

MOCK-UP

PROPOSED AMENDMENT 3566 TO SENATE BILL NO. 305

PREPARED FOR SENATOR HARRIS
APRIL 4, 2023

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

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

Legislative Counsel's Digest:

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

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

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

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

Section 23 of this bill establishes certain attributes that the Board must include in the Program, including: (1) that covered employers must automatically enroll all covered employees in the Program **or a similar program offered by a trade association or chamber of commerce**, unless a covered employee opts out of the Program ~~or, if applicable, the similar program offered by a trade association or chamber of commerce~~; (2) that contributions to a covered employee's Individual Retirement Account

1 must be withheld from the employee's compensation at the rate set by the Board unless the
2 employee elects not to contribute or to contribute at a different rate; (3) that a covered
3 employee may withdraw ~~up to \$1,000 of~~ contributions to meet a financial or other
4 emergency; and (4) that the Board must prepare informational materials, disclosure
5 statements, forms and instructions concerning the Program for distribution by covered
6 employers to covered employees.

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

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

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

21 **Section 27** of this bill provides that, except to the extent necessary to administer the
22 Program, personal information relating to individual participants in the Program and
23 information relating to individual accounts established or maintained through the Program
24 is confidential and must be maintained as confidential, unless the person who provides the
25 information or is the subject of the information expressly agrees in writing to the disclosure
26 of the information.

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

34 **Section 29** of this bill absolves the State and any employee or officer thereof, the Board
35 and any member of the Board or employee thereof and the Program from any responsibility
36 or civil liability for the actions of certain other persons in connection with the Program,
37 including, for example, a person's failure to comply with provisions of the Internal
38 Revenue Code, the payment of benefits or a loss, failure to realize a gain or other adverse
39 consequence incurred by a person as a result of participating in the Program. **Section 29**
40 also provides that the debts, contracts and obligations of the Board, Program or Trust are
41 not the debts, contracts and obligations of the State, and neither the faith and credit nor the
42 taxing power of the State is pledged directly or indirectly to the payment of the debts,
43 contracts and obligations of the Board, Program or Trust.

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

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

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

53 **Section 35 of this act requires, with certain exceptions, the Board to establish the**
54 **Program and implement its provisions so that covered employees are able to make**
55 **contributions to an Individual Retirement Account through the Program beginning on**

1 July 1, 2025. Section 35 further authorizes the Board to implement the Program in
2 phases but if the Board does so, the first phase must not begin before July 1, 2025.

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

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

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

9 **Sec. 3.** *“Administrative Fund” means the Nevada Employee*
10 *Savings Trust Administrative Fund created by section 24 of this 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 meaning*
14 *of section 219(f)(1) of the Internal Revenue Code, 26 U.S.C. § 219 (f)(1),*
15 *that is received by a covered employee from a covered employer.*

16 **Sec. 6.** *“Contribution rate” means the percentage of a covered*
17 *employee’s compensation that is withheld from ~~this or her~~ the covered*
18 *employee’s 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:*

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

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

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

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

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

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

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

34 *(c) Any person who is an employee of the Federal Government, the*
35 *State or any other state, county or municipal corporation, or any of this*
36 *State’s or any other state’s units or instrumentalities.*

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

38 **1.** *Has been in business for at least ~~24~~ 36 months; and*

39 *~~2. Pays its employees through an electronic payroll system or~~*
40 *~~service; and~~*

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

4 Sec. 9. 1. Except as otherwise provided in subsection 2,
5 “employer” means a person or entity engaged in a business, profession,
6 trade or other enterprise in this State, whether for profit or not for profit,
7 that employs one or more persons in this State.

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

11 Sec. 10. “Individual Retirement Account” means an individual
12 retirement account and an individual retirement annuity established
13 under section 408 or 408A of the Internal Revenue Code, 26 U.S.C. §
14 408 or 408A.

15 Sec. 11. “Internal Revenue Code” means the federal Internal
16 Revenue Code of 1986, as amended.

17 Sec. 12. “Investment fund” means an investment portfolio
18 established by the Board within the Trust for investment purposes.

19 Sec. 13. “Participant” means a person who contributes to an
20 Individual Retirement Account established or maintained through the
21 Program or has an account balance in an Individual Retirement
22 Account established or maintained through the Program.

23 Sec. 14. “Program” means the Nevada Employee Savings Trust
24 Program established by the Board pursuant to section 20 of this act.

25 Sec. 15. “State” means the State of Nevada.

26 Sec. 16. “Tax-favored retirement plan” means a retirement plan
27 that is tax-qualified under or is described in and satisfies the
28 requirements of section 401(a), 401(k), 403(a), 403(b), 408(k) or 408(p)
29 of the Internal Revenue Code, 26 U.S.C. §§ 401(a), 401(k), 403(a),
30 403(b), 408(k) or 408(p).

31 Sec. 17. “Trust” means the Nevada Employee Savings Trust
32 created pursuant to section 26 of this act and each Individual Retirement
33 Account trust or annuity contract allocated to the Nevada Employee
34 Savings Trust pursuant to section 26 of this act.

35 Sec. 18. “Trustee” means the Trustee of the Trust appointed by the
36 Board pursuant to subsection 2 of section 26 of this act.

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

39 2. The Board consists of:

40 (a) The State Treasurer or ~~his or her~~ the designee ~~of~~ of the State
41 Treasurer;

42 (b) The Lieutenant Governor or ~~his or her~~ the designee ~~of~~ of the
43 Lieutenant Governor;

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

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

3 (e) One member, appointed by the Governor, who has experience in
4 the field of investments;

5 (f) One member, appointed by the Majority Leader of the Senate,
6 who represents retirees; and

7 (g) One member, appointed by the Speaker of the Assembly, who has
8 experience in small business.

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

12 4. Any vacancy occurring in the appointed membership of the
13 Board must be filled in the same manner as the original appointment for
14 the remainder of the unexpired term.

15 5. ~~The Lieutenant Governor~~ State Treasurer or ~~his or her~~ the
16 designee of the State Treasurer shall serve as the Chair of the Board.

17 6. The Board shall meet at the call of the Chair as frequently as
18 required to perform its duties.

19 7. A majority of the members of the Board constitutes a quorum for
20 the transaction of business, and a majority of a quorum present at any
21 meeting is sufficient for any official action taken by the Board.

22 8. Each member of the Board serves without compensation, except
23 that each member is entitled to receive:

24 (a) The per diem allowance and travel expenses provided for state
25 officers and employees generally; and

26 (b) Reimbursement for any other actual and reasonable expense
27 incurred while performing ~~his or her~~ the member's duties.

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

29 1. Design, establish, and operate the Nevada Employee Savings
30 Trust Program;

31 2. Enter into contracts necessary or desirable for the administration
32 of the Program, including, without limitation, contracts with one or more
33 other states to:

34 (a) Provide for the administration of all or part of the Program by
35 another state;

36 (b) Administer all or part of the qualified employee savings trust
37 program of another state; or

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

40 3. Hire, retain and terminate third party service providers as the
41 Board deems necessary or desirable for the Program, including, without
42 limitation, nonprofit organizations, consultants, investment managers or
43 advisers, trustees, custodians, insurance companies, record keepers,
44 administrators, actuaries, counsel, auditors and other professionals;

45 4. Determine, without limitation, the:

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

2 (b) *Default contribution rate; and*

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

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

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

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

13 8. *Determine the number of days, which must not be less than ~~60,~~*
14 *90, after the Program is first made available to a covered employee*
15 *during which the covered employee may exercise ~~his or her~~ the*
16 *employee's right to opt out of the Program ~~with~~ without penalty; and*

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

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

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

34 3. Each officer, agency, division or department of the State must
35 provide any information necessary for the Board to implement the
36 Program regardless of whether the Board has entered into an
37 intergovernmental agreement or contract with the officer, agency,
38 division or department pursuant to subsection 2.

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

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

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

4 1. Each covered employer shall automatically enroll ~~each~~ the
5 covered employee in the Program or in a similar program offered by a
6 trade association or chamber of commerce unless the employee elects to
7 opt out of the Program ~~or~~, or if applicable, the similar program offered
8 by a trade association or chamber of commerce.

9 2. ~~An employer shall not contribute to the Program or endorse or~~
10 ~~otherwise promote the Program.~~

11 ~~3.~~ Contributions must be withheld from the compensation of each
12 covered employee at the contribution rate set by the Board unless the
13 covered employee elects not to contribute or to contribute at a different
14 rate.

15 ~~4.~~ 3. An Individual Retirement Account established and
16 maintained through the Program must qualify for favorable federal
17 income tax treatment pursuant to section 408 or 408A of the Internal
18 Revenue Code, 26 U.S.C. § 408 or 408A.

19 ~~5.~~ 4. To the extent consistent with federal law, a covered employee
20 may withdraw ~~not more than \$1,000~~ from ~~this or her~~ the employee's
21 Individual Retirement Account at any time if necessary to meet a
22 financial or other emergency. ~~in accordance with regulations adopted~~
23 ~~by the Board.~~

24 ~~6.~~ 5. The Board may establish intervals after which a covered
25 employee ~~must reaffirm his or her intent to opt~~ who opted out of the
26 Program ~~or~~ may later elect to participate in the Program.

27 ~~7.~~ 6. A covered employer must deposit a covered employee's
28 withheld contributions under the Program with the Trustee in such
29 manner as is determined by the Board, but in no case later than 10
30 business days after the date such amounts otherwise would have been
31 paid to the covered employee.

32 ~~8.~~ 7. The Board shall determine the rules and procedures for
33 withdrawals, distributions, transfers and rollovers of Individual
34 Retirement Accounts and for the designation of Individual Retirement
35 Account beneficiaries.

36 ~~9.~~ 8. The Board shall determine a method for employers other
37 than covered employers and employees other than covered employees to
38 participate in the Program, if allowed under federal law.

39 ~~10.~~ 9. The Board shall prepare or cause to be prepared
40 informational materials and required disclosures regarding the Program
41 for distribution by covered employers to covered employees. Such
42 materials must include, without limitation:

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

1 ***(b) Instructions about how to obtain additional information about the***
2 ***Program;***

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

8 ***(d) A statement that covered employees seeking financial advice***
9 ***should contact their own financial advisers and that covered employers***
10 ***are not in a position to provide financial advice and that covered***
11 ***employers are not liable for decisions covered employees make***
12 ***concerning the Program;***

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

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

18 ***(g) A statement that:***

19 ***(1) Neither a covered employer nor the State will monitor or has***
20 ***an obligation to monitor the covered employee's eligibility under the***
21 ***Internal Revenue Code to make contributions to an Individual***
22 ***Retirement Account or to monitor whether the covered employee's***
23 ***contributions to the Individual Retirement Account established or***
24 ***maintained for the covered employee through the Program exceed the***
25 ***maximum permissible Individual Retirement Account contribution;***

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

28 ***(3) Neither the State nor the covered employer will have any***
29 ***liability with respect to any failure of the covered employee to be eligible***
30 ***to make Individual Retirement Account contributions or for making any***
31 ***contribution in excess of the maximum Individual Retirement Account***
32 ***contribution.***

33 ***~~11.~~ 10.*** ***The Board shall prepare or cause to be prepared***
34 ***information, forms or instructions to be furnished to covered employees***
35 ***at such times as the Board determines that provide the covered employee***
36 ***with the procedures for, without limitation:***

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

43 ***(b) Making an investment election with respect to the covered***
44 ***employee's Individual Retirement Account established or maintained***

1 *through the Program, including a description of the default investment*
2 *fund;*

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

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

7 ~~#12, #~~ 11. *Each covered employer shall deliver or facilitate the*
8 *delivery of the items set forth in subsections ~~#10, #~~ 9 and ~~#11, #~~ 10, and any*
9 *other information required by the Board, to each covered employee at*
10 *such time and in such manner as determined by the Board.*

11 ~~#13, #~~ 12. *The Program shall be designed and operated in a manner*
12 *that will cause it not to be an employee pension benefit plan within the*
13 *meaning of section 3(2) of the Employee Retirement Income Security Act*
14 *of 1974, 29 U.S.C. § 1002(2).*

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

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

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

20 *(a) Money appropriated to the Administrative Fund by the*
21 *Legislature;*

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

24 *(c) Any gifts, donations, grants or other money designated for the*
25 *Administrative Fund from the State, or any unit of federal or local*
26 *government, or any other person, firm, partnership, corporation or other*
27 *entity solely for deposit into the Administrative Fund, whether for*
28 *investment or administrative expenses; and*

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

30 *4. The Board shall use the money in the Administrative Fund solely*
31 *to pay the administrative costs and expenses of the Program and the*
32 *administrative costs and expenses the Board incurs in the performance*
33 *of its duties.*

34 **Sec. 25.** *1. The Board may, to enable or facilitate the start up and*
35 *continuing operation, maintenance, administration and management of*
36 *the Program until the Board determines that the Program has*
37 *accumulated sufficient balances and is able to generate sufficient*
38 *funding for the Program to be financially*
39 *self-sustaining:*

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

43 *(b) Enter into long-term procurement contracts with one or more*
44 *financial providers if the Board determines that the fee structure of a*
45 *contract allows or assists the Program to minimize or avoid the need to*

1 *borrow money pursuant to paragraph (a) or to rely upon general assets*
2 *of the State.*

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

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

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

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

8 *3. Within the limits of legislative appropriations, the State may pay*
9 *on behalf of the Board administrative costs associated with the creation,*
10 *maintenance, operation and management of the Program and Trust until*
11 *the Board determines that sufficient assets are available in the*
12 *Administrative Fund for that purpose. Thereafter, all administrative*
13 *costs of the Program and Trust, including any repayment of start-up*
14 *money provided by the State, must be repaid only out of money on*
15 *deposit in the Administrative Fund.*

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

18 *2. The Board shall appoint an institution qualified to act as a*
19 *trustee of Individual Retirement Account trusts or an insurance*
20 *company that issues annuity contracts pursuant to section 408 of the*
21 *Internal Revenue Code, 26 U.S.C. § 408, and licensed to do business in*
22 *the State of Nevada to act as Trustee of the Trust.*

23 *3. The assets of Individual Retirement Accounts established or*
24 *maintained for covered employees must be allocated to the Trust and*
25 *may be combined for investment purposes. Trust assets must be managed*
26 *and administered for the exclusive purposes of providing benefits to*
27 *covered employees and defraying reasonable expenses of administering*
28 *and managing the investments, Individual Retirement Accounts, Board,*
29 *Program and Trust.*

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

36 *5. The Board may allow covered employees to allocate assets of*
37 *their Individual Retirement Accounts among such investment funds and,*
38 *in such case, the Board also may designate an investment fund as a*
39 *default investment for the Individual Retirement Accounts of covered*
40 *employees who do not make an investment choice.*

41 *6. The Board, in consultation with such third-party professional*
42 *investment advisers, managers or consultants as it may retain, shall*
43 *select the underlying investments of each investment fund. Such*
44 *underlying investments may include, without limitation, shares of mutual*
45 *funds and exchange-traded funds, publicly traded equity and fixed-*

1 *income securities and other investments available for investment by the*
2 *Trust. An investment fund may not invest in any bond, debt instrument*
3 *or other security issued by the State.*

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

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

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

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

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

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

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

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

39 **Sec. 27.** *Except to the extent necessary to administer the Program,*
40 *personally identifiable information relating to individual participants in*
41 *the Program, including, without limitation, the name, physical and*
42 *electronic mail address, telephone number and other personally*
43 *identifiable information of the participant, and information relating to*
44 *individual accounts established or maintained through the Program,*
45 *including, without limitation, the identity or amount of any investment,*

1 *contribution or earnings attributable to an account, is confidential and*
2 *must be maintained as confidential, unless the person who provides the*
3 *information or is the subject of the information expressly agrees in*
4 *writing to the disclosure of the information.*

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

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

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

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

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

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

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

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

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

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

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

38 (c) *Do not and shall not guarantee any interest rate or other rate of*
39 *return on or investment performance of any contribution or account*
40 *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 consequences,*
43 *including, without limitation, any adverse tax consequences or loss of*
44 *favorable tax treatment, public assistance or other benefits, incurred by*
45 *any person as a result of participating in the Program.*

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

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

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

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

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

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

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

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

39 2. *Not later than August 1 of each year, the Board shall submit to*
40 *the Governor, the State Controller and the Director of the Legislative*
41 *Counsel Bureau for transmittal to the Legislature or, if the Legislature is*
42 *not in session, to the Legislative Commission, an audited financial*
43 *report, prepared in accordance with generally accepted accounting*
44 *principles, detailing the activities, operations and receipts and*
45 *expenditures of the Board, Program and Trust during the immediately*

1 *preceding calendar year. The report must also include projected activities*
2 *of the Program for the current calendar year.*

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

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

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

10 239.010 1. Except as otherwise provided in this section and NRS
11 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095, 49.293,
12 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170,
13 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850,
14 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640,
15 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730,
16 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265,
17 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382,
18 120A.640, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163,
19 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090,
20 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245,
21 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
22 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772,
23 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925,
24 209.419, 209.429, 209.521, 211A.140, 213.010, 213.040, 213.095,
25 213.131, 217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625,
26 218F.150, 218G.130, 218G.240, 218G.350, 224.240, 226.300, 228.270,
27 228.450, 228.495, 228.570, 231.069, 231.1473, 232.1369, 233.190,
28 237.300, 239.0105, 239.0113, 239.014, 239B.026, 239B.030, 239B.040,
29 239B.050, 239C.140, 239C.210, 239C.230, 239C.250, 239C.270,
30 239C.420, 240.007, 241.020, 241.030, 241.039, 242.105, 244.264,
31 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150,
32 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195,
33 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,
34 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438, 289.025,
35 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503, 293.504,
36 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910, 293B.135,
37 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070,
38 338.1379, 338.1593, 338.1725, 338.1727, 348.420, 349.597, 349.775,
39 353.205, 353A.049, 353A.085, 353A.100, 353C.240, 360.240, 360.247,
40 360.255, 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160,
41 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075,
42 379.008, 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
43 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
44 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
45 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335, 392.850,

1 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
2 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,
3 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
4 412.153, 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
5 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175, 432B.280,
6 432B.290, 432B.4018, 432B.407, 432B.430, 432B.560, 432B.5902,
7 432C.140, 432C.150, 433.534, 433A.360, 439.4941, 439.4988, 439.840,
8 439.914, 439A.116, 439A.124, 439B.420, 439B.754, 439B.760, 439B.845,
9 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
10 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209, 449.245,
11 449.4315, 449A.112, 450.140, 450B.188, 450B.805, 453.164, 453.720,
12 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846,
13 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005,
14 480.535, 480.545, 480.935, 480.940, 481.063, 481.091, 481.093, 482.170,
15 482.368, 482.5536, 483.340, 483.363, 483.575, 483.659, 483.800,
16 484A.469, 484B.830, 484B.833, 484E.070, 485.316, 501.344, 503.452,
17 522.040, 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964,
18 598.098, 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,
19 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350, 618.341,
20 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110, 624.265,
21 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
22 629.069, 630.133, 630.2671, 630.2672, 630.2673, 630.30665, 630.336,
23 630A.327, 630A.555, 631.332, 631.368, 632.121, 632.125, 632.3415,
24 632.3423, 632.405, 633.283, 633.301, 633.4715, 633.4716, 633.4717,
25 633.524, 634.055, 634.1303, 634.214, 634A.169, 634A.185, 635.111,
26 635.158, 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288,
27 638.087, 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152,
28 640A.185, 640A.220, 640B.405, 640B.730, 640C.580, 640C.600,
29 640C.620, 640C.745, 640C.760, 640D.135, 640D.190, 640E.225,
30 640E.340, 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,
31 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,
32 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180, 645.625,
33 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225,
34 645D.130, 645D.135, 645G.510, 645H.320, 645H.330, 647.0945,
35 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126, 652.228,
36 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
37 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
38 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800, 679B.122,
39 679B.124, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690,
40 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873,
41 685A.077, 686A.289, 686B.170, 686C.306, 687A.060, 687A.115,
42 687B.404, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
43 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354,
44 692C.420, 693A.480, 693A.615, 696B.550, 696C.120, 703.196, 704B.325,
45 706.1725, 706A.230, 710.159, 711.600, *section 27 of this act*, sections 35,

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

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

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

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

29 (a) The public record:

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

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

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

34 (1) Give access to proprietary software; or

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

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

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

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

4 **Sec. 35.** 1. Except as otherwise provided in this section, the Board
5 of Trustees of the Nevada Employee Savings Trust created by section 19
6 of this act shall establish the Nevada Employee Savings Trust Program
7 pursuant to section 20 of this act and implement its provisions so that
8 covered employees are able to make contributions to an Individual
9 Retirement Account through the Program ~~{not later than}~~ beginning on
10 July 1, 2025.

11 2. The Board may implement the Program in ~~{the following}~~ phases
12 so that the ability of covered employees to contribute to an Individual
13 Retirement Account through the Program first applies on different dates
14 for different employees based on the number of employees employed by
15 the covered employer. †

| Number of Employees | Implementation Date |
|--------------------------------|--------------------------------|
| 1,000 or more | July 1, 2025 |
| 500-999 | January 1, 2026 |
| 100-499 | July 1, 2026 |
| Fewer than 100 | January 1, 2027 |

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21 If the Board implements the Program in phases pursuant to this
22 subsection, the first phase must not begin before July 1, 2025.

23 3. The Board shall not implement the Program if, and to the extent
24 that, it determines that the Program is preempted by the Employee
25 Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq. If the
26 Board determines that one or more provisions of the Program are
27 preempted by Employee Retirement Income Security Act of 1974, the
28 Board shall implement the remaining provisions of the Program to the
29 extent practicable.

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

36 **Sec. 36.** As soon as practicable on or after the effective date of this
37 ~~{act,}~~ section, the Governor, Majority Leader of the Senate and Speaker
38 of the Assembly shall appoint the members of the Board of Trustees of the
39 Nevada Employee Savings Trust pursuant to section 19 of this act.

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

43 **Sec. 38. 1.** This ~~{act becomes}~~ section and section 36 of this act
44 become effective upon passage and approval.

1 2. Sections 1 to 35, inclusive, and 37 of this act, become effective
2 upon:

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

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

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