

SENATE BILL NO. 132—SENATORS SHAFFER, COFFIN, CARE,
NEAL AND WIENER

FEBRUARY 14, 2001

Referred to Committee on Finance

SUMMARY—Provides for matching contributions by state to public employees' deferred compensation program for state employees. (BDR 23-606)

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

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

AN ACT relating to state employees; requiring the committee established to administer the public employees' deferred compensation program to establish a plan for monthly contributions to the program by the state on behalf of certain employees; requiring the state to make monthly contributions to the public employees' deferred compensation program under certain circumstances; prohibiting the state from making such contributions under certain circumstances; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 287 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 1. *The committee shall adopt regulations to establish, as part of the*
4 *program, a plan for monthly contributions to the program by the*
5 *employer of an employee of the state or the University and Community*
6 *College System of Nevada who defers compensation pursuant to the*
7 *program on behalf of that employee.*
8 2. *Except as otherwise provided in subsection 4:*
9 (a) *After the committee creates a plan pursuant to subsection 1, the*
10 *employer shall make a monthly contribution to the program on behalf of*
11 *each employee who defers compensation pursuant to the program and*
12 *who elects to receive a contribution pursuant to this section.*
13 (b) *The contribution must be in an amount equal to the lesser of:*
14 (1) *The amount per month the employee defers pursuant to the*
15 *program; or*
16 (2) *Fifty dollars.*
17 3. *Contributions made pursuant to this section must be held, invested*
18 *and distributed:*



1 (a) In accordance with the requirements for matching contributions
2 and the appropriate program pursuant to 26 U.S.C. §§ 401, 403(b) and
3 457, and all other applicable federal statutes, rules and regulations; and

4 (b) In the same manner as money withheld by an employer pursuant
5 to this section and NRS 287.250 to 287.370, inclusive.

6 4. The employer may not make a contribution pursuant to subsection
7 2 that exceeds the maximum amount of such contribution allowed
8 pursuant to the Internal Revenue Code. If the amount appropriated and
9 available for contributions pursuant to this section is less than the
10 amount required to make contributions pursuant to subparagraph (1) or
11 (2) of paragraph (b) of subsection 2, the employer shall prorate the
12 contributions accordingly.

13 **Sec. 2.** NRS 287.250 is hereby amended to read as follows:
14 287.250 As used in NRS 287.250 to 287.370, inclusive, *and section 1*
15 *of this act*, unless the context otherwise requires, the words and terms
16 defined in NRS 287.260 to 287.310, inclusive, have the meanings ascribed
17 to them in those sections.

18 **Sec. 3.** NRS 287.270 is hereby amended to read as follows:
19 287.270 "Deferred compensation" means income which a state
20 employee or employee of the University and Community College System
21 of Nevada may legally set aside under 26 U.S.C. § 401(k), 403(b) or 457
22 and *any money from contributions to the program made by the employer*
23 *on behalf of an employee pursuant to section 1 of this act* which, while
24 invested under the program, is exempt from federal income taxes on the
25 employee's contributions, *the state's contributions*, and interest,
26 dividends and capital gains.

27 **Sec. 4.** NRS 287.310 is hereby amended to read as follows:
28 287.310 "Program" means the public employees' deferred
29 compensation program authorized by NRS 287.250 to 287.370, inclusive
30 *and section 1 of this act.*

31 **Sec. 5.** NRS 287.320 is hereby amended to read as follows:
32 287.320 1. The state may agree with any of its employees, and the
33 board of regents of the University of Nevada may agree with any of its
34 employees, to defer the compensation due to them in accordance with a
35 program approved by the committee and as authorized by 26 U.S.C. §
36 401(k), 403(b) or 457. The board of regents may agree with any of its
37 employees to defer the compensation due to them as authorized by 26
38 U.S.C. § 403(b) without submitting the program to the committee for its
39 approval.

40 2. The employer shall withhold the amount of compensation which an
41 employee has, by such an agreement, directed the employer to defer.

42 3. The employer may invest the withheld money *and contributions*
43 *made by the employer pursuant to section 1 of this act* in any investment
44 approved by the committee or, in the case of deferred compensation under
45 26 U.S.C. § 403(b) for employees of the University and Community
46 College System of Nevada by the board of regents of the University of
47 Nevada.

48 4. The investments must be underwritten and offered in compliance
49 with all applicable federal and state laws and regulations, and may be



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1 offered only by persons who are authorized and licensed under all
2 applicable state and federal regulations.

3 5. All amounts of compensation deferred pursuant to the program, all
4 property and all rights purchased with those amounts and all income
5 attributable to those amounts, property or rights must, in accordance with
6 26 U.S.C. § 457(g), be held in trust for the exclusive benefit of the
7 participants in the program and their beneficiaries.

8 **Sec. 6.** NRS 287.330 is hereby amended to read as follows:

9 287.330 1. The committee shall:

10 (a) At its first meeting each year, designate one of its members to serve
11 as chairman of the committee for a term of 1 year or until his successor has
12 been designated.

13 (b) Act in such a manner as to promote the collective best interests of
14 the participants in the program.

15 2. The committee may:

16 (a) Create an appropriate account for administration of money and other
17 assets resulting from compensation deferred pursuant to the program ~~§~~,
18 *including contributions made by an employer pursuant to section 1 of*
19 *this act.*

20 (b) With the approval of the governor, delegate to one or more state
21 agencies or institutions of the University and Community College System
22 of Nevada the responsibility for administering the program for their
23 respective employees, including:

24 (1) Collection of deferred compensation;

25 (2) Transmittal of money collected to depositories within the state
26 designated by the committee; and

27 (3) Payment of deferred compensation to participating employees.

28 (c) Contract with a private person, corporation, institution or other
29 entity, directly or through a state agency or institution of the University and
30 Community College System of Nevada, for services necessary to the
31 administration of the plan, including, without limitation:

32 (1) Consolidated billing;

33 (2) The keeping of records for each participating employee and the
34 program;

35 (3) The purchase, control and safeguarding of assets;

36 (4) Programs for communication with employees; and

37 (5) The administration and coordination of the program.

38 3. The committee and its individual members are not liable for any
39 decision relating to investments if the committee has:

40 (a) Obtained the advice of qualified counsel on investments.

41 (b) Established proper objectives and policies relating to investments.

42 (c) Discharged its duties regarding the decision:

43 (1) Solely in the interest of the participants in the program; and

44 (2) With the care, skill, prudence and diligence that, under the
45 circumstances existing at the time of the decision, a prudent person who is
46 familiar with similar investments would use while acting in a similar
47 capacity in conducting an enterprise of similar character and purpose.

48 (d) Selected at least two plans from separate and distinct providers from
49 which the participants in the program may choose.



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1 (e) Solicited proposals from qualified providers of plans at least once
2 every 5 years.
3 **Sec. 7.** NRS 287.340 is hereby amended to read as follows:
4 287.340 1. Deferrals of compensation , *other than monthly*
5 *contributions made by employers*, may be withheld as deductions from the
6 payroll in accordance with the agreement between the employer and a
7 participating employee.
8 2. The amount of deferred compensation set aside by the employer
9 under the program during any calendar year may not exceed the amount
10 authorized by 26 U.S.C. § 401(k), 403(b) or 457.
11 **Sec. 8.** NRS 287.370 is hereby amended to read as follows:
12 287.370 No appropriated money of the state may be spent in
13 connection with the administration of the program except as *monthly*
14 *contributions made by an employer pursuant to section 1 of this act and*
15 *as* compensation for employees who participated in the administration as
16 part of their regular duties, including without limitation:
17 1. Members and staff of the committee; and
18 2. Employees of the state agency or the institution of the University
19 and Community College System of Nevada selected to administer the
20 program.

