

1 SENATE BILL 185

2 **56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

3 INTRODUCED BY

4 Bill Tallman

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10 AN ACT

11 RELATING TO PRIVATE SECTOR RETIREMENT; ATTACHING THE NEW MEXICO  
12 WORK AND SAVE BOARD TO THE WORKFORCE SOLUTIONS DEPARTMENT FOR  
13 ADMINISTRATIVE PURPOSES ONLY; TRANSFERRING NEW MEXICO WORK AND  
14 SAVE BOARD PERSONNEL AND PROPERTY TO THE WORKFORCE SOLUTIONS  
15 DEPARTMENT; RESTRUCTURING THE MEMBERSHIP OF THE NEW MEXICO WORK  
16 AND SAVE BOARD; MAKING AN APPROPRIATION.

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 58-33-2 NMSA 1978 (being Laws 2020,  
20 Chapter 7, Section 2, as amended) is amended to read:

21 "58-33-2. DEFINITIONS.--As used in the New Mexico Work  
22 and Save Act:

23 A. "board" means the New Mexico work and save  
24 board;

25 B. "board member" means a member of the board;

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1           C. "covered employee" means a person who is at  
2           least eighteen years of age and who is employed by a covered  
3           employer, either full time or part time, or a person who is  
4           self-employed as a sole proprietor or an independent  
5           contractor; provided that "covered employee" does not include  
6           an employee:

7                       (1) covered under the federal Railway Labor  
8           Act;

9                       (2) on whose behalf an employer makes  
10          contributions to a multi-employer pension trust fund pursuant  
11          to the federal Taft-Hartley Act; or

12                      (3) of federal, state or local governments or  
13          any agency, department, board, commission, institution or  
14          instrumentality of those governments;

15           D. "covered employer" means a person engaged in a  
16          business, industry, profession, trade, nonprofit or other  
17          enterprise with its primary place of business physically  
18          located in New Mexico, but does not include a federal, state or  
19          local government or any agency, department, board, commission,  
20          institution or instrumentality of those governments;

21           E. "default investment option" means a Roth  
22          individual retirement account with a target date fund  
23          investment and a default contribution rate established by the  
24          board;

25           F. "department" means the workforce solutions

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1 department;

2           ~~[F.]~~ G. "financial institution" means a duly  
3 licensed bank, savings and loan association, credit union,  
4 broker-dealer, asset manager, insurance company, mutual fund or  
5 other financial entity;

6           ~~[G.]~~ H. "financial service provider" means a  
7 financial or investment service provider that, if approved by  
8 the board as meeting the eligibility criteria, may administer  
9 and maintain one or more program participant investment  
10 accounts or one or more marketplace participant accounts for  
11 which the provider is a fiduciary;

12           ~~[H.]~~ I. "Internal Revenue Code" means the United  
13 States Internal Revenue Code of 1986, as amended;

14           ~~[I.]~~ J. "IRA" means an individual retirement  
15 account that conforms to the requirements of Section 408(a) of  
16 the Internal Revenue Code;

17           ~~[J.]~~ K. "marketplace participant" means a covered  
18 employer that establishes a plan through the New Mexico  
19 retirement plan marketplace or a covered employee who  
20 establishes an investment account through the New Mexico  
21 retirement plan marketplace;

22           ~~[K.]~~ L. "New Mexico retirement plan marketplace"  
23 means a board-approved web-based marketplace that facilitates  
24 access to retirement savings plans for private sector and  
25 nonprofit employers and employees, including multiple-employer

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1 plans;

2 ~~[L.]~~ M. "New Mexico work and save IRA program"  
3 means the retirement savings program, designed and implemented  
4 by the board, that facilitates payroll deductions of program  
5 participants in individual retirement accounts without any  
6 contributions from covered employers;

7 ~~[M.]~~ N. "New Mexico work and save platform" means  
8 the online digital service designed and implemented by the  
9 board to facilitate interaction among covered employers,  
10 covered employees, program participants, financial service  
11 providers and other users via the internet;

12 ~~[N.]~~ O. "participating employer" means a covered  
13 employer that provides payroll deductions for individual  
14 retirement accounts through the New Mexico work and save IRA  
15 program but that does not contribute to those accounts;

16 ~~[O.]~~ P. "program participant" means a covered  
17 employee who is contributing to an individual retirement  
18 account through the New Mexico work and save IRA program or has  
19 an individual retirement account balance through the New Mexico  
20 work and save IRA program;

21 ~~[P.]~~ Q. "Roth individual retirement account" means  
22 a voluntary payroll deduction Roth individual retirement  
23 account that conforms to the requirements of Section 408A of  
24 the Internal Revenue Code; and

25 ~~[Q.]~~ R. "total fees and expenses" means all fees,  
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1 costs and expenses, including administrative expenses,  
2 investment expenses of the New Mexico work and save IRA  
3 program, investment advice expenses, accounting costs,  
4 actuarial costs, legal costs, marketing expenses, education  
5 expenses, trading costs, insurance annuitization costs and  
6 other operating expenses."

7 SECTION 2. Section 58-33-3 NMSA 1978 (being Laws 2020,  
8 Chapter 7, Section 3) is amended to read:

9 "58-33-3. BOARD CREATED--ORGANIZATION.--

10 A. The "New Mexico work and save board" is created  
11 and is administratively attached to the ~~[office of the state~~  
12 ~~treasurer]~~ department. The ~~[office of the state treasurer]~~  
13 department shall provide administrative support for the board  
14 in carrying out its duties pursuant to the New Mexico Work and  
15 Save Act.

16 B. The board consists of the following voting  
17 members:

18 (1) ~~[two members appointed by the state~~  
19 ~~treasurer as follows:~~

20 ~~(a) one member who has skill, knowledge~~  
21 ~~and experience in the field of retirement saving and~~  
22 ~~investments; and~~

23 ~~(b) one member who has skill, knowledge~~  
24 ~~and experience in retirement investment products or retirement~~  
25 ~~plan designs] on and after May 20, 2024, one member appointed~~

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1 by the secretary of economic development who has skills,  
2 knowledge and experience in workplace retirement investment  
3 products or retirement plan designs;

4 (2) [~~three~~] two members appointed by the  
5 governor as follows:

6 (a) one member who is a representative  
7 of an association representing employees; and

8 [~~(b) one member who is a representative~~  
9 ~~of small businesses; and~~

10 [~~(c) one member who is a representative~~  
11 ~~of the interests of program participants]~~

12 (b) on and after May 20, 2026, one  
13 member who has skills, knowledge and experience in workplace  
14 retirement investment products or retirement plan designs;

15 (3) [~~two~~] three members appointed by the  
16 speaker of the house of representatives as follows:

17 (a) one member who is a representative  
18 of the interests of program participants; [~~and~~]

19 (b) one member who has skill, knowledge  
20 and experience in the field of retirement saving and  
21 investments; and

22 (c) on and after May 20, 2024, one  
23 member who is a representative of small businesses; and

24 (4) [~~two~~] three members appointed by the  
25 president pro tempore of the senate as follows:

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1 (a) one member who is a representative  
2 of the interests of program participants; ~~[and]~~

3 (b) one member who has skill, knowledge  
4 and experience in the field of retirement saving and  
5 investments; and

6 (c) on and after May 20, 2026, one  
7 member who is a representative of small businesses.

8 C. A majority of the board constitutes a quorum.  
9 Action may be taken by the board upon an affirmative vote of  
10 the majority of members present at the meeting at which a  
11 quorum is present. A vacancy in the membership of the board  
12 does not impair the right of a quorum to exercise the powers  
13 and duties of the board.

14 D. ~~[The appointing authorities shall appoint the~~  
15 ~~first members of the board for staggered terms so that the~~  
16 ~~state treasurer appoints one member for two years and one~~  
17 ~~member for four years, the governor appoints two members for~~  
18 ~~two years and one member for four years, the speaker of the~~  
19 ~~house of representatives appoints one member for two years and~~  
20 ~~one member for four years and the president pro tempore of the~~  
21 ~~senate appoints one member for two years and one member for~~  
22 ~~four years.] Members appointed and serving terms on the board~~  
23 ~~on the effective date of this 2023 act shall continue to serve~~  
24 ~~the remainder of their terms.~~ Thereafter, members of the board  
25 shall be appointed for four-year terms by the appointing

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1 authorities as provided in Subsection B of this section.

2 E. A board member shall be eligible for  
3 reappointment, provided that a board member shall not serve  
4 more than three full terms, consecutive or otherwise. Members  
5 shall serve until their successors have been appointed. If  
6 there is a vacancy for any reason, the appointing authority  
7 shall appoint a qualified person to fill the unexpired term.  
8 Prior to the expiration of a board member's term, the executive  
9 director shall contact the appointing authority and request  
10 appointment for the next term of a qualified individual as  
11 provided in Subsection B of this section.

12 F. The appointing authority may remove a member of  
13 the board that it has appointed for neglect of a duty required  
14 by law, for incompetency, for malfeasance or for unprofessional  
15 conduct.

16 G. Board members shall receive no salary for their  
17 service as board members but shall receive per diem and mileage  
18 pursuant to the Per Diem and Mileage Act."

19 SECTION 3. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS,  
20 PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, EQUIPMENT AND  
21 CONTRACTUAL OBLIGATIONS.--

22 A. On the effective date of this act, all  
23 functions, personnel, money, appropriations, records,  
24 furniture, equipment, supplies and other property of the New  
25 Mexico work and save board are transferred from the office of

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1 the state treasurer to the workforce solutions department for  
2 use by the New Mexico work and save board in carrying out its  
3 duties under the New Mexico Work and Save Act.

4 B. On and after the effective date of this act, all  
5 contractual obligations of the New Mexico work and save board  
6 remain with, and are binding on, the New Mexico work and save  
7 board.

8 SECTION 4. APPROPRIATION.--Two hundred fifty thousand  
9 dollars (\$250,000) is appropriated from the general fund to the  
10 workforce solutions department for expenditure in fiscal year  
11 2024 to fund two additional full-time-equivalent positions to  
12 administer the provisions of the New Mexico Work and Save Act.  
13 Any unexpended or unencumbered balance remaining at the end of  
14 fiscal year 2024 shall revert to the general fund.