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FOURTH REPRINT

S.B. 305

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

MARCH 16, 2023

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

Referred to Committee on Government Affairs

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

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

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



* S B 3 0 5 R 4 *

Legislative Counsel's Digest:

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

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

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

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

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

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

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

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

50 **Section 27** of this bill provides that, except to the extent necessary to
51 administer the Program, personal information relating to individual participants in
52 the Program and information relating to individual accounts established or
53 maintained through the Program is confidential and must be maintained as



54 confidential, unless the person who provides the information or is the subject of the
55 information expressly agrees in writing to the disclosure of the information.

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

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

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

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

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

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

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

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

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

1 **Section 1.** Title 31 of NRS is hereby amended by adding
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,*



1 *inclusive, of this act have the meanings ascribed to them in those*
2 *sections.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 **1.** *Employs more than five persons in this State;*

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

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

44 **Sec. 9. 1.** *Except as otherwise provided in subsection 2,*
45 *“employer” means a person or entity engaged in a business,*



1 *profession, trade or other enterprise in this State, whether for*
2 *profit or not for profit, that employs one or more persons in this*
3 *State.*

4 2. *The term does not include an agency or entity of the*
5 *Federal Government, the government of this State or a political*
6 *subdivision of this State.*

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

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

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

15 **Sec. 13.** *“Participant” means a person who contributes to an*
16 *Individual Retirement Account established or maintained through*
17 *the Program or has an account balance in an Individual*
18 *Retirement Account established or maintained through the*
19 *Program.*

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

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

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

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

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

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

37 2. *The Board consists of:*

38 (a) *The State Treasurer or the designee of the State Treasurer;*

39 (b) *The Lieutenant Governor or the designee of the Lieutenant*
40 *Governor;*

41 (c) *One member, appointed by the Governor, who represents*
42 *employers;*

43 (d) *One member, appointed by the Governor, who has*
44 *experience in the field of investments;*



1 (e) One member, appointed by the Majority Leader of the
2 Senate, who represents retirees; and

3 (f) One member, appointed by the Speaker of the Assembly,
4 who has experience in small business.

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

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

11 5. The State Treasurer or the designee of the State Treasurer
12 shall serve as the Chair of the Board.

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

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

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

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

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

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

26 1. Design, establish, and operate the Nevada Employee
27 Savings Trust Program;

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

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

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

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

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

43 4. Determine, without limitation, the:

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

45 (b) Default contribution rate; and



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

32 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*
35 *Retirement Account beneficiaries.*

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

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

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



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

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

8 *(d) A statement that covered employees seeking financial*
9 *advice should contact their own financial advisers and that*
10 *covered employers are not in a position to provide financial advice*
11 *and that covered employers are not liable for decisions covered*
12 *employees make 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*
16 *employee's Individual Retirement Account established or*
17 *maintained through the Program is guaranteed by the State; and*

18 *(g) A statement that:*

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

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

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

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

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

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



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

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

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

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

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

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

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

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

22 *(a) Money appropriated to the Administrative Fund by the*
23 *Legislature;*

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

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

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

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

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

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



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

6 2. Money borrowed pursuant to subsection 1 must:

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

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

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

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

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

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

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

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

40 5. The Board may allow covered employees to allocate assets
41 of their Individual Retirement Accounts among such investment
42 funds and, in such case, the Board also may designate an
43 investment fund as a default investment for the Individual
44 Retirement Accounts of covered employees who do not make an
45 investment choice.



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

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

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

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

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

23 9. *The assets of the Trust must at all times be preserved,*
24 *invested and expended solely for the purposes of the Trust and no*
25 *property rights therein shall exist in favor of the State or any*
26 *covered employer. Trust assets must not be transferred or used by*
27 *the State for any purposes other than the purposes of the Trust or*
28 *paying the expenses of operating the Program. Amounts deposited*
29 *with the Trustee do not constitute property of the State and must*
30 *not be commingled with state money and the State has no claim to*
31 *or against, or interest in, the assets of the Trust.*

32 10. *The assets of the Trust must at all times be held separate*
33 *and apart from the assets of the State. The State, Program, Board,*
34 *any member of the Board or any covered employer shall not*
35 *guaranty any investment, rate of return, or interest on amounts*
36 *held in the Trust, an investment fund or any Individual*
37 *Retirement Account. The State, Program, Board, any member of*
38 *the Board or any covered employer is not liable for any losses*
39 *incurred by Trust investments or otherwise by any covered*
40 *employee or other person as a result of participating in the*
41 *Program.*

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



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

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

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

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

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

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

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

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

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

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

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

42 *(a) Have no responsibility for compliance by persons with the*
43 *conditions and other provisions of the Internal Revenue Code that*
44 *determine which persons are eligible to make tax-favored*



1 *contributions to Individual Retirement Accounts, in what amount*
2 *and in what time frame and manner;*

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

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

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

16 2. *The debts, contracts and obligations of the Board, Program*
17 *or Trust are not the debts, contracts and obligations of the State,*
18 *and neither the faith and credit nor the taxing power of the State*
19 *is pledged directly or indirectly to the payment of the debts,*
20 *contracts and obligations of the Board, Program or Trust.*

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

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

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

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

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

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

43 **Sec. 32.** 1. *The Board shall cause an accurate account of*
44 *all the activities, operations and receipts and expenditures of the*
45 *Board, Program and Trust to be maintained. Each year, a full*



1 *audit of the books and accounts of the Board, Program and Trust*
2 *pertaining to those activities, operations, receipts and*
3 *expenditures, personnel, services and facilities must be conducted*
4 *by a certified public accountant and must include, without*
5 *limitation, direct and indirect costs attributable to the use of*
6 *outside consultants, independent contractors and any other*
7 *persons who are not state employees for the administration of the*
8 *Program. For the purposes of the audit, the auditors shall have*
9 *access to the properties and records of the Board, Program and*
10 *Trust and may prescribe methods of accounting and the rendering*
11 *of periodic reports in relation to projects undertaken by the Board,*
12 *Program and Trust.*

13 2. *Not later than August 1 of each year, the Board shall*
14 *submit to the Governor, the State Controller and the Director of*
15 *the Legislative Counsel Bureau for transmittal to the Legislature*
16 *or, if the Legislature is not in session, to the Legislative*
17 *Commission, an audited financial report, prepared in accordance*
18 *with generally accepted accounting principles, detailing the*
19 *activities, operations and receipts and expenditures of the Board,*
20 *Program and Trust during the immediately preceding calendar*
21 *year. The report must also include projected activities of the*
22 *Program for the current calendar year.*

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

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

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

30 239.010 1. Except as otherwise provided in this section and
31 NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.0397, 41.071, 49.095,
32 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030,
33 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152,
34 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413,
35 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345,
36 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270,
37 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
38 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.640,
39 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730,
40 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312,
41 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.015,
42 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715,
43 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771,
44 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392,
45 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,



1 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
2 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
3 218G.350, 224.240, 226.300, 228.270, 228.450, 228.495, 228.570,
4 231.069, 231.1473, 232.1369, 233.190, 237.300, 239.0105,
5 239.0113, 239.014, 239B.026, 239B.030, 239B.040, 239B.050,
6 239C.140, 239C.210, 239C.230, 239C.250, 239C.270, 239C.420,
7 240.007, 241.020, 241.030, 241.039, 242.105, 244.264, 244.335,
8 247.540, 247.550, 247.560, 250.087, 250.130, 250.140, 250.150,
9 268.095, 268.0978, 268.490, 268.910, 269.174, 271A.105, 281.195,
10 281.805, 281A.350, 281A.680, 281A.685, 281A.750, 281A.755,
11 281A.780, 284.4068, 284.4086, 286.110, 286.118, 287.0438,
12 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
13 293.504, 293.558, 293.5757, 293.870, 293.906, 293.908, 293.910,
14 293B.135, 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335,
15 338.070, 338.1379, 338.1593, 338.1725, 338.1727, 348.420,
16 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
17 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.2242,
18 361.610, 365.138, 366.160, 368A.180, 370.257, 370.327, 372A.080,
19 378.290, 378.300, 379.0075, 379.008, 379.1495, 385A.830,
20 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
21 388.513, 388.750, 388A.247, 388A.249, 391.033, 391.035,
22 391.0365, 391.120, 391.925, 392.029, 392.147, 392.264, 392.271,
23 392.315, 392.317, 392.325, 392.327, 392.335, 392.850, 393.045,
24 394.167, 394.16975, 394.1698, 394.447, 394.460, 394.465,
25 396.1415, 396.1425, 396.143, 396.159, 396.3295, 396.405, 396.525,
26 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888,
27 408.5484, 412.153, 414.280, 416.070, 422.2749, 422.305,
28 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.028,
29 432.205, 432B.175, 432B.280, 432B.290, 432B.4018, 432B.407,
30 432B.430, 432B.560, 432B.5902, 432C.140, 432C.150, 433.534,
31 433A.360, 439.4941, 439.4988, 439.840, 439.914, 439A.116,
32 439A.124, 439B.420, 439B.754, 439B.760, 439B.845, 440.170,
33 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735,
34 442.774, 445A.665, 445B.570, 445B.7773, 447.345, 449.209,
35 449.245, 449.4315, 449A.112, 450.140, 450B.188, 450B.805,
36 453.164, 453.720, 458.055, 458.280, 459.050, 459.3866, 459.555,
37 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403,
38 463.3407, 463.790, 467.1005, 480.535, 480.545, 480.935, 480.940,
39 481.063, 481.091, 481.093, 482.170, 482.368, 482.5536, 483.340,
40 483.363, 483.575, 483.659, 483.800, 484A.469, 484B.830,
41 484B.833, 484E.070, 485.316, 501.344, 503.452, 522.040,
42 534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098,
43 598A.110, 598A.420, 599B.090, 603.070, 603A.210, 604A.303,
44 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
45 618.341, 618.425, 622.238, 622.310, 623.131, 623A.137, 624.110,



1 624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230,
2 628B.760, 629.047, 629.069, 630.133, 630.2671, 630.2672,
3 630.2673, 630.30665, 630.336, 630A.327, 630A.555, 631.332,
4 631.368, 632.121, 632.125, 632.3415, 632.3423, 632.405, 633.283,
5 633.301, 633.4715, 633.4716, 633.4717, 633.524, 634.055,
6 634.1303, 634.214, 634A.169, 634A.185, 635.111, 635.158,
7 636.262, 636.342, 637.085, 637.145, 637B.192, 637B.288, 638.087,
8 638.089, 639.183, 639.2485, 639.570, 640.075, 640.152, 640A.185,
9 640A.220, 640B.405, 640B.730, 640C.580, 640C.600, 640C.620,
10 640C.745, 640C.760, 640D.135, 640D.190, 640E.225, 640E.340,
11 641.090, 641.221, 641.2215, 641.325, 641A.191, 641A.217,
12 641A.262, 641B.170, 641B.281, 641B.282, 641C.455, 641C.760,
13 641D.260, 641D.320, 642.524, 643.189, 644A.870, 645.180,
14 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
15 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
16 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.126,
17 652.228, 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130,
18 665.133, 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480,
19 675.380, 676A.340, 676A.370, 677.243, 678A.470, 678C.710,
20 678C.800, 679B.122, 679B.124, 679B.152, 679B.159, 679B.190,
21 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410,
22 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306,
23 687A.060, 687A.115, 687B.404, 687C.010, 688C.230, 688C.480,
24 688C.490, 689A.696, 692A.117, 692C.190, 692C.3507, 692C.3536,
25 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550,
26 696C.120, 703.196, 704B.325, 706.1725, 706A.230, 710.159,
27 711.600, *section 27 of this act*, sections 35, 38 and 41 of chapter
28 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes
29 of Nevada 2013 and unless otherwise declared by law to be
30 confidential, all public books and public records of a governmental
31 entity must be open at all times during office hours to inspection by
32 any person, and may be fully copied or an abstract or memorandum
33 may be prepared from those public books and public records. Any
34 such copies, abstracts or memoranda may be used to supply the
35 general public with copies, abstracts or memoranda of the records or
36 may be used in any other way to the advantage of the governmental
37 entity or of the general public. This section does not supersede or in
38 any manner affect the federal laws governing copyrights or enlarge,
39 diminish or affect in any other manner the rights of a person in any
40 written book or record which is copyrighted pursuant to federal law.
41 2. A governmental entity may not reject a book or record
42 which is copyrighted solely because it is copyrighted.
43 3. A governmental entity that has legal custody or control of a
44 public book or record shall not deny a request made pursuant to
45 subsection 1 to inspect or copy or receive a copy of a public book or



1 record on the basis that the requested public book or record contains
2 information that is confidential if the governmental entity can
3 redact, delete, conceal or separate, including, without limitation,
4 electronically, the confidential information from the information
5 included in the public book or record that is not otherwise
6 confidential.

7 4. If requested, a governmental entity shall provide a copy of a
8 public record in an electronic format by means of an electronic
9 medium. Nothing in this subsection requires a governmental entity
10 to provide a copy of a public record in an electronic format or by
11 means of an electronic medium if:

- 12 (a) The public record:
 - 13 (1) Was not created or prepared in an electronic format; and
 - 14 (2) Is not available in an electronic format; or
- 15 (b) Providing the public record in an electronic format or by
16 means of an electronic medium would:
 - 17 (1) Give access to proprietary software; or
 - 18 (2) Require the production of information that is confidential
19 and that cannot be redacted, deleted, concealed or separated from
20 information that is not otherwise confidential.

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

- 23 (a) Shall not refuse to provide a copy of that public record in the
24 medium that is requested because the officer, employee or agent has
25 already prepared or would prefer to provide the copy in a different
26 medium.
- 27 (b) Except as otherwise provided in NRS 239.030, shall, upon
28 request, prepare the copy of the public record and shall not require
29 the person who has requested the copy to prepare the copy himself
30 or herself.

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

| | | |
|----|-------------------------------------|-----------|
| 35 | For the Fiscal Year 2023-2024 | \$669,491 |
| 36 | For the Fiscal Year 2024-2025 | \$535,074 |

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

40 3. Any balance of the sums appropriated by subsection 1
41 remaining at the end of the respective fiscal years must not be
42 committed for expenditure after June 30 of the respective fiscal
43 years by the entity to which the appropriation is made or any entity
44 to which money from the appropriation is granted or otherwise
45 transferred in any manner, and any portion of the appropriated



1 money remaining must not be spent for any purpose after
2 September 20, 2024, and September 19, 2025, respectively, by
3 either the entity to which the money was appropriated or the entity
4 to which the money was subsequently granted or transferred, and
5 must be reverted to the State General Fund on or before
6 September 20, 2024, and September 19, 2025, respectively.

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

14 2. The Board may implement the Program in phases so that the
15 ability of covered employees to contribute to an Individual
16 Retirement Account through the Program first applies on different
17 dates for different employees based on the number of employees
18 employed by the covered employer. If the Board implements the
19 Program in phases pursuant to this subsection, the first phase must
20 not begin before July 1, 2025.

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

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

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

40 **Sec. 36.5.** 1. The Board of Trustees of the Nevada Employee
41 Savings Trust created by section 19 of this act shall conduct a study
42 on the feasibility of including independent contractors in the Nevada
43 Employee Savings Trust Program established pursuant to section 20
44 of this act.



1 2. Not later than December 31, 2024, the Board shall prepare
2 and submit a report of the findings of the study conducted pursuant
3 to subsection 1 to the Director of the Legislative Counsel Bureau for
4 transmittal to the 83rd Session of the Nevada Legislature.

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

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

10 2. Sections 34.5 and 36.5 of this act become effective on
11 July 1, 2023.

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

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

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

