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FIRST REPRINT

A.B. 399

ASSEMBLY BILL NO. 399—ASSEMBLYMEN SPIEGEL; ASSEFA,
CARRILLO, FLORES, MARTINEZ, MUNK, NEAL, SMITH AND YEAGER

MARCH 21, 2019

JOINT SPONSORS: SENATORS PARKS, RATTI AND WASHINGTON

Referred to Committee on Government Affairs

SUMMARY—Provides for the establishment of a retirement savings program for private sector employees. (BDR 31-606)

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 ~~for mitted 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 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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing federal law provides for individual retirement accounts and individual
2 retirement annuities by which persons may save money for retirement under



3 favorable income tax treatment. (26 U.S.C. §§ 408, 408A) This bill establishes the
4 Nevada Employee Savings Trust under the direction of a board of trustees with the
5 power to establish a similar program and to encourage private employees to
6 establish such accounts.

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

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

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

21 **Section 22** also prohibits the Board from imposing any obligations on the State or
22 pledging the credit of the State.

23 **Section 23** of this bill establishes certain attributes that the Board must include
24 in the Program, including: (1) that covered employers must automatically enroll
25 covered employees in the Program; (2) that contributions to a covered employee's
26 Individual Retirement Account (IRA) must be withheld from the employee's
27 compensation at the rate set by the Board unless the employee elects to not
28 contribute or to contribute at a different rate; and (3) that the Board must prepare
29 informational materials, disclosure statements, forms and instructions concerning
30 the Program for distribution by covered employers to covered employees.

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

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

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

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

52 **Section 28** of this bill provides a grant of immunity from civil liability to
53 covered employers for the consequences of various decisions made by employees
54 or the Board in connection with the Program, including, for example, an
55 employee's decision to participate in or to opt out of the Program, any investment
56 decision made by the participant or the Board, and any loss, failure to realize a
57 gain, or any other adverse consequence incurred by any person as a result of



58 participating in the Program. **Section 28** also provides that a covered employer or
59 other employer must not be deemed to be a fiduciary in relation to the Program.

60 **Section 29** of this bill absolves the State and any employee or officer thereof,
61 and the Board and a member of the Board or employee thereof, and the Program
62 from any responsibility or civil liability for the actions of certain other persons in
63 connection with the Program, including, for example, a person's failure to comply
64 with provisions of the Internal Revenue Code, the payment of benefits, and any
65 loss, failure to realize a gain, or any other adverse consequence incurred by any
66 person as a result of participating in the Program. **Section 29** also provides that the
67 debts, contracts, and obligations of the Board, Program or Trust are not the debts,
68 contracts, and obligations of the State, and neither the faith and credit nor the taxing
69 power of the State is pledged directly or indirectly to the payment of the debts,
70 contracts, and obligations of the Board, Program or Trust.

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

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

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

1 WHEREAS, The Legislature finds that too many Nevadans have
2 inadequate savings for retirement, and over 56 percent of wage and
3 salary workers in Nevada work for an employer that does not offer a
4 retirement plan or program or offer any other easy way to save at
5 work; and

6 WHEREAS, It is the policy of this State to encourage Nevadans
7 to voluntarily save for retirement, including by facilitating saving in
8 individual retirement accounts as well as by encouraging employers
9 to adopt retirement savings and other retirement plans for employees
10 in this State; and

11 WHEREAS, More adequate, portable, low-cost, and consumer-
12 protective retirement savings by Nevada households will enhance
13 their retirement security and ultimately reduce the pressure on State
14 public assistance programs for retirees and other elderly citizens and
15 the potential burden on Nevada citizens and taxpayers to finance
16 such programs; and

17 WHEREAS, The Legislature intends to create the Nevada
18 Employee Savings Trust to be governed by a Board of Trustees,
19 which will design and establish a program that encourages private-
20 sector employees to establish tax-favored individual retirement
21 accounts funded by payroll deductions and will select competent
22 and qualified private-sector entities to administer the program and
23 manage the accounts on behalf of program participants; and

24 WHEREAS, The Nevada College Savings Program administered
25 by the Board of Trustees of the College Savings Plans of Nevada



1 has demonstrated the feasibility of a public-private partnership that
2 outsources investment and administration to assist private citizens of
3 Nevada to save on a voluntary and cost-efficient basis; now,
4 therefore,

5
6 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
7 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
8

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

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

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

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

21 **Sec. 5.** *“Compensation” means compensation within the*
22 *meaning of section 219(f)(1) of the Internal Revenue Code that is*
23 *received by a covered employee from a covered employer.*

24 **Sec. 6.** *“Contribution rate” means the percentage of a*
25 *covered employee’s compensation that is withheld from his or her*
26 *compensation and paid to the Individual Retirement Account*
27 *established or maintained for the covered employee through the*
28 *Program.*

29 **Sec. 7. 1.** *“Covered employee” means a person who:*

30 *(a) Is employed by a covered employer for not less than 120*
31 *days;*

32 *(b) Has wages or other compensation that is allocable to the*
33 *State; and*

34 *(c) Is at least 18 years of age.*

35 **2.** *For purposes of the investment, withdrawal, transfer,*
36 *rollover or other distribution of an Individual Retirement Account,*
37 *the term also includes the beneficiary of a deceased covered*
38 *employee.*

39 **3.** *The term does not include:*

40 *(a) Any employee covered under the federal Railway Labor*
41 *Act, 45 U.S.C. §§ 151 et seq.;*

42 *(b) Any employee on whose behalf an employer makes*
43 *contributions to a Taft-Hartley multiemployer pension trust fund;*
44 *or*



1 (c) Any person who is an employee of the Federal government,
2 the State or any other state, country or municipal corporation, or
3 any of the State's or any other state's units or instrumentalities.

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

5 1. Has been in business for at least twenty-four months;

6 2. Pays its employees through an electronic payroll system or
7 service; and

8 3. Has not maintained a tax-favored retirement plan for its
9 employees or has not done so in an effective form and operation at
10 any time within the current or 2 immediately preceding calendar
11 years.

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

17 2. The term does not include an agency or entity of the
18 federal government, the government of this State or a political
19 subdivision of this State.

20 **Sec. 10.** "Individual Retirement Account" means an
21 individual retirement account and an individual retirement
22 annuity established under section 408 or 408A of the Internal
23 Revenue Code.

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

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

28 **Sec. 13.** "Participant" means a person who contributes to an
29 Individual Retirement Account established or maintained through
30 the Program or has an account balance in an Individual
31 Retirement Account established or maintained through the
32 Program.

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

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

37 **Sec. 16.** "Tax-favored retirement plan" means a retirement
38 plan that is tax-qualified under or is described in and satisfies the
39 requirements of subsection 401(a), 401(k), 403(a), 403(b), 408(k)
40 or 408(p) of the Internal Revenue Code.

41 **Sec. 17.** "Trust" means the Individual Retirement Account
42 retirement trust or annuity contract established pursuant to
43 section 26 of this act.

44 **Sec. 18.** "Trustee" means the trustee of the Trust selected by
45 the Board pursuant to section 26 of this act.



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

3 2. *The Board consists of:*

4 (a) *The State Treasurer or his or her designee;*

5 (b) *The Lieutenant Governor or his or her designee;*

6 (c) *One member, appointed by the Governor, who represents*
7 *employers;*

8 (d) *One member, appointed by the Governor, who is a*
9 *representative of an association that represents employees;*

10 (e) *One member, appointed by the Governor, who has*
11 *experience in the field of investments;*

12 (f) *One member, appointed by the Majority Leader of the*
13 *Senate, who represents retirees; and*

14 (g) *One member, appointed by the Speaker of the Assembly,*
15 *who has experience in small business.*

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

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

22 5. *The Lieutenant Governor or his or her designee shall serve*
23 *as the Chair of the Board.*

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

26 7. *A majority of the members of the Board constitutes a*
27 *quorum for the transaction of business, and a majority of a*
28 *quorum present at any meeting is sufficient for any official action*
29 *taken by the Board.*

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

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

34 (b) *Reimbursement for any other actual and reasonable*
35 *expense incurred while performing his or her duties.*

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

37 1. *Design, establish, and operate the Program;*

38 2. *Enter into contracts necessary or desirable for the*
39 *administration of the Program;*

40 3. *Hire, retain and terminate third party service providers as*
41 *the Board deems necessary or desirable for the Program,*
42 *including, but not limited to, nonprofit organizations, consultants,*
43 *investment managers or advisors, trustees, custodians, insurance*
44 *companies, record keepers, administrators, actuaries, counsel,*
45 *auditors and other professionals;*



1 4. Determine, without limitation, the:
2 (a) Types of Individual Retirement Accounts to be offered;
3 (b) Default contribution rate; and
4 (c) Process for automatic escalation of participant
5 contributions;

6 5. Develop an option for participants to convert contributions
7 into fixed lifetime income streams;

8 6. Develop and implement an outreach plan to gain input and
9 disseminate information regarding the Program and retirement
10 and financial education in general, to employees, employers and
11 other constituents in this State;

12 7. Determine the number of days by which an eligible
13 employer must make the Program available to a covered employee
14 upon first becoming an eligible employer or covered employee;
15 and

16 8. Adopt regulations, rules and procedures for the
17 establishment and operation of the Program and to take such
18 other actions necessary or desirable to establish and operate the
19 Program.

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

23 2. The Board may enter into an intergovernmental agreement
24 or contract to obtain outreach, technical assistance or compliance
25 services with any officer, agency, division or department of the
26 State, including, without limitation, the Lieutenant Governor,
27 Secretary of State, Department of Taxation, Department of
28 Employment, Training and Rehabilitation, Department of
29 Business and Industry and Department of Labor. An officer,
30 agency, division or department that enters into such an
31 intergovernmental agreement with the Board shall collaborate
32 with any other officer, agency, division or department of the State
33 as necessary to provide such outreach, technical assistance or
34 compliance services to the Board.

35 **Sec. 22.** 1. An act or undertaking of the Board does not
36 constitute a debt of the State of Nevada, or any political
37 subdivision thereof, or a pledge of the full faith and credit of the
38 State of Nevada, or of any political subdivision thereof, and is
39 payable solely from the Trust.

40 2. The Board may not impose any obligations on the State or
41 pledge the credit of the State.

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



1 1. Each covered employer shall automatically enroll each
2 covered employee in the Program.

3 2. An employer shall not contribute to the Program or
4 endorse or otherwise promote the Program.

5 3. Contributions must be withheld from the compensation of
6 each covered employee at the contribution rate set by the Board
7 unless the covered employee elects to not contribute or to
8 contribute at a different rate.

9 4. An Individual Retirement Account established and
10 maintained through the Program must qualify for favorable
11 federal income tax treatment pursuant to section 408 or 408A of
12 the Internal Revenue Code.

13 5. The Board may establish intervals after which a covered
14 employee must reaffirm his or her intent to opt out of the
15 Program.

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

21 7. The Board shall determine the rules and procedures for
22 withdrawals, distributions, transfers and rollovers of Individual
23 Retirement Accounts and for the designation of Individual
24 Retirement Account beneficiaries.

25 8. The Board shall determine a method for employers other
26 than covered employers and employees other than covered
27 employees to participate in the Program, if allowed under federal
28 law.

29 9. The Board shall prepare or cause to be prepared
30 informational materials and required disclosures regarding the
31 Program for distribution by covered employers to covered
32 employees. Such materials must include, without limitation;

33 (a) A description of the benefits and risks associated with
34 making contributions through the Program;

35 (b) Instructions about how to obtain additional information
36 about the Program;

37 (c) A description of the federal and state income tax
38 consequences of an Individual Retirement Account, which may
39 consist of or include the disclosure statement required to be
40 distributed by the Trustee by the Internal Revenue Code and the
41 Treasury Regulations adopted thereunder;

42 (d) A statement that covered employees seeking financial
43 advice should contact their own financial advisors and that
44 covered employers are not in a position to provide financial advice



1 *and that covered employers are not liable for decisions covered*
2 *employees make concerning the Program;*

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

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

8 *(g) A statement that:*

9 *(1) Neither a covered employer nor the State will monitor*
10 *or has an obligation to monitor the covered employee's eligibility*
11 *under the Internal Revenue Code to make contributions to an*
12 *Individual Retirement Account or to monitor whether the covered*
13 *employee's contributions to the Individual Retirement Account*
14 *established or maintained for the covered employee through the*
15 *Program exceed the maximum permissible Individual Retirement*
16 *Account contribution;*

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

19 *(3) Neither the State nor the covered employer will have*
20 *any liability with respect to any failure of the covered employee to*
21 *be eligible to make Individual Retirement Account contributions*
22 *or for making any contribution in excess of the maximum*
23 *Individual Retirement Account contribution.*

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

28 *(a) Making contributions to the covered employee's Individual*
29 *Retirement Account established or maintained through the*
30 *Program, including, without limitation, a description of the*
31 *default contribution rate, any automatic escalation rate or*
32 *frequency and the covered employee's right to elect to make no*
33 *contribution or to change the contribution rate;*

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

38 *(c) Making transfers, rollovers, withdrawals and other*
39 *distributions from the covered employee's Individual Retirement*
40 *Account.*

41 *11. Each covered employer shall deliver or facilitate the*
42 *delivery of the items set forth in subsections 9 and 10, and any*
43 *other information required by the Board, to each covered*
44 *employee at such time and in such manner as determined by the*
45 *Board.*



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

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

7 **2. The Board shall administer the Administrative Fund.**

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

10 **(a) Money appropriated to the Administrative Fund by the**
11 **Legislature;**

12 **(b) Money transferred to the Administrative Fund from the**
13 **Federal government, other State agencies, or local governments;**

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

20 **(d) Earnings on money in the Administrative Fund.**

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

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

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

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

39 **2. Money borrowed pursuant to subsection 1 must:**

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

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

42 **(c) Not be repaid unless the money was offered contingent**
43 **upon the promise of such repayment.**

44 **3. Within the limits of legislative appropriations, the State**
45 **may pay on behalf of the Board administrative costs associated**



1 *with the creation, maintenance, operation, and management of the*
2 *Program and Trust until the Board determines that sufficient*
3 *assets are available in the Administrative Fund for that purpose.*
4 *Thereafter, all administrative costs of the Administrative Fund,*
5 *including any repayment of start-up money provided by the State,*
6 *must be repaid only out of money on deposit therein.*

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

9 2. *The Board shall appoint an institution qualified to act as a*
10 *trustee of Individual Retirement Account trusts or an insurance*
11 *company that issues annuity contracts pursuant to section 408 of*
12 *the Internal Revenue Code and licensed to do business in the State*
13 *of Nevada to act as Trustee of the Trust.*

14 3. *The assets of Individual Retirement Accounts established*
15 *or maintained for covered employees must be allocated to the*
16 *Trust and may be combined for investment purposes. Trust assets*
17 *must be managed and administered for the exclusive purposes of*
18 *providing benefits to covered employees and defraying reasonable*
19 *expenses of administering and managing the investments,*
20 *Individual Retirement Accounts, Board, Program and Trust.*

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

27 5. *The Board may allow covered employees to allocate assets*
28 *of their Individual Retirement Accounts among such investment*
29 *funds and in such case, the Board also may designate an*
30 *investment fund as a default investment for the Individual*
31 *Retirement Accounts of covered employees who do not make an*
32 *investment choice.*

33 6. *The Board, in consultation with such third-party*
34 *professional investment advisers, managers or consultants as it*
35 *may retain, shall select the underlying investments of each*
36 *investment fund. Such underlying investments may include,*
37 *without limitation, shares of mutual funds and exchange-traded*
38 *funds, publicly traded equity and fixed-income securities, and*
39 *other investments available for investment by the Trust. An*
40 *investment fund may not invest in any bond, debt instrument or*
41 *other security issued by the State.*

42 7. *The Board may, in its discretion, retain an investment*
43 *adviser to select and manage the investments of an investment*
44 *fund on a discretionary basis, subject to the Board's ongoing*



1 *review and oversight. An investment advisor retained pursuant to*
2 *this subsection must be:*

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

5 (2) *A bank or other institution exempt from registration*
6 *under the Advisers Act.*

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

11 9. *The assets of the Trust must at all times be preserved,*
12 *invested, and expended solely for the purposes of the Trust and no*
13 *property rights therein shall exist in favor of the State or any*
14 *covered employer. Trust assets must not be transferred or used by*
15 *the State for any purposes other than the purposes of the Trust or*
16 *paying the expenses of operating the Program. Amounts deposited*
17 *with the Trustee do not constitute property of the State and must*
18 *not be commingled with State money and the State has no claim to*
19 *or against, or interest in, the assets of the Trust.*

20 10. *The assets of the Trust must at all times be held separate*
21 *and apart from the assets of the State. The State, Program, Board,*
22 *any member of the Board or any covered employer shall not*
23 *guaranty any investment, rate of return, or interest on amounts*
24 *held in the Trust, an investment fund, or any Individual*
25 *Retirement Account. The State, Program, Board, any member of*
26 *the Board or any employer is not be liable for any losses incurred*
27 *by Trust investments or otherwise by any covered employee or*
28 *other person as a result of participating in the Program.*

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

33 12. *The Trust and each investment fund is exempt from all*
34 *taxation by this State and any political subdivision thereof.*

35 **Sec. 27.** *Except to the extent necessary to administer the*
36 *Program, personally identifiable information relating to individual*
37 *participants in the program, including, without limitation the*
38 *name, physical and electronic mail address, telephone number and*
39 *other personally identifiable information of the participant, and*
40 *information relating to individual accounts established or*
41 *maintained through the Program, including, without limitation,*
42 *the identity or amount of any investment, contribution, or*
43 *earnings attributable to an account, is confidential and must be*
44 *maintained as confidential, unless the person who provides the*



1 *information or is the subject of the information expressly agrees in*
2 *writing to the disclosure of the information.*

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

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

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

8 *(c) The administration, investment, investment returns, or*
9 *investment performance of the Program, including, without*
10 *limitation, any interest rate or other rate of return on any*
11 *contribution or account balance, provided they played no role;*

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

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

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

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

26 **Sec. 29.** *1. The State and any employee or officer thereof,*
27 *and the Board and a member of the Board or employee thereof,*
28 *and the Program:*

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

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

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

41 *(d) Are not and shall not be liable or responsible for any loss,*
42 *deficiency, failure to realize any gain, or any other adverse*
43 *consequences, including without limitation any adverse tax*
44 *consequences or loss of favorable tax treatment, public assistance*



1 *or other benefits, incurred by any person as a result of*
2 *participating in the Program.*

3 *2. The debts, contracts, and obligations of the Board,*
4 *Program or Trust are not the debts, contracts, and obligations of*
5 *the State, and neither the faith and credit nor the taxing power of*
6 *the State is pledged directly or indirectly to the payment of the*
7 *debts, contracts, and obligations of the Board, Program or Trust.*

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

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

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

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

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

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

30 **Sec. 32.** *1. The Board shall cause an accurate account of*
31 *all the activities, operations, receipts, and expenditures of the*
32 *Board, Program and Trust to be maintained. Each year, a full*
33 *audit of the books and accounts of the Board, Program and Trust*
34 *pertaining to those activities, operations, receipts and*
35 *expenditures, personnel, services, or facilities shall be conducted*
36 *by a certified public accountant and shall include, but not be*
37 *limited to, direct and indirect costs attributable to the use of*
38 *outside consultants, independent contractors, and any other*
39 *persons who are not State employees for the administration of the*
40 *Program. For the purposes of the audit, the auditors shall have*
41 *access to the properties and records of the Board, Program and*
42 *Trust and may prescribe methods of accounting and the rendering*
43 *of periodic reports in relation to projects undertaken by the Board,*
44 *Program and Trust.*



1 2. *Not later than August 1 of each year, the Board shall*
2 *submit to the Governor, the State Controller and the Director of*
3 *the Legislative Counsel Bureau for transmittal to the Legislature*
4 *or, if the Legislature is not in session, to the Legislative*
5 *Commission, an audited financial report, prepared in accordance*
6 *with generally accepted accounting principles, detailing the*
7 *activities, operations, receipts, and expenditures of the Board,*
8 *Program and Trust during the immediately preceding calendar*
9 *year. The report shall also include projected activities of the*
10 *Program for the current calendar year.*

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

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

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

18 239.010 1. Except as otherwise provided in this section and
19 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
20 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
21 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
22 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
23 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
24 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
25 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
26 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
27 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130,
28 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044,
29 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625,
30 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
31 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772,
32 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925,
33 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131,
34 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625,
35 218F.150, 218G.130, 218G.240, 218G.350, 228.270, 228.450,
36 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300, 239.0105,
37 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
38 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030,
39 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
40 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
41 271A.105, 281.195, 281.805, 281A.350, 281A.680, 281A.685,
42 281A.750, 281A.755, 281A.780, 284.4068, 286.110, 287.0438,
43 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
44 293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510,
45 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,



1 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205,
2 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
3 360.255, 360.755, 361.044, 361.610, 365.138, 366.160, 368A.180,
4 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008, 379.1495,
5 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259,
6 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035,
7 391.120, 391.925, 392.029, 392.147, 392.264, 392.271, 392.315,
8 392.317, 392.325, 392.327, 392.335, 392.850, 394.167, 394.1698,
9 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
10 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
11 412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
12 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
13 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
14 433.534, 433A.360, 437.145, 439.840, 439B.420, 440.170,
15 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
16 445A.665, 445B.570, 449.209, 449.245, 449A.112, 450.140,
17 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
18 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
19 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365, 480.940,
20 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
21 483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452,
22 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
23 598.098, 598A.110, 599B.090, 603.070, 603A.210, 604A.710,
24 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
25 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
26 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
27 629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368,
28 632.121, 632.125, 632.405, 633.283, 633.301, 633.524, 634.055,
29 634.214, 634A.185, 635.158, 636.107, 637.085, 637B.288, 638.087,
30 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,
31 640C.400, 640C.600, 640C.620, 640C.745, 640C.760, 640D.190,
32 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
33 641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870,
34 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092,
35 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375,
36 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033,
37 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115,
38 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450,
39 673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122,
40 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270,
41 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077,
42 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010,
43 688C.230, 688C.480, 688C.490, 689A.696, 692A.117, 692C.190,
44 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420,
45 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.320,



1 704B.325, 706.1725, 706A.230, 710.159, 711.600 **[H]** and section 27
2 *of this act and* sections 35, 38 and 41 of chapter 478, Statutes of
3 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
4 and unless otherwise declared by law to be confidential, all public
5 books and public records of a governmental entity must be open at
6 all times during office hours to inspection by any person, and may
7 be fully copied or an abstract or memorandum may be prepared
8 from those public books and public records. Any such copies,
9 abstracts or memoranda may be used to supply the general public
10 with copies, abstracts or memoranda of the records or may be used
11 in any other way to the advantage of the governmental entity or of
12 the general public. This section does not supersede or in any manner
13 affect the federal laws governing copyrights or enlarge, diminish or
14 affect in any other manner the rights of a person in any written book
15 or record which is copyrighted pursuant to federal law.

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

18 3. A governmental entity that has legal custody or control of a
19 public book or record shall not deny a request made pursuant to
20 subsection 1 to inspect or copy or receive a copy of a public book or
21 record on the basis that the requested public book or record contains
22 information that is confidential if the governmental entity can
23 redact, delete, conceal or separate the confidential information from
24 the information included in the public book or record that is not
25 otherwise confidential.

26 4. A person may request a copy of a public record in any
27 medium in which the public record is readily available. An officer,
28 employee or agent of a governmental entity who has legal custody
29 or control of a public record:

30 (a) Shall not refuse to provide a copy of that public record in a
31 readily available medium because the officer, employee or agent has
32 already prepared or would prefer to provide the copy in a different
33 medium.

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

38 **Sec. 35.** 1. Except as otherwise provided in this section, the
39 Board of Trustees of the Nevada Employee Savings Trust shall
40 establish the Nevada Employee Savings Trust Program and
41 implement its provisions so that covered employees are able to
42 make contributions to an Individual Retirement Account through the
43 Program not later than July 1, 2021.

44 2. The Board may establish different classes of employees
45 based on characteristics selected by the Board, including, without



1 limitation, the size or type of their employers or the number of
2 employees employed, and implement the Program in phases, so that
3 the ability of covered employees to contribute to an Individual
4 Retirement Account through the Program first applies on different
5 dates for different classes of employees, but such an implementation
6 must be substantially complete not later than July 1, 2023.

7 3. The Board shall not implement the Program if, and to the
8 extent that, it determines that the Program is preempted by the
9 Employee Retirement Income Security Act of 1974, 29 U.S.C. §§
10 1001 et seq. If the Board determines that one or more provisions of
11 the Program are preempted by Employee Retirement Income
12 Security Act of 1974, the Board shall implement the remaining
13 provisions of the Program to the extent practicable.

14 4. The Board shall not implement a provision of the Program
15 that authorizes an arrangement by which an employer facilitates
16 access for an employee to contribute to an Individual Retirement
17 Account by means of a payroll deduction if the Board determines
18 that the arrangement is an employee pension benefit plan within the
19 meaning of Section 3(2) of the Employee Retirement Income
20 Security Act of 1974, 29 U.S.C. § 1002(2).

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

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

29 **Sec. 38.** This act becomes effective upon passage and
30 approval.



