

SENATE BILL NO. 200—SENATOR D. HARRIS

MARCH 9, 2021

JOINT SPONSOR: ASSEMBLYWOMAN BENITEZ-THOMPSON

Referred to Committee on Government Affairs

SUMMARY—Provides for the establishment of a retirement savings program for private sector employees. (BDR 31-219)

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; 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



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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 all
25 covered employees in the Program unless a covered employee opts out of the
26 Program; (2) that contributions to a covered employee's Individual Retirement
27 Account must be withheld from the employee's compensation at the rate set by the
28 Board unless the employee elects not to contribute or to contribute at a different
29 rate; (3) that a covered employee may withdraw up to \$1,000 of contributions to
30 meet a financial or other emergency; and (4) that the Board must prepare
31 informational materials, disclosure statements, forms and instructions concerning
32 the Program for distribution by covered employers to covered employees.

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

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

40 **Section 26** of this bill creates the Nevada Employee Savings Trust as an
41 instrumentality of the State and requires the Board to appoint a Trustee of the Trust.

42 **Section 26** requires that the assets of all Individual Retirement Accounts
43 established by covered employees through the Program be allocated to the Trust
44 and invested, managed and administered for the exclusive purposes of providing
45 benefits to the covered employees and defraying the reasonable expenses of the
46 Board, Program and Trust. **Section 26** also establishes certain investment
47 guidelines and practices.

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

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



59 other adverse consequence incurred by a person as a result of participating in the
60 Program. **Section 28** also provides that a covered employer or other employer must
61 not be deemed to be a fiduciary in relation to the Program.

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

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

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

79 **Section 32** of this bill requires the Board to obtain an annual independent audit
80 of the Board, Program and Trust and to annually submit audited financial reports to
81 the Governor, State Controller and 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
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 33, inclusive, of this act.

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

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

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

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

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

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



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

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

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

6 2. *For purposes of the investment, withdrawal, transfer,*
7 *rollover or other distribution of an Individual Retirement Account,*
8 *the term also includes the beneficiary of a deceased covered*
9 *employee.*

10 3. *The term does not include:*

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

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

16 (c) *Any person who is an employee of the Federal*
17 *Government, the State or any other state, county or municipal*
18 *corporation, or any of the State's or any other state's units or*
19 *instrumentalities.*

20 **Sec. 8.** *“Covered employer” means an employer that:*

21 1. *Has been in business for at least 24 months;*

22 2. *Pays its employees through an electronic payroll system or*
23 *service; and*

24 3. *Has not maintained a tax-favored retirement plan for its*
25 *employees or has not done so in an effective form and operation at*
26 *any time within the current or 2 immediately preceding calendar*
27 *years.*

28 **Sec. 9.** 1. *Except as otherwise provided in subsection 2,*
29 *“employer” means a person or entity engaged in a business,*
30 *profession, trade or other enterprise in this State, whether for*
31 *profit or not for profit, that employs one or more persons in this*
32 *State.*

33 2. *The term does not include an agency or entity of the*
34 *Federal Government, the government of this State or a political*
35 *subdivision of this State.*

36 **Sec. 10.** *“Individual Retirement Account” means an*
37 *individual retirement account and an individual retirement*
38 *annuity established under section 408 or 408A of the Internal*
39 *Revenue Code.*

40 **Sec. 11.** *“Internal Revenue Code” means the federal*
41 *Internal Revenue Code of 1986, as amended.*

42 **Sec. 12.** *“Investment fund” means an investment portfolio*
43 *established by the Board within the Trust for investment purposes.*

44 **Sec. 13.** *“Participant” means a person who contributes to an*
45 *Individual Retirement Account established or maintained through*



1 *the Program or has an account balance in an Individual*
2 *Retirement Account established or maintained through the*
3 *Program.*

4 **Sec. 14.** *“Program” means the Nevada Employee Savings*
5 *Trust Program established by the Board pursuant to section 20 of*
6 *this act.*

7 **Sec. 15.** *“State” means the State of Nevada.*

8 **Sec. 16.** *“Tax-favored retirement plan” means a retirement*
9 *plan that is tax-qualified under or is described in and satisfies the*
10 *requirements of subsection 401(a), 401(k), 403(a), 403(b), 408(k)*
11 *or 408(p) of the Internal Revenue Code.*

12 **Sec. 17.** *“Trust” means the Individual Retirement Account*
13 *retirement trust or annuity contract established pursuant to*
14 *section 26 of this act.*

15 **Sec. 18.** *“Trustee” means the trustee of the Trust selected by*
16 *the Board pursuant to section 26 of this act.*

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

19 *2. The Board consists of:*

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

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

22 *(c) One member, appointed by the Governor, who represents*
23 *employers;*

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

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

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

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

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

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

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

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

42 *7. A majority of the members of the Board constitutes a*
43 *quorum for the transaction of business, and a majority of a*
44 *quorum present at any meeting is sufficient for any official action*
45 *taken by the Board.*



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

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

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

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

8 1. *Design, establish, and operate the Nevada Employee*
9 *Savings Trust Program;*

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

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

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

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

19 3. *Hire, retain and terminate third party service providers as*
20 *the Board deems necessary or desirable for the Program,*
21 *including, without limitation, nonprofit organizations,*
22 *consultants, investment managers or advisers, trustees, custodians,*
23 *insurance companies, record keepers, administrators, actuaries,*
24 *counsel, auditors and other professionals;*

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

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

27 (b) *Default contribution rate; and*

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

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

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

36 7. *Determine the number of days during which an eligible*
37 *employer must make the Program available to a covered employee*
38 *upon first becoming an eligible employer or covered employee;*

39 8. *Determine the number of days, which must not be less than*
40 *60, after the Program is first made available to a covered employee*
41 *during which the covered employee may exercise his or her right*
42 *to opt out of the Program; and*

43 9. *Adopt regulations, rules and procedures for the*
44 *establishment and operation of the Program and to take such*



1 *other actions necessary or desirable to establish and operate the*
2 *Program.*

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

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

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

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

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

28 1. *Each covered employer shall automatically enroll each*
29 *covered employee in the Program unless the employee elects to opt*
30 *out of the Program.*

31 2. *An employer shall not contribute to the Program or*
32 *endorse or otherwise promote the Program.*

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

37 4. *An Individual Retirement Account established and*
38 *maintained through the Program must qualify for favorable*
39 *federal income tax treatment pursuant to section 408 or 408A of*
40 *the Internal Revenue Code.*

41 5. *To the extent consistent with federal law, a covered*
42 *employee may withdraw not more than \$1,000 from his or her*
43 *Individual Retirement Account at any time if necessary to meet a*
44 *financial or other emergency in accordance with regulations*
45 *adopted by the Board.*



1 6. *The Board may establish intervals after which a covered*
2 *employee must reaffirm his or her intent to opt out of the*
3 *Program.*

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

9 8. *The Board shall determine the rules and procedures for*
10 *withdrawals, distributions, transfers and rollovers of Individual*
11 *Retirement Accounts and for the designation of Individual*
12 *Retirement Account beneficiaries.*

13 9. *The Board shall determine a method for employers other*
14 *than covered employers and employees other than covered*
15 *employees to participate in the Program, if allowed under federal*
16 *law.*

17 10. *The Board shall prepare or cause to be prepared*
18 *informational materials and required disclosures regarding the*
19 *Program for distribution by covered employers to covered*
20 *employees. Such materials must include, without limitation;*

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

23 (b) *Instructions about how to obtain additional information*
24 *about the Program;*

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

30 (d) *A statement that covered employees seeking financial*
31 *advice should contact their own financial advisers and that*
32 *covered employers are not in a position to provide financial advice*
33 *and that covered employers are not liable for decisions covered*
34 *employees make concerning the Program;*

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

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

40 (g) *A statement that:*

41 (1) *Neither a covered employer nor the State will monitor*
42 *or has an obligation to monitor the covered employee's eligibility*
43 *under the Internal Revenue Code to make contributions to an*
44 *Individual Retirement Account or to monitor whether the covered*
45 *employee's contributions to the Individual Retirement Account*



1 *established or maintained for the covered employee through the*
2 *Program exceed the maximum permissible Individual Retirement*
3 *Account contribution;*

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

6 *(3) Neither the State nor the covered employer will have*
7 *any liability with respect to any failure of the covered employee to*
8 *be eligible to make Individual Retirement Account contributions*
9 *or for making any contribution in excess of the maximum*
10 *Individual Retirement Account contribution.*

11 *11. The Board shall prepare or cause to be prepared*
12 *information, forms or instructions to be furnished to covered*
13 *employees at such times as the Board determines that provide the*
14 *covered employee with the procedures for, without limitation:*

15 *(a) Making contributions to the covered employee's Individual*
16 *Retirement Account established or maintained through the*
17 *Program, including, without limitation, a description of the*
18 *default contribution rate, any automatic escalation rate or*
19 *frequency and the covered employee's right to elect to make no*
20 *contribution or to change the contribution rate;*

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

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

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

30 *12. Each covered employer shall deliver or facilitate the*
31 *delivery of the items set forth in subsections 10 and 11, and any*
32 *other information required by the Board, to each covered*
33 *employee at such time and in such manner as determined by the*
34 *Board.*

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

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

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

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

44 **(a) Money appropriated to the Administrative Fund by the**
45 **Legislature;**



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

3 (c) Any gifts, donations, grants or other money designated for
4 the Administrative Fund from the State, or any unit of federal or
5 local government, or any other person, firm, partnership,
6 corporation or other entity solely for deposit into the
7 Administrative Fund, whether for investment or administrative
8 expenses; and

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

10 4. The Board shall use the money in the Administrative Fund
11 solely to pay the administrative costs and expenses of the Program
12 and the administrative costs and expenses the Board incurs in the
13 performance of its duties.

14 **Sec. 25.** 1. The Board may, to enable or facilitate the start
15 up and continuing operation, maintenance, administration and
16 management of the Program until the Board determines that the
17 Program has accumulated sufficient balances and is able to
18 generate sufficient funding for the Program to be financially self-
19 sustaining:

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

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

28 2. Money borrowed pursuant to subsection 1 must:

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

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

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

33 3. Within the limits of legislative appropriations, the State
34 may pay on behalf of the Board administrative costs associated
35 with the creation, maintenance, operation and management of the
36 Program and Trust until the Board determines that sufficient
37 assets are available in the Administrative Fund for that purpose.
38 Thereafter, all administrative costs of the Administrative Fund,
39 including any repayment of start-up money provided by the State,
40 must be repaid only out of money on deposit therein.

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

43 2. The Board shall appoint an institution qualified to act as a
44 trustee of Individual Retirement Account trusts or an insurance
45 company that issues annuity contracts pursuant to section 408 of



1 *the Internal Revenue Code and licensed to do business in the State*
2 *of Nevada to act as Trustee of the Trust.*

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

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

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

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

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

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

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

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

44 9. *The assets of the Trust must at all times be preserved,*
45 *invested and expended solely for the purposes of the Trust and no*



1 *property rights therein shall exist in favor of the State or any*
2 *covered employer. Trust assets must not be transferred or used by*
3 *the State for any purposes other than the purposes of the Trust or*
4 *paying the expenses of operating the Program. Amounts deposited*
5 *with the Trustee do not constitute property of the State and must*
6 *not be commingled with state money and the State has no claim to*
7 *or against, or interest in, the assets of the Trust.*

8 *10. The assets of the Trust must at all times be held separate*
9 *and apart from the assets of the State. The State, Program, Board,*
10 *any member of the Board or any covered employer shall not*
11 *guaranty any investment, rate of return, or interest on amounts*
12 *held in the Trust, an investment fund or any Individual*
13 *Retirement Account. The State, Program, Board, any member of*
14 *the Board or any employer is not liable for any losses incurred by*
15 *Trust investments or otherwise by any covered employee or other*
16 *person as a result of participating in the Program.*

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

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

23 **Sec. 27.** *Except to the extent necessary to administer the*
24 *Program, personally identifiable information relating to individual*
25 *participants in the Program, including, without limitation, the*
26 *name, physical and electronic mail address, telephone number and*
27 *other personally identifiable information of the participant, and*
28 *information relating to individual accounts established or*
29 *maintained through the Program, including, without limitation,*
30 *the identity or amount of any investment, contribution or earnings*
31 *attributable to an account, is confidential and must be maintained*
32 *as confidential, unless the person who provides the information or*
33 *is the subject of the information expressly agrees in writing to the*
34 *disclosure of the information.*

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

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

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

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

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



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

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

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

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

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

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

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

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

34 2. *The debts, contracts and obligations of the Board, Program*
35 *or Trust are not the debts, contracts and obligations of the State,*
36 *and neither the faith and credit nor the taxing power of the State*
37 *is pledged directly or indirectly to the payment of the debts,*
38 *contracts and obligations of the Board, Program or Trust.*

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

44 2. *Each fiduciary shall discharge its duties with respect to the*
45 *Program solely in the interests of covered employees and with the*



1 *care, skill, prudence and diligence under the circumstances then*
2 *prevailing that a prudent person acting in a like capacity and*
3 *familiar with those matters would use in the conduct of an*
4 *enterprise of like character and aims.*

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

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

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

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

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

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

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



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

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

5 239.010 1. Except as otherwise provided in this section and
6 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293,
7 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
8 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
9 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200,
10 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345,
11 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880,
12 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280,
13 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130,
14 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057,
15 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050,
16 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015,
17 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
18 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
19 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
20 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,
21 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
22 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
23 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,
24 231.1473, 233.190, 237.300, 239.0105, 239.0113, 239.014,
25 239B.030, 239B.040, 239B.050, 239C.140, 239C.210, 239C.230,
26 239C.250, 239C.270, 239C.420, 240.007, 241.020, 241.030,
27 241.039, 242.105, 244.264, 244.335, 247.540, 247.550, 247.560,
28 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978, 268.490,
29 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
30 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
31 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
32 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
33 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
34 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
35 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
36 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
37 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
38 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
39 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
40 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
41 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
42 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
43 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
44 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
45 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,



1 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
2 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
3 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
4 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
5 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
6 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
7 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
8 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
9 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
10 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
11 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
12 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
13 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
14 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
15 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
16 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
17 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
18 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
19 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
20 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,
21 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
22 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
23 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
24 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
25 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
26 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
27 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
28 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
29 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
30 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
31 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
32 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
33 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
34 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
35 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
36 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
37 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
38 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
39 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
40 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *section*
41 *27 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of
42 Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013
43 and unless otherwise declared by law to be confidential, all public
44 books and public records of a governmental entity must be open at
45 all times during office hours to inspection by any person, and may



1 be fully copied or an abstract or memorandum may be prepared
2 from those public books and public records. Any such copies,
3 abstracts or memoranda may be used to supply the general public
4 with copies, abstracts or memoranda of the records or may be used
5 in any other way to the advantage of the governmental entity or of
6 the general public. This section does not supersede or in any manner
7 affect the federal laws governing copyrights or enlarge, diminish or
8 affect in any other manner the rights of a person in any written book
9 or record which is copyrighted pursuant to federal law.

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

12 3. A governmental entity that has legal custody or control of a
13 public book or record shall not deny a request made pursuant to
14 subsection 1 to inspect or copy or receive a copy of a public book or
15 record on the basis that the requested public book or record contains
16 information that is confidential if the governmental entity can
17 redact, delete, conceal or separate, including, without limitation,
18 electronically, the confidential information from the information
19 included in the public book or record that is not otherwise
20 confidential.

21 4. If requested, a governmental entity shall provide a copy of a
22 public record in an electronic format by means of an electronic
23 medium. Nothing in this subsection requires a governmental entity
24 to provide a copy of a public record in an electronic format or by
25 means of an electronic medium if:

26 (a) The public record:

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

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

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

31 (1) Give access to proprietary software; or

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

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

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

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



1 **Sec. 35.** 1. Except as otherwise provided in this section, the
2 Board of Trustees of the Nevada Employee Savings Trust shall
3 establish the Nevada Employee Savings Trust Program and
4 implement its provisions so that covered employees are able to
5 make contributions to an Individual Retirement Account through the
6 Program not later than July 1, 2023.

7 2. The Board may implement the Program in the following
8 phases so that the ability of covered employees to contribute to an
9 Individual Retirement Account through the Program first applies on
10 different dates for different employees based on the number of
11 employees employed by the covered employer:

Number of	Implementation
Employees	Date
1,000 or more	July 1, 2023
500-999	January 1, 2024
100-499	July 1, 2024
Fewer than 100	January 1, 2025

12
13
14
15
16
17
18 3. The Board shall not implement the Program if, and to the
19 extent that, it determines that the Program is preempted by the
20 Employee Retirement Income Security Act of 1974, 29 U.S.C. §§
21 1001 et seq. If the Board determines that one or more provisions of
22 the Program are preempted by Employee Retirement Income
23 Security Act of 1974, the Board shall implement the remaining
24 provisions of the Program to the extent practicable.

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

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

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

40 **Sec. 38.** This act becomes effective upon passage and
41 approval.

