Retirement Account through the Program beginning on July 1,
 80 2025. **Section 35** further authorizes the Board to implement the Program in phases but if the
 81 Board does so, the first phase must not begin before July 1, 2025.

82 **Section 34.5** of this bill makes an appropriation to the Office of the State Treasurer for
 83 costs related to the administration of the Program.

84 **Section 36.5 of this bill requires the Board to: (1) conduct a study on the feasibility**
 85 **of including independent contractors in the Program; and (2) submit a report of the**
 86 **findings of the study to the Director of the Legislative Council Bureau for transmittal to**
 87 **the 83rd Session of the Nevada Legislature.**

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

1 **Section 1.** Title 31 of NRS is hereby amended by adding thereto a new
 2 chapter to consist of the provisions set forth as sections 2 to 33, inclusive, of this
 3 act.

4 **Sec. 2.** *As used in this chapter, unless the context otherwise requires, the*
 5 *words and terms defined in sections 3 to 18, inclusive, of this act have the*
 6 *meanings ascribed to them in those sections.*

7 **Sec. 3.** *“Administrative Fund” means the Nevada Employee Savings Trust*
 8 *Administrative Fund created by section 24 of this act.*

9 **Sec. 4.** *“Board” means the Board of Trustees of the Nevada Employee*
 10 *Savings Trust created by section 19 of this act.*

11 **Sec. 5.** *“Compensation” means compensation within the meaning of*
 12 *section 219(f)(1) of the Internal Revenue Code, 26 U.S.C. § 219 (f)(1), that is*
 13 *received by a covered employee from a covered employer.*

14 **Sec. 6.** *“Contribution rate” means the percentage of a covered employee’s*
 15 *compensation that is withheld from the covered employee’s compensation and*
 16 *paid to the Individual Retirement Account established or maintained for the*
 17 *covered employee through the Program.*

18 **Sec. 7.** 1. *“Covered employee” means a person who:*
 19 *(a) Is employed by a covered employer for not less than 120 days;*
 20 *(b) Has wages or other compensation that is allocable to the State; and*
 21 *(c) Is at least 18 years of age.*

22 2. *For purposes of the investment, withdrawal, transfer, rollover or other*
 23 *distribution of an Individual Retirement Account, the term also includes the*
 24 *beneficiary of a deceased covered employee.*

25 3. *The term does not include:*
 26 *(a) Any employee covered under the federal Railway Labor Act, 45 U.S.C. §§*
 27 *151 et seq.;*

1 (b) Any employee on whose behalf an employer makes contributions to a
2 Taft-Hartley multiemployer pension trust fund; or

3 (c) Any person who is an employee of the Federal Government, the State or
4 any other state, county or municipal corporation, or any of this State's or any
5 other state's units or instrumentalities.

6 **Sec. 8.** "Covered employer" means an employer that:

7 1. Employs more than five persons in this State;

8 2. Has been in business for at least 36 months; and

9 3. Has not maintained a tax-favored retirement plan for its employees or
10 has not done so in an effective form and operation at any time within the current
11 calendar year or 3 immediately preceding calendar years.

12 **Sec. 9.** 1. Except as otherwise provided in subsection 2, "employer"
13 means a person or entity engaged in a business, profession, trade or other
14 enterprise in this State, whether for profit or not for profit, that employs one or
15 more persons in this State.

16 2. The term does not include an agency or entity of the Federal
17 Government, the government of this State or a political subdivision of this State.

18 **Sec. 10.** "Individual Retirement Account" means an individual retirement
19 account and an individual retirement annuity established under section 408 or
20 408A of the Internal Revenue Code, 26 U.S.C. § 408 or 408A.

21 **Sec. 11.** "Internal Revenue Code" means the federal Internal Revenue
22 Code of 1986, as amended.

23 **Sec. 12.** "Investment fund" means an investment portfolio established by
24 the Board within the Trust for investment purposes.

25 **Sec. 13.** "Participant" means a person who contributes to an Individual
26 Retirement Account established or maintained through the Program or has an
27 account balance in an Individual Retirement Account established or maintained
28 through the Program.

29 **Sec. 14.** "Program" means the Nevada Employee Savings Trust Program
30 established by the Board pursuant to section 20 of this act.

31 **Sec. 15.** "State" means the State of Nevada.

32 **Sec. 16.** "Tax-favored retirement plan" means a retirement plan that is tax-
33 qualified under or is described in and satisfies the requirements of section 401(a),
34 401(k), 403(a), 403(b), 408(k) or 408(p) of the Internal Revenue Code, 26 U.S.C.
35 §§ 401(a), 401(k), 403(a), 403(b), 408(k) or 408(p).

36 **Sec. 17.** "Trust" means the Nevada Employee Savings Trust created
37 pursuant to section 26 of this act and each Individual Retirement Account trust
38 or annuity contract allocated to the Nevada Employee Savings Trust pursuant to
39 section 26 of this act.

40 **Sec. 18.** "Trustee" means the Trustee of the Trust appointed by the Board
41 pursuant to subsection 2 of section 26 of this act.

42 **Sec. 19.** 1. There is hereby created the Board of Trustees of the Nevada
43 Employee Savings Trust.

44 2. The Board consists of:

45 (a) The State Treasurer or the designee of the State Treasurer;

46 (b) The Lieutenant Governor or the designee of the Lieutenant Governor;

47 (c) One member, appointed by the Governor, who represents employers;

48 ~~(d) One member, appointed by the Governor, who is a representative of an
49 association that represents employees;~~

50 ~~(e) One member, appointed by the Governor, who has experience in the field
51 of investments;~~

52 ~~(f)~~ (e) One member, appointed by the Majority Leader of the Senate, who
53 represents retirees; and

1 ~~(e)~~ (f) *One member, appointed by the Speaker of the Assembly, who has*
2 *experience in small business.*

3 3. *Each appointed member serves a term of 4 years unless dismissed for*
4 *cause. Members may be reappointed for additional terms of 4 years in the same*
5 *manner as the original appointments.*

6 4. *Any vacancy occurring in the appointed membership of the Board must*
7 *be filled in the same manner as the original appointment for the remainder of the*
8 *unexpired term.*

9 5. *The State Treasurer or the designee of the State Treasurer shall serve as*
10 *the Chair of the Board.*

11 6. *The Board shall meet at the call of the Chair as frequently as required to*
12 *perform its duties.*

13 7. *A majority of the members of the Board constitutes a quorum for the*
14 *transaction of business, and a majority of a quorum present at any meeting is*
15 *sufficient for any official action taken by the Board.*

16 8. *Each member of the Board serves without compensation, except that*
17 *each member is entitled to receive:*

18 (a) *The per diem allowance and travel expenses provided for state officers*
19 *and employees generally; and*

20 (b) *Reimbursement for any other actual and reasonable expense incurred*
21 *while performing the member's duties.*

22 **Sec. 20.** *The Board is authorized and empowered to:*

23 1. *Design, establish, and operate the Nevada Employee Savings Trust*
24 *Program;*

25 2. *Enter into contracts necessary or desirable for the administration of the*
26 *Program, including, without limitation, contracts with one or more other states*
27 *to:*

28 (a) *Provide for the administration of all or part of the Program by another*
29 *state;*

30 (b) *Administer all or part of the qualified employee savings trust program of*
31 *another state; or*

32 (c) *Jointly administer the Program with the qualified employee savings trust*
33 *program of one or more other states;*

34 3. *Hire, retain and terminate third party service providers as the Board*
35 *deems necessary or desirable for the Program, including, without limitation,*
36 *nonprofit organizations, consultants, investment managers or advisers, trustees,*
37 *custodians, insurance companies, record keepers, administrators, actuaries,*
38 *counsel, auditors and other professionals;*

39 4. *Determine, without limitation, the:*

40 (a) *Types of Individual Retirement Accounts to be offered;*

41 (b) *Default contribution rate; and*

42 (c) *Process for automatic escalation of participant contributions;*

43 5. *Develop an option for participants to convert contributions into fixed*
44 *lifetime income streams;*

45 6. *Develop and implement an outreach plan to gain input and disseminate*
46 *information regarding the Program and retirement and financial education in*
47 *general to employees, employers and other constituents in this State;*

48 7. *Determine the number of days during which a covered employer must*
49 *make the Program available to a covered employee upon first becoming a covered*
50 *employer or covered employee;*

51 8. *Determine the number of days, which must not be less than 90, after the*
52 *Program is first made available to a covered employee during which the covered*

1 *employee may exercise the employee's right to opt out of the Program without*
2 *penalty; and*

3 *9. Adopt regulations, rules and procedures for the establishment and*
4 *operation of the Program and to take such other actions necessary or desirable to*
5 *establish and operate the Program.*

6 **Sec. 21.** *1. The State Treasurer shall, within the limits of legislative*
7 *appropriations, provide staff support to the Board and may otherwise provide*
8 *administrative support to the Board.*

9 *2. The Board may enter into an intergovernmental agreement or contract to*
10 *obtain outreach, technical assistance or compliance services with any officer,*
11 *agency, division or department of the State, including, without limitation, the*
12 *Lieutenant Governor, Secretary of State, Department of Taxation, Department of*
13 *Employment, Training and Rehabilitation, Department of Business and Industry*
14 *and Office of the Labor Commissioner. An officer, agency, division or*
15 *department that enters into such an intergovernmental agreement with the Board*
16 *shall collaborate with any other officer, agency, division or department of the*
17 *State as necessary to provide such outreach, technical assistance or compliance*
18 *services to the Board.*

19 *3. Each officer, agency, division or department of the State must provide*
20 *any information necessary for the Board to implement the Program regardless of*
21 *whether the Board has entered into an intergovernmental agreement or contract*
22 *with the officer, agency, division or department pursuant to subsection 2.*

23 **Sec. 22.** *1. An act or undertaking of the Board does not constitute a debt*
24 *of the State of Nevada, or any political subdivision thereof, or a pledge of the full*
25 *faith and credit of the State of Nevada, or of any political subdivision thereof, and*
26 *is payable solely from the Trust.*

27 *2. The Board may not impose any obligations on the State or pledge the*
28 *credit of the State.*

29 **Sec. 23.** *The Program designed, established and operated by the Board*
30 *pursuant to section 20 of this act must provide, without limitation, that:*

31 *1. Each covered employer shall automatically enroll the covered employee*
32 *in the Program or in a similar program offered by a trade association or chamber*
33 *of commerce, unless the employee elects to opt out of the Program, or if*
34 *applicable, the similar program offered by a trade association or chamber of*
35 *commerce.*

36 *2. Contributions must be withheld from the compensation of each covered*
37 *employee at the contribution rate set by the Board unless the covered employee*
38 *elects not to contribute or to contribute at a different rate.*

39 *3. An Individual Retirement Account established and maintained through*
40 *the Program must qualify for favorable federal income tax treatment pursuant to*
41 *section 408 or 408A of the Internal Revenue Code, 26 U.S.C. § 408 or 408A.*

42 *4. To the extent consistent with federal law, a covered employee may*
43 *withdraw from the employee's Individual Retirement Account at any time if*
44 *necessary to meet a financial or other emergency.*

45 *5. The Board may establish intervals after which a covered employee who*
46 *opted out of the Program may later elect to participate in the Program.*

47 *6. A covered employer must deposit a covered employee's withheld*
48 *contributions under the Program with the Trustee in such manner as is*
49 *determined by the Board, but in no case later than 10 business days after the date*
50 *such amounts otherwise would have been paid to the covered employee.*

51 *7. The Board shall determine the rules and procedures for withdrawals,*
52 *distributions, transfers and rollovers of Individual Retirement Accounts and for*
53 *the designation of Individual Retirement Account beneficiaries.*

1 8. *The Board shall determine a method for employers other than covered*
2 *employers and employees other than covered employees to participate in the*
3 *Program, if allowed under federal law.*

4 9. *The Board shall prepare or cause to be prepared informational materials*
5 *and required disclosures regarding the Program for distribution by covered*
6 *employers to covered employees. Such materials must include, without limitation:*

7 (a) *A description of the benefits and risks associated with making*
8 *contributions through the Program;*

9 (b) *Instructions about how to obtain additional information about the*
10 *Program;*

11 (c) *A description of the federal and state income tax consequences of an*
12 *Individual Retirement Account, which may consist of or include the disclosure*
13 *statement required to be distributed by the Trustee by the Internal Revenue Code*
14 *and the Treasury Regulations adopted thereunder;*

15 (d) *A statement that covered employees seeking financial advice should*
16 *contact their own financial advisers and that covered employers are not in a*
17 *position to provide financial advice and that covered employers are not liable for*
18 *decisions covered employees make concerning the Program;*

19 (e) *A statement that the Program is not an employer-sponsored retirement*
20 *plan;*

21 (f) *A statement that neither the Program nor the covered employee's*
22 *Individual Retirement Account established or maintained through the Program is*
23 *guaranteed by the State; and*

24 (g) *A statement that:*

25 (1) *Neither a covered employer nor the State will monitor or has an*
26 *obligation to monitor the covered employee's eligibility under the Internal*
27 *Revenue Code to make contributions to an Individual Retirement Account or to*
28 *monitor whether the covered employee's contributions to the Individual*
29 *Retirement Account established or maintained for the covered employee through*
30 *the Program exceed the maximum permissible Individual Retirement Account*
31 *contribution;*

32 (2) *It is the covered employee's responsibility to monitor such matters;*
33 *and*

34 (3) *Neither the State nor the covered employer will have any liability with*
35 *respect to any failure of the covered employee to be eligible to make Individual*
36 *Retirement Account contributions or for making any contribution in excess of the*
37 *maximum Individual Retirement Account contribution.*

38 10. *The Board shall prepare or cause to be prepared information, forms or*
39 *instructions to be furnished to covered employees at such times as the Board*
40 *determines that provide the covered employee with the procedures for, without*
41 *limitation:*

42 (a) *Making contributions to the covered employee's Individual Retirement*
43 *Account established or maintained through the Program, including, without*
44 *limitation, a description of the default contribution rate, any automatic escalation*
45 *rate or frequency and the covered employee's right to elect to make no*
46 *contribution or to change the contribution rate;*

47 (b) *Making an investment election with respect to the covered employee's*
48 *Individual Retirement Account established or maintained through the Program,*
49 *including a description of the default investment fund;*

50 (c) *Making transfers, rollovers, withdrawals and other distributions from the*
51 *covered employee's Individual Retirement Account; and*

52 (d) *Exercising the covered employee's right to opt out of the Program.*

1 11. Each covered employer shall deliver or facilitate the delivery of the
2 items set forth in subsections 9 and 10, and any other information required by the
3 Board, to each covered employee at such time and in such manner as determined
4 by the Board.

5 12. The Program shall be designed and operated in a manner that will
6 cause it not to be an employee pension benefit plan within the meaning of section
7 3(2) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §
8 1002(2).

9 **Sec. 24.** 1. The Nevada Employee Savings Trust Administrative Fund is
10 hereby created in the State Treasury.

11 2. The Board shall administer the Administrative Fund.

12 3. The Board shall deposit in the Administrative Fund all money received
13 for the Program, including, without limitation:

14 (a) Money appropriated to the Administrative Fund by the Legislature;

15 (b) Money transferred to the Administrative Fund from the Federal
16 Government, other state agencies or local governments;

17 (c) Any gifts, donations, grants or other money designated for the
18 Administrative Fund from the State, or any unit of federal or local government,
19 or any other person, firm, partnership, corporation or other entity solely for
20 deposit into the Administrative Fund, whether for investment or administrative
21 expenses; and

22 (d) Earnings on money in the Administrative Fund.

23 4. The Board shall use the money in the Administrative Fund solely to pay
24 the administrative costs and expenses of the Program and the administrative costs
25 and expenses the Board incurs in the performance of its duties.

26 **Sec. 25.** 1. The Board may, to enable or facilitate the start up and
27 continuing operation, maintenance, administration and management of the
28 Program until the Board determines that the Program has accumulated sufficient
29 balances and is able to generate sufficient funding for the Program to be
30 financially self-sustaining:

31 (a) Borrow money from the State, any unit of federal, state or local
32 government or any other person, firm, partnership, corporation or entity; or

33 (b) Enter into long-term procurement contracts with one or more financial
34 providers if the Board determines that the fee structure of a contract allows or
35 assists the Program to minimize or avoid the need to borrow money pursuant to
36 paragraph (a) or to rely upon general assets of the State.

37 2. Money borrowed pursuant to subsection 1 must:

38 (a) Be borrowed in the name of the Program and Board only;

39 (b) Be repaid solely from the revenues of the Program; and

40 (c) Not be repaid unless the money was offered contingent upon the promise
41 of such repayment.

42 3. Within the limits of legislative appropriations, the State may pay on
43 behalf of the Board administrative costs associated with the creation,
44 maintenance, operation and management of the Program and Trust until the
45 Board determines that sufficient assets are available in the Administrative Fund
46 for that purpose. Thereafter, all administrative costs of the Program and Trust,
47 including any repayment of start-up money provided by the State, must be repaid
48 only out of money on deposit in the Administrative Fund.

49 **Sec. 26.** 1. The Nevada Employee Savings Trust is hereby created as an
50 instrumentality of the State.

51 2. The Board shall appoint an institution qualified to act as a trustee of
52 Individual Retirement Account trusts or an insurance company that issues
53 annuity contracts pursuant to section 408 of the Internal Revenue Code, 26

1 *U.S.C. § 408, and licensed to do business in the State of Nevada to act as Trustee*
2 *of the Trust.*

3 *3. The assets of Individual Retirement Accounts established or maintained*
4 *for covered employees must be allocated to the Trust and may be combined for*
5 *investment purposes. Trust assets must be managed and administered for the*
6 *exclusive purposes of providing benefits to covered employees and defraying*
7 *reasonable expenses of administering and managing the investments, Individual*
8 *Retirement Accounts, Board, Program and Trust.*

9 *4. The Board shall establish within the Trust one or more investment funds,*
10 *each pursuing an investment strategy and policy established by the Board. The*
11 *underlying investments of each investment fund must be diversified so as to*
12 *minimize the risk of large losses under any circumstances. The Board may, at*
13 *any time or from time to time, add, replace or remove any investment fund.*

14 *5. The Board may allow covered employees to allocate assets of their*
15 *Individual Retirement Accounts among such investment funds and, in such case,*
16 *the Board also may designate an investment fund as a default investment for the*
17 *Individual Retirement Accounts of covered employees who do not make an*
18 *investment choice.*

19 *6. The Board, in consultation with such third-party professional investment*
20 *advisers, managers or consultants as it may retain, shall select the underlying*
21 *investments of each investment fund. Such underlying investments may include,*
22 *without limitation, shares of mutual funds and exchange-traded funds, publicly*
23 *traded equity and fixed-income securities and other investments available for*
24 *investment by the Trust. An investment fund may not invest in any bond, debt*
25 *instrument or other security issued by the State.*

26 *7. The Board may, in its discretion, retain an investment adviser to select*
27 *and manage the investments of an investment fund on a discretionary basis,*
28 *subject to the Board's ongoing review and oversight. An investment adviser*
29 *retained pursuant to this subsection must be:*

30 *(a) An investment adviser registered as such under the Investment Advisers*
31 *Act of 1940, 15 U.S.C. §§ 80b-1 et seq.; or*

32 *(b) A bank or other institution exempt from registration under the*
33 *Investment Advisers Act.*

34 *8. The Trustee shall be subject to directions of the Board or of an*
35 *investment adviser pursuant to this section and shall otherwise have no*
36 *responsibility for the selection, retention or disposition of the investments or*
37 *assets of the Trust.*

38 *9. The assets of the Trust must at all times be preserved, invested and*
39 *expended solely for the purposes of the Trust and no property rights therein shall*
40 *exist in favor of the State or any covered employer. Trust assets must not be*
41 *transferred or used by the State for any purposes other than the purposes of the*
42 *Trust or paying the expenses of operating the Program. Amounts deposited with*
43 *the Trustee do not constitute property of the State and must not be commingled*
44 *with state money and the State has no claim to or against, or interest in, the assets*
45 *of the Trust.*

46 *10. The assets of the Trust must at all times be held separate and apart from*
47 *the assets of the State. The State, Program, Board, any member of the Board or*
48 *any covered employer shall not guaranty any investment, rate of return, or*
49 *interest on amounts held in the Trust, an investment fund or any Individual*
50 *Retirement Account. The State, Program, Board, any member of the Board or*
51 *any covered employer is not liable for any losses incurred by Trust investments or*
52 *otherwise by any covered employee or other person as a result of participating in*
53 *the Program.*

1 *11. The provisions of chapter 90 of NRS, the Uniform Securities Act, do not*
2 *apply to the Trust, any investment fund or any interest held by an Individual*
3 *Retirement Account in the Trust or such investment fund.*

4 *12. The Trust and each investment fund are exempt from all taxation by*
5 *this State and any political subdivision thereof.*

6 **Sec. 27.** *Except to the extent necessary to administer the Program,*
7 *personally identifiable information relating to individual participants in the*
8 *Program, including, without limitation, the name, physical and electronic mail*
9 *address, telephone number and other personally identifiable information of the*
10 *participant, and information relating to individual accounts established or*
11 *maintained through the Program, including, without limitation, the identity or*
12 *amount of any investment, contribution or earnings attributable to an account, is*
13 *confidential and must be maintained as confidential, unless the person who*
14 *provides the information or is the subject of the information expressly agrees in*
15 *writing to the disclosure of the information.*

16 **Sec. 28.** *1. A covered employer or other employer may not be held liable*
17 *for:*

18 *(a) An employee's decision to participate in or opt out of the Program;*

19 *(b) A participant's or the Board's investment decisions;*

20 *(c) The administration, investment, investment returns or investment*
21 *performance of the Program, including, without limitation, any interest rate or*
22 *other rate of return on any contribution or account balance, provided the covered*
23 *employer or other employer played no role;*

24 *(d) The design of the Program or the benefits paid to participants;*

25 *(e) A person's awareness of or compliance with the conditions and other*
26 *provisions of the Internal Revenue Code that determine which persons are*
27 *eligible to make tax-favored contributions to Individual Retirement Accounts, in*
28 *what amount and in what time frame and manner; or*

29 *(f) Any loss, failure to realize any gain or any other adverse consequences,*
30 *including, without limitation, any adverse tax consequences or loss of favorable*
31 *tax treatment, public assistance or other benefits, incurred by any person as a*
32 *result of participating in the Program.*

33 *2. A covered employer or other employer must not be deemed to be a*
34 *fiduciary in relation to the Program.*

35 **Sec. 29.** *1. The State and any employee or officer thereof, the Board and*
36 *any member of the Board or employee thereof and the Program:*

37 *(a) Have no responsibility for compliance by persons with the conditions and*
38 *other provisions of the Internal Revenue Code that determine which persons are*
39 *eligible to make tax-favored contributions to Individual Retirement Accounts, in*
40 *what amount and in what time frame and manner;*

41 *(b) Have no duty, responsibility or liability to any party for the payment of*
42 *any benefits through the Program, regardless of whether sufficient money is*
43 *available through the Program to pay such benefits;*

44 *(c) Do not and shall not guarantee any interest rate or other rate of return on*
45 *or investment performance of any contribution or account balance; and*

46 *(d) Are not and shall not be liable or responsible for any loss, deficiency,*
47 *failure to realize any gain or any other adverse consequences, including, without*
48 *limitation, any adverse tax consequences or loss of favorable tax treatment,*
49 *public assistance or other benefits, incurred by any person as a result of*
50 *participating in the Program.*

51 *2. The debts, contracts and obligations of the Board, Program or Trust are*
52 *not the debts, contracts and obligations of the State, and neither the faith and*

1 *credit nor the taxing power of the State is pledged directly or indirectly to the*
2 *payment of the debts, contracts and obligations of the Board, Program or Trust.*

3 **Sec. 30.** *1. Each member of the Board, the Trustee and each investment*
4 *adviser or other person who has control of the assets of the Trust is a fiduciary*
5 *with respect to the Trust and each Individual Retirement Account established and*
6 *maintained through the Program.*

7 *2. Each fiduciary shall discharge its duties with respect to the Program*
8 *solely in the interests of covered employees and with the care, skill, prudence and*
9 *diligence under the circumstances then prevailing that a prudent person acting in*
10 *a like capacity and familiar with those matters would use in the conduct of an*
11 *enterprise of like character and aims.*

12 **Sec. 31.** *A member of the Board and a person who serves on the staff of the*
13 *Board or as an administrator of the Program shall not:*

14 *1. Directly or indirectly have any interest in the making of any investment*
15 *under the Program or in any gains or profits accruing from such an investment;*

16 *2. Borrow any Program-related money or deposits, or use any such money*
17 *or deposits in any manner, for himself or herself or as an agent or partner of*
18 *others; or*

19 *3. Become an endorser, surety or obligor on any investment made through*
20 *the Program.*

21 **Sec. 32.** *1. The Board shall cause an accurate account of all the*
22 *activities, operations and receipts and expenditures of the Board, Program and*
23 *Trust to be maintained. Each year, a full audit of the books and accounts of the*
24 *Board, Program and Trust pertaining to those activities, operations, receipts and*
25 *expenditures, personnel, services and facilities must be conducted by a certified*
26 *public accountant and must include, without limitation, direct and indirect costs*
27 *attributable to the use of outside consultants, independent contractors and any*
28 *other persons who are not state employees for the administration of the Program.*
29 *For the purposes of the audit, the auditors shall have access to the properties and*
30 *records of the Board, Program and Trust and may prescribe methods of*
31 *accounting and the rendering of periodic reports in relation to projects*
32 *undertaken by the Board, Program and Trust.*

33 *2. Not later than August 1 of each year, the Board shall submit to the*
34 *Governor, the State Controller and the Director of the Legislative Counsel*
35 *Bureau for transmittal to the Legislature or, if the Legislature is not in session, to*
36 *the Legislative Commission, an audited financial report, prepared in accordance*
37 *with generally accepted accounting principles, detailing the activities, operations*
38 *and receipts and expenditures of the Board, Program and Trust during the*
39 *immediately preceding calendar year. The report must also include projected*
40 *activities of the Program for the current calendar year.*

41 *3. The Board shall prepare an annual report on the operation of the*
42 *Program to be available to all citizens and provided to appropriate state officers.*

43 **Sec. 33.** *This chapter, being necessary to secure the public health, safety,*
44 *convenience and welfare, must be liberally construed to effect its purposes.*

45 **Sec. 34.** NRS 239.010 is hereby amended to read as follows:

46 239.010 1. Except as otherwise provided in this section and NRS 1.4683,
47 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293, 62D.420, 62D.440,
48 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100,
49 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515,
50 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
51 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
52 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677,
53 119B.370, 119B.382, 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161,

1 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090,
2 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015,
3 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
4 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604,
5 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521,
6 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
7 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
8 224.240, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473,
9 232.1369, 233.190, 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030,
10 239B.040, 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270,
11 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335,
12 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150, 268.095,
13 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
14 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 284.4086,
15 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855,
16 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908,
17 293.910, 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
18 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775,
19 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
20 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180, 370.257,
21 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.350,
22 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503, 388.513,
23 388.750, 388A.247, 388A.249, 391.033, 391.035, 391.0365, 391.120, 391.925,
24 392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
25 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
26 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525, 396.535,
27 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 414.280,
28 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872,
29 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
30 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534, 433A.360,
31 439.4941, 439.4988, 439.840, 439.914, 439A.116, 439A.124, 439B.420, 439B.754,
32 439B.760, 439B.845, 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
33 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245,
34 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720, 458.055,
35 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
36 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935,
37 480.940, 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
38 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830, 484B.833, 484E.070,
39 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160, 584.655,
40 587.877, 598.0964, 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210,
41 604A.303, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
42 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265,
43 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
44 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336, 630A.327,
45 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405,
46 633.283, 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055, 634.1303,
47 634.214, 634A.169, 634A.185, 635.111, 635.158, 636.262, 636.342, 637.085,
48 637.145, 637B.192, 637B.288, 638.087, 638.089, 639.183, 639.2485, 639.570,
49 640.075, 640.152, 640A.185, 640A.220, 640B.405, 640B.730, 640C.580,
50 640C.600, 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225,
51 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217, 641A.262,
52 641B.170, 641B.281, 641B.282, 641C.455, 641C.760, 641D.260, 641D.320,
53 642.524, 643.189, 644A.870, 645.180, 645.625, 645A.050, 645A.082, 645B.060,

1 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645G.510, 645H.320,
2 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,
3 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
4 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380, 676A.340,
5 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122, 679B.124,
6 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440,
7 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170,
8 686C.306, 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,
9 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
10 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196,
11 704B.325, 706.1725, 706A.230, 710.159, 711.600, *section 27 of this act*, sections
12 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391,
13 Statutes of Nevada 2013 and unless otherwise declared by law to be confidential,
14 all public books and public records of a governmental entity must be open at all
15 times during office hours to inspection by any person, and may be fully copied or
16 an abstract or memorandum may be prepared from those public books and public
17 records. Any such copies, abstracts or memoranda may be used to supply the
18 general public with copies, abstracts or memoranda of the records or may be used
19 in any other way to the advantage of the governmental entity or of the general
20 public. This section does not supersede or in any manner affect the federal laws
21 governing copyrights or enlarge, diminish or affect in any other manner the rights
22 of a person in any written book or record which is copyrighted pursuant to federal
23 law.

24 2. A governmental entity may not reject a book or record which is
25 copyrighted solely because it is copyrighted.

26 3. A governmental entity that has legal custody or control of a public book or
27 record shall not deny a request made pursuant to subsection 1 to inspect or copy or
28 receive a copy of a public book or record on the basis that the requested public
29 book or record contains information that is confidential if the governmental entity
30 can redact, delete, conceal or separate, including, without limitation, electronically,
31 the confidential information from the information included in the public book or
32 record that is not otherwise confidential.

33 4. If requested, a governmental entity shall provide a copy of a public record
34 in an electronic format by means of an electronic medium. Nothing in this
35 subsection requires a governmental entity to provide a copy of a public record in an
36 electronic format or by means of an electronic medium if:

37 (a) The public record:

38 (1) Was not created or prepared in an electronic format; and

39 (2) Is not available in an electronic format; or

40 (b) Providing the public record in an electronic format or by means of an
41 electronic medium would:

42 (1) Give access to proprietary software; or

43 (2) Require the production of information that is confidential and that
44 cannot be redacted, deleted, concealed or separated from information that is not
45 otherwise confidential.

46 5. An officer, employee or agent of a governmental entity who has legal
47 custody or control of a public record:

48 (a) Shall not refuse to provide a copy of that public record in the medium that
49 is requested because the officer, employee or agent has already prepared or would
50 prefer to provide the copy in a different medium.

51 (b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare
52 the copy of the public record and shall not require the person who has requested the
53 copy to prepare the copy himself or herself.

1 **Sec. 34.5.** 1. There is hereby appropriated from the State General Fund to
 2 the Office of the State Treasurer for costs related to the administration of the
 3 Nevada Employee Savings Trust Program established pursuant to section 20 of this
 4 act the following sums:

5	For the Fiscal Year 2023-2024.....	\$669,491
6	For the Fiscal Year 2024-2025.....	\$535,074

7 2. The Office of the State Treasurer shall repay the sums appropriated by
 8 subsection 1 as soon as the Office has received sufficient money for the operation
 9 of the Program.

10 3. Any balance of the sums appropriated by subsection 1 remaining at the end
 11 of the respective fiscal years must not be committed for expenditure after June 30
 12 of the respective fiscal years by the entity to which the appropriation is made or any
 13 entity to which money from the appropriation is granted or otherwise transferred in
 14 any manner, and any portion of the appropriated money remaining must not be
 15 spent for any purpose after September 20, 2024, and September 19, 2025,
 16 respectively, by either the entity to which the money was appropriated or the entity
 17 to which the money was subsequently granted or transferred, and must be reverted
 18 to the State General Fund on or before September 20, 2024, and September 19,
 19 2025, respectively.

20 **Sec. 35.** 1. Except as otherwise provided in this section, the Board of
 21 Trustees of the Nevada Employee Savings Trust created by section 19 of this act
 22 shall establish the Nevada Employee Savings Trust Program pursuant to section 20
 23 of this act and implement its provisions so that covered employees are able to make
 24 contributions to an Individual Retirement Account through the Program beginning
 25 on July 1, 2025.

26 2. The Board may implement the Program in phases so that the ability of
 27 covered employees to contribute to an Individual Retirement Account through the
 28 Program first applies on different dates for different employees based on the
 29 number of employees employed by the covered employer. If the Board implements
 30 the Program in phases pursuant to this subsection, the first phase must not begin
 31 before July 1, 2025.

32 3. The Board shall not implement the Program if, and to the extent that, it
 33 determines that the Program is preempted by the Employee Retirement Income
 34 Security Act of 1974, 29 U.S.C. §§ 1001 et seq. If the Board determines that one or
 35 more provisions of the Program are preempted by Employee Retirement Income
 36 Security Act of 1974, the Board shall implement the remaining provisions of the
 37 Program to the extent practicable.

38 4. The Board shall not implement a provision of the Program that authorizes
 39 an arrangement by which an employer facilitates access for an employee to
 40 contribute to an Individual Retirement Account by means of payroll deduction if
 41 the Board determines that the arrangement is an employee pension benefit plan
 42 within the meaning of section 3(2) of the Employee Retirement Income Security
 43 Act of 1974, 29 U.S.C. § 1002(2).

44 **Sec. 36.** As soon as practicable on or after the effective date of this section,
 45 the Governor, Majority Leader of the Senate and Speaker of the Assembly shall
 46 appoint the members of the Board of Trustees of the Nevada Employee Savings
 47 Trust pursuant to section 19 of this act.

48 **Sec. 36.5. 1. The Board of Trustees of the Nevada Employee Savings**
 49 **Trust created by section 19 of this act shall conduct a study on the feasibility of**
 50 **including independent contractors in the Nevada Employee Savings Trust**
 51 **Program established pursuant to section 20 of this act.**

52 **2. Not later than December 31, 2024, the Board shall prepare and submit**
 53 **a report of the findings of the study conducted pursuant to subsection 1 to the**

1 **Director of the Legislative Counsel Bureau for transmittal to the 83rd Session**
2 **of the Nevada Legislature.**

3 **Sec. 37.** The provisions of subsection 1 of NRS 218D.380 do not apply to
4 any provision of this act which adds or revises a requirement to submit a report to
5 the Legislature.

6 **Sec. 38.** 1. This section and section 36 of this act become effective upon
7 passage and approval.

8 2. ~~Section~~ **Sections 34.5 and 36.5** of this act ~~become~~ **become** effective
9 on July 1, 2023.

10 3. Sections 1 to 34, inclusive, 35 and 37 of this act, become effective:

11 (a) Upon passage and approval for the purpose of adopting any regulations and
12 performing any other preparatory administrative tasks that are necessary to carry
13 out the provisions of this act; and

14 (b) On July 1, 2025, for all other purposes.