

Assembly Bill No. 475–Committee  
on Government Affairs

CHAPTER.....

AN ACT relating to education; authorizing the Board of Trustees of the College Savings Plans of Nevada to delegate certain powers and duties relating to the Nevada Higher Education Prepaid Tuition Program to the State Treasurer; requiring the Board of Trustees of the College Savings Plans of Nevada to establish the Nevada College Kick Start Program; revising the membership of the Board; authorizing certain qualified beneficiaries to apply unused prepaid tuition benefits toward graduate-level studies; providing that the Nevada Higher Education Prepaid Tuition Trust Fund consists, in part, of payments received pursuant to a loan made to the Trust Fund for purposes of the fiscal stabilization of the Nevada Higher Education Prepaid Tuition Program; transferring the duty to adopt regulations governing the Nevada College Savings Program from the State Treasurer to the Board; requiring the transfer of money in accounts created under the Program to the Endowment Account in the State General Fund under certain circumstances; revising provisions governing the expenditures authorized from the Endowment Account; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

The Board of Trustees of the College Savings Plans of Nevada was created under existing law to oversee the Nevada Higher Education Prepaid Tuition Program and the Nevada College Savings Program. The State Treasurer or his or her designee serves as the Chair of the Board. (NRS 353B.001-353B.370) **Section 2** of this bill revises the membership of the Board to: (1) provide that the State Treasurer or his or her designee serves as an ex officio nonvoting member; and (2) add a new voting member who is appointed by the Governor. **Section 2** also provides for the selection of the Chair of the Board by the voting members of the Board.

Under existing law, the Board is required to develop and maintain the Nevada Higher Education Prepaid Tuition Program for the prepayment of the tuition of the beneficiary of a prepaid tuition contract at an eligible in-state or out-of-state public or private university, college or community college. The tuition paid under the contract is at a guaranteed rate based on an annual actuarial study for undergraduate studies at a university, state college or community college that is a member of the Nevada System of Higher Education. (NRS 353B.090) Existing law also: (1) creates the Nevada Higher Education Prepaid Tuition Trust Fund for the deposit of payments under prepaid tuition contracts and other sources of money for the Program and requires the State Treasurer to administer the Trust Fund; and (2) sets forth certain powers and duties of the Board relating to promotion, investment and contracting services for the Program and the Trust Fund. (NRS 353B.010-353B.190)



**Section 1.3** of this bill authorizes the Board to delegate to the State Treasurer those powers and duties necessary for the efficient and effective administration of the Nevada Higher Education Prepaid Tuition Program and the Trust Fund. Under existing law, the Board is authorized to make such a delegation to the State Treasurer with respect to the Nevada College Savings Program and the Nevada College Savings Program Trust Fund. (NRS 353B.320)

**Section 1.5** of this bill requires the Board to establish the Nevada College Kick Start Program to create college savings accounts for pupils enrolled in kindergarten in public schools in Nevada who are residents of Nevada. **Section 1.5** requires the Board, within the limits of money available for this purpose, to deposit money in the accounts to be used for the costs of higher education of those pupils. **Section 1.5** also requires the Board to adopt regulations for the implementation of the Program and authorizes the Board to apply for and accept gifts, grants and donations to carry out the Program.

Existing law authorizes the State Treasurer to establish an Endowment Account in the State General Fund to carry out the State Treasurer's duties with respect to the Nevada College Savings Program. The Endowment Account is required to be used for the deposit of any money received by the Nevada College Savings Program that is not received pursuant to a savings account agreement and which the State Treasurer determines is not necessary for certain administration and marketing activities. The State Treasurer is authorized to expend money in the Endowment Account: (1) for any purpose related to the Nevada College Savings Program; (2) to pay the costs of administering the Governor Guinn Millennium Scholarship Program; or (3) in any other manner which assists residents of Nevada to attain postsecondary education. (NRS 353B.350) **Section 6** of this bill limits the purposes for which the State Treasurer is authorized to expend money in the Endowment Account only to purposes related to the funding of college savings accounts under the Nevada College Kick Start Program, the Governor Guinn Millennium Scholarship Program, administrative and marketing costs related to the Nevada Higher Education Prepaid Tuition Program and the Nevada College Savings Program, and programs for the financial education of residents of this State. **Section 1.5** requires the Board of Trustees of the College Savings Plans of Nevada to transfer to the Endowment Account the balance in the account of a pupil created under the Nevada College Kick Start Program: (1) that has not been accessed by a parent or guardian of the pupil by the time the pupil is enrolled in the fifth grade; or (2) which otherwise has not been used within the time prescribed by regulation.

**Sections 2.4 and 2.45** of this bill expand the authorized use of benefits under a prepaid tuition contract to allow a qualified beneficiary to apply any unused prepaid tuition benefits after his or her graduation with an undergraduate degree toward his or her graduate-level studies. **Section 2.4** also specifically requires the Board to adopt requirements for a master agreement for the Nevada Higher Education Prepaid Tuition Program by regulation. **Section 6.7** of this bill requires the Board to amend the master agreement for the Program to make the expanded authorization for graduate-level studies applicable to existing prepaid tuition contracts.

**Section 2.5** of this bill adds to the list of payments included in the Trust Fund payments received pursuant to a loan made to the Trust Fund for the purpose of fiscal stabilization of the Nevada Higher Education Prepaid Tuition Program.

Existing law requires the State Treasurer to adopt regulations to establish and carry out the Nevada College Savings Program, which offers tax-free investment plans for saving money for the costs of higher education. (NRS 353B.310) **Section 2.8** of this bill transfers the duty to adopt regulations for the Nevada College Savings Program from the State Treasurer to the Board.



Existing law creates the Nevada College Savings Trust Fund and authorizes the State Treasurer to accept and expend for certain purposes money provided to the Trust Fund by a private entity. (NRS 353B.340, 353B.360) **Section 6.5** of this bill removes this grant of authority from the State Treasurer and instead authorizes the Board to accept and expend such money.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

**Section 1.** Chapter 353B of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.5 of this act.

**Sec. 1.3.** *The Board may delegate to the State Treasurer any of its administrative powers and duties specified in this section and NRS 353B.010 to 353B.190, inclusive, if the Board determines that such delegation is necessary for the efficient and effective administration of the Nevada Higher Education Prepaid Tuition Program and the Trust Fund.*

**Sec. 1.5.** *1. The Board shall establish the Nevada College Kick Start Program to provide for the creation of a college savings account for each pupil who is a resident of this State upon commencement of his or her enrollment in kindergarten at a public school in this State. Within the limits of money available for this purpose, the Board shall deposit money in such an account to be used to pay a portion of the costs of higher education of the pupil.*

*2. The Board shall adopt regulations for the implementation of the Program, including, without limitation, regulations regarding:*

*(a) Enrollment in the Program, including without limitation, opting in or opting out of the Program;*

*(b) Procedures for the parent or guardian of a pupil to access the account of the pupil created pursuant to subsection 1;*

*(c) The time within which the money in the account created pursuant to subsection 1 must be used; and*

*(d) Distributions from an account created pursuant to subsection 1.*

*3. The Board may apply for and accept any gift, donation, bequest, grant or other source of money to carry out the Program.*

*4. The Board shall transfer to the Endowment Account established pursuant to NRS 353B.350 the balance in the account of a pupil created pursuant to subsection 1 that:*



*(a) Has not been accessed by a parent or guardian of the pupil in the manner prescribed in the regulations adopted pursuant to subsection 2 by the time the pupil is enrolled in grade 5.*

*(b) Is otherwise remaining after expiration of the time prescribed in the regulations adopted pursuant to subsection 2 within which the money in the account must be used.*

**Sec. 2.** NRS 353B.005 is hereby amended to read as follows:

353B.005 1. There is hereby created a Board of Trustees of the College Savings Plans of Nevada.

2. The Board consists of ~~{five}~~ :

*(a) Five voting* members composed of:

~~{(a) The State Treasurer, who may name a designee to serve on the Board on his or her behalf.~~

~~{(b) (1) The Director of the Office of Finance, who may name a designee to serve on the Board on his or her behalf.~~

~~{(c) (2) The Chancellor of the System, who may name a designee to serve on the Board on his or her behalf.~~

~~{(d) Two}~~

*(3) Three* members appointed by the Governor. A member who is appointed by the Governor must possess knowledge, skill and experience in the field of:

~~{(1) (I) Accounting;~~

~~{(2) (II) Finance;~~

~~{(3) (III) Investment management; or~~

~~{(4) (IV) Marketing.~~

*(b) The State Treasurer or his or her designee, who serves ex officio as a nonvoting member.*

3. A member of the Board who is appointed by the Governor ~~{}~~ *pursuant to subparagraph (3) of paragraph (a) of subsection 2:*

(a) Serves for a term of 4 years;

(b) Except as otherwise provided in paragraph (c), may be reappointed by the Governor; and

(c) Except as otherwise provided in this paragraph, may serve for only two terms. A member who is appointed to fill a vacancy in an unexpired term that is not longer than 3 years may serve two terms in addition to the unexpired term.

4. The ~~{State Treasurer or his or her designee}~~ *voting members of the Board* shall ~~{serve as the}~~ *elect a* Chair of the Board ~~{}~~ *from among their number. The term of office of the Chair is 1 year.*

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

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



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

6. As used in this section, the term “College Savings Plans of Nevada” includes the Nevada Higher Education Prepaid Tuition Program set forth in NRS 353B.010 to 353B.190, inclusive, *and section 1.3 of this act* and the Nevada College Savings Program set forth in NRS 353B.300 to 353B.370, inclusive, ~~H~~, *and section 1.5 of this act including the Nevada College Kick Start Program.*

**Sec. 2.3.** NRS 353B.010 is hereby amended to read as follows:

353B.010 As used in NRS 353B.010 to 353B.190, *and section 1.3 of this act*, unless the context otherwise requires, the words and terms defined in NRS 353B.030 to 353B.070, inclusive, have the meanings ascribed to them in those sections.

**Sec. 2.4.** NRS 353B.090 is hereby amended to read as follows:

353B.090 1. The Board shall develop the Nevada Higher Education Prepaid Tuition Program for the prepayment of tuition *for a qualified beneficiary for:*

*(a) Undergraduate studies at:*

*(1) A university, state college or community college that is a member of the System;*

*(2) An accredited college or university in this State that is not a member of the System; or*

*(3) An accredited community college, college or university in another state.*

*(b) If any money paid into the Trust Fund under a prepaid tuition contract is remaining after a qualified beneficiary has graduated with an undergraduate degree, for graduate-level studies at:*

*(1) A university, state college or community college that is a member of the System;*

*(2) An accredited college or university in this State that is not a member of the System; or*

*(3) An accredited community college, college or university in another state.*

*2. The amount of the tuition under a prepaid tuition contract must be* at a guaranteed rate which is established based on the annual actuarial study required pursuant to NRS 353B.190 for undergraduate studies at a university, state college or community college that is a member of the System.

~~2-1~~ **3.** The Board shall adopt regulations for the implementation of the Program, including, without limitation, regulations setting forth requirements for:

(a) Residency;



- (b) A limit on the number of qualified beneficiaries;
- (c) The termination, withdrawal and transfer of money paid into the Trust Fund;
- (d) A payment received by the Trust Fund as a matching contribution made as described in NRS 363A.137 or 363B.117 to be credited to the qualified beneficiary on whose behalf the matching contribution was made;
- (e) The time within which the money paid into the Trust Fund must be used; ~~and~~
- (f) Payment schedules ~~H~~; and
- (g) A master agreement for the Program.**

**Sec. 2.45.** NRS 353B.100 is hereby amended to read as follows:

353B.100 1. The Board may enter into a prepaid tuition contract with a purchaser.

2. The Board shall create a prepaid tuition contract in accordance with the provisions of this section.

3. The prepaid tuition contract must include, without limitation:

(a) The terms and conditions under which the purchaser shall remit payment, including, without limitation:

(1) The amount and number of payments that are required from the purchaser on behalf of the qualified beneficiary;

(2) The date upon which each payment is due; and

(3) A provision for a reasonable penalty for a delinquent payment or default.

(b) The name and date of birth of the qualified beneficiary on whose behalf the prepaid tuition contract is drawn.

(c) The terms and conditions under which another person may be substituted as the qualified beneficiary.

(d) The terms and conditions under which the purchaser, or another person designated by the purchaser, may terminate the prepaid tuition contract, receive a refund of money that he or she has paid into the Trust Fund or withdraw money that he or she has paid into the Trust Fund, including, without limitation, a provision allowing the Board to impose a fee that amounts to more than a de minimis penalty.

(e) A provision that the Board shall, after making a reasonable effort to contact the purchaser, report any money that has been deposited under a prepaid tuition contract that has not been terminated and has not been used within a specified period to the State Treasurer for proper disposition.



(f) The number of semesters for which the purchaser is contracting.

(g) A provision that money paid into the Trust Fund under a prepaid tuition contract may be applied toward tuition *for an undergraduate degree* at:

(1) A university, state college or community college that is a member of the System;

(2) An accredited college or university in this State that is not a member of the System; or

(3) An accredited community college, college or university in another state.

↪ Payments authorized pursuant to subparagraph (2) or (3) must not exceed the projected highest payment for tuition for the current academic year at a university that is a member of the System.

(h) *A provision that any money under a prepaid tuition contract that is remaining after a qualified beneficiary has graduated with an undergraduate degree may be applied toward tuition for graduate-level studies at:*

*(1) A university, state college or community college that is a member of the System;*

*(2) An accredited college or university in this State that is not a member of the System; or*

*(3) An accredited community college, college or university in another state.*

↪ *Payments authorized pursuant to this paragraph may not exceed the total amount payable under the prepaid tuition contract of the qualified beneficiary.*

*(i) Any other term or condition that the Board considers necessary or proper.*

**Sec. 2.47.** NRS 353B.110 is hereby amended to read as follows:

353B.110 The Board:

1. May modify the regulations for the implementation of the Program adopted pursuant to subsection ~~2~~ 3 of NRS 353B.090.

2. May establish agreements to fulfill its obligations under the prepaid tuition contracts.

3. May contract for any necessary good or service, including, without limitation, the power to engage financial consultants, actuaries or legal counsel.

4. May procure insurance against any loss in connection with the property, assets or activities of the Trust Fund, the State Treasurer or the Board.



5. May solicit and accept a gift, including, without limitation, a bequeathment or other testamentary gift, grant, loan or aid from any source.

6. Shall solicit answers to requests for rulings from the Internal Revenue Service regarding the tax status of fees paid to or on behalf of a purchaser or a qualified beneficiary pursuant to a prepaid tuition contract.

**Sec. 2.5.** NRS 353B.140 is hereby amended to read as follows:

353B.140 1. The Nevada Higher Education Prepaid Tuition Trust Fund is hereby created within the State Treasury to allow the cost of tuition to be paid in advance of enrollment at an institution of higher education.

2. The Trust Fund consists of payments received pursuant to:

(a) A prepaid tuition contract;

(b) A bequest, endowment or grant from the Federal Government;

(c) A matching contribution made as described in NRS 363A.137 or 363B.117; ~~or~~

(d) *A loan made to the Trust Fund for purposes of the fiscal stabilization of the Nevada Higher Education Prepaid Tuition Program; or*

(e) Any other public or private source of money.

3. Money in the Trust Fund that is not expended during any biennium does not revert to the State General Fund at any time.

**Sec. 2.8.** NRS 353B.310 is hereby amended to read as follows:

353B.310 1. The ~~State Treasurer~~ *Board* shall adopt regulations to establish and carry out the Nevada College Savings Program, which must comply with the requirements of a qualified state tuition program pursuant to 26 U.S.C. § 529.

2. The regulations must be consistent with the provisions of the Internal Revenue Code set forth in Title 26 of the United States Code, and the regulations adopted pursuant thereto, to ensure that the Nevada College Savings Program meets all criteria for federal tax-deferred or tax-exempt benefits, or both.

3. The regulations must provide for the use of savings trust agreements and savings trust accounts to apply distributions toward qualified higher education expenses at eligible educational institutions in accordance with 26 U.S.C. § 529.

4. The regulations must set forth requirements for a payment received by the Trust Fund as a matching contribution made as described in NRS 363A.137 or 363B.117 to be credited to the savings trust account to which the contribution was made.





5. The regulations may include any other provisions not inconsistent with federal law that the ~~{State Treasurer}~~ **Board** determines are necessary for the efficient and effective administration of the Nevada College Savings Program and the Trust Fund.

**Sec. 3.** NRS 353B.320 is hereby amended to read as follows:

353B.320 The Board may delegate to the State Treasurer any of its administrative powers and duties specified in NRS 353B.300 to 353B.370, inclusive, **and section 1.5 of this act** if the Board determines that such delegation is necessary for the efficient and effective administration of the Nevada College Savings Program and the Trust Fund.

**Sec. 4.** NRS 353B.330 is hereby amended to read as follows:

353B.330 Savings trust accounts and agreements entered into pursuant to NRS 353B.300 to 353B.370, inclusive, **and section 1.5 of this act** are not guaranteed by the full faith and credit of the State of Nevada.

**Sec. 5.** (Deleted by amendment.)

**Sec. 6.** NRS 353B.350 is hereby amended to read as follows:

353B.350 1. The Trust Fund and any account established by the State Treasurer pursuant to this section must be administered by the State Treasurer.

2. The State Treasurer shall establish such accounts as he or she determines necessary to carry out his or her duties pursuant to NRS 353B.300 to 353B.370, inclusive, **and section 1.5 of this act**, including, without limitation:

(a) A Program Account in the Trust Fund; and

(b) An Administrative Account and an Endowment Account in the State General Fund.

3. The Program Account must be used for the receipt, investment and disbursement of money pursuant to savings trust agreements.

4. The Administrative Account must be used for the deposit and disbursement of money to administer and market the Nevada College Savings Program and to supplement the administration and marketing of the Nevada Higher Education Prepaid Tuition Program set forth in NRS 353B.010 to 353B.190, inclusive ~~{}~~, **and section 1.3 of this act**.

5. ~~{The}~~ **In addition to the money transferred pursuant to section 1.5 of this act, the** Endowment Account must be used for the deposit of any money received by the Nevada College Savings Program that is not received pursuant to a savings trust agreement and, in the determination of the State Treasurer, is not necessary for



the use of the Administrative Account. The money in the Endowment Account may be expended ~~for~~ *for any purpose related to:*

(a) ~~For any purpose related to the~~ *The funding of college savings accounts created under the Nevada College Savings Kick Start Program established pursuant to section 1.5 of this act;*

(b) ~~To pay the costs of administering the~~ *The Governor Guinn Millennium Scholarship Program created pursuant to NRS 396.926, including, without limitation, the costs of administering the Program,* but such costs must not exceed an amount equal to 3 percent of the anticipated annual revenue to the State of Nevada from the settlement agreements with and civil actions against manufacturers of tobacco products anticipated for deposit in the Trust Fund; ~~or~~

(c) ~~In any other manner which assists the residents of this state to attain postsecondary education.~~ *The administrative costs, as approved by the Legislature or the Interim Finance Committee, of activities related to the Nevada Higher Education Prepaid Tuition Program set forth in NRS 353B.010 to 353B.190, inclusive, and section 1.3 of this act and the Nevada College Savings Program set forth in NRS 353B.300 to 353B.370, inclusive, and section 1.5 of this act, including the Nevada College Kick Start Program;*

(d) *The costs of marketing related to the Nevada Higher Education Prepaid Tuition Program set forth in NRS 353B.010 to 353B.190, inclusive, and section 1.3 of this act and the Nevada College Savings Program set forth in NRS 353B.300 to 353B.370, inclusive, and section 1.5 of this act, including the Nevada College Kick Start Program, but such costs must not exceed an amount equal to 3 percent of the money in the Endowment Account that was received during the first fiscal year of the immediately preceding biennium by the Nevada College Savings Program, was not received pursuant to a savings trust agreement and, in the determination of the State Treasurer, was not necessary for the use of the Administrative Account; or*

(e) *The costs of providing programs for the financial education of residents of this State, but such costs must not exceed an amount equal to 3 percent of the money in the Endowment Account that was received during the first fiscal year of the immediately preceding biennium by the Nevada College Savings Program, was not received pursuant to a savings trust agreement and, in the determination of the State Treasurer, was not necessary for the use of the Administrative Account.*



**Sec. 6.5.** NRS 353B.360 is hereby amended to read as follows:  
353B.360 The ~~State Treasurer~~ **Board** may accept and expend on behalf of the Trust Fund money provided by private entities for direct expenses or marketing ~~+~~ **in accordance with the provisions of NRS 353.150 to 353.245, inclusive.** Such money is not a part of the Trust Fund.

**Sec. 6.7.** 1. On or before October 1, 2017, the Board of Trustees of the College Savings Plans of Nevada created by NRS 353B.005, as amended by section 2 of this act, shall amend the master agreement for the Nevada Higher Education Prepaid Tuition Program created in accordance with regulations adopted pursuant to NRS 353B.090, as amended by section 2.4 of this act, to authorize, pursuant to NRS 353B.090, as amended by section 2.4 of this act, the application of any money paid into the Nevada Higher Education Prepaid Tuition Trust Fund created by NRS 353B.140, as amended by section 2.5 of this act, under a prepaid tuition contract that is remaining after a qualified beneficiary has graduated with an undergraduate degree toward tuition for graduate-level studies by the qualified beneficiary at:

(a) A university, state college or community college that is a member of the Nevada System of Higher Education;

(b) An accredited college or university in this State that is not a member of the System; or

(c) An accredited community college, college or university in another state.

2. As used in this section:

(a) "Prepaid tuition contract" has the meaning ascribed to it in NRS 353B.030.

(b) "Qualified beneficiary" has the meaning ascribed to it in NRS 353B.050.

**Sec. 6.8.** Notwithstanding the amendatory provisions of this act transferring authority to adopt regulations from the State Treasurer to the Board of Trustees of the College Savings Plans of Nevada, any regulations adopted by the State Treasurer pursuant to NRS 353B.310 before July 1, 2017, remain in effect and may be enforced by the Board or the State Treasurer, as applicable, until the Board adopts regulations to repeal or replace those regulations.

**Sec. 6.9.** The money authorized for expenditure from the Nevada College Savings Trust Fund in section 1 of Senate Bill No. 545 of this session is reduced from \$4,220,813 to \$3,599,776 in Fiscal Year 2017-2018 and from \$4,272,299 to \$3,651,262 in Fiscal Year 2018-2019.



**Sec. 7.** 1. This section and sections 1, 1.5, 2, 2.5 and 3 to 6.5, inclusive, of this act become effective upon passage and approval.  
2. Sections 1.3, 2.3 to 2.47, inclusive, 2.6, 2.8, 6.7, 6.8 and 6.9 of this act become effective on July 1, 2017.

