

REFERENCE TITLE: individual savings plan program; appropriation

State of Arizona
House of Representatives
Fifty-sixth Legislature
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2024

HB 2839

Introduced by
Representatives Austin: Aguilar, Contreras L, Contreras P, De Los Santos,
Gutierrez, Hernandez C, Ortiz, Peshlakai, Quiñonez, Sandoval, Schwiebert,
Seaman, Stahl Hamilton, Tsosie, Villegas

AN ACT

AMENDING TITLE 38, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 9;
APPROPRIATING MONIES; RELATING TO RETIREMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 38, Arizona Revised Statutes, is amended by adding
3 chapter 9, to read:

4 CHAPTER 9

5 ARIZONA RETIREMENT SAVINGS BOARD

6 ARTICLE 1. GENERAL PROVISIONS

7 38-1201. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "BOARD" MEANS THE ARIZONA RETIREMENT SAVINGS BOARD.

10 2. "COVERED EMPLOYEE":

11 (a) MEANS AN INDIVIDUAL WHO IS EMPLOYED BY A COVERED EMPLOYER, WHO
12 HAS WAGES OR OTHER COMPENSATION THAT IS ALLOCABLE TO THIS STATE AND WHO IS
13 AT LEAST EIGHTEEN YEARS OF AGE.

14 (b) DOES NOT INCLUDE:

15 (i) ANY EMPLOYEE WHO IS COVERED UNDER THE RAILWAY LABOR ACT (44
16 STAT. 577; 45 UNITED STATES CODE SECTION 151).

17 (ii) ANY EMPLOYEE ON WHOSE BEHALF AN EMPLOYER MAKES CONTRIBUTIONS
18 TO A TAFT-HARTLEY MULTIEMPLOYER PENSION TRUST FUND.

19 (iii) ANY INDIVIDUAL WHO IS AN EMPLOYEE OF THE FEDERAL GOVERNMENT,
20 THIS STATE OR ANY OTHER STATE, ANY COUNTY OR MUNICIPAL CORPORATION OR ANY
21 OF THIS STATE'S, ANY OTHER STATE'S OR THE FEDERAL GOVERNMENT'S UNITS OR
22 INSTRUMENTALITIES.

23 3. "COVERED EMPLOYER":

24 (a) MEANS A PERSON OR ENTITY THAT IS ENGAGED IN A BUSINESS,
25 INDUSTRY, PROFESSION, TRADE OR OTHER ENTERPRISE IN THIS STATE, WHETHER FOR
26 PROFIT OR NOT FOR PROFIT.

27 (b) DOES NOT INCLUDE:

28 (i) THE FEDERAL GOVERNMENT, THIS STATE, ANY COUNTY, ANY MUNICIPAL
29 CORPORATION OR ANY OF THIS STATE'S UNITS OR INSTRUMENTALITIES.

30 (ii) AN EMPLOYER THAT MAINTAINS A SPECIFIED TAX-FAVORED RETIREMENT
31 PLAN FOR ITS EMPLOYEES OR HAS DONE SO EFFECTIVE IN FORM AND OPERATION AT
32 ANY TIME WITHIN THE CURRENT OR TWO PRECEDING CALENDAR YEARS.

33 (iii) FOR THE PORTION OF THE CALENDAR YEAR IN WHICH THE EMPLOYER
34 ADOPTS A TAX-FAVORED RETIREMENT PLAN, AN EMPLOYER THAT DOES NOT MAINTAIN A
35 SPECIFIED TAX-FAVORED RETIREMENT PLAN FOR A PORTION OF A CALENDAR YEAR
36 ENDING ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AND ADOPTS A
37 TAX-FAVORED RETIREMENT PLAN EFFECTIVE FOR THE REMAINDER OF THAT CALENDAR
38 YEAR.

39 4. "ERISA" MEANS THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF
40 1974.

41 5. "FUND" MEANS THE ARIZONA RETIREMENT SAVINGS PROGRAM FUND
42 ESTABLISHED BY SECTION 38-1211.

43 6. "IRA" MEANS A TRADITIONAL OR ROTH INDIVIDUAL RETIREMENT ACCOUNT
44 OR INDIVIDUAL RETIREMENT ANNUITY UNDER 26 UNITED STATES CODE SECTION
45 408(a), 408(b) OR 408A.

1 7. "PARTICIPANT" MEANS AN INDIVIDUAL WHO IS CONTRIBUTING TO AN IRA
2 UNDER THE PROGRAM OR HAS AN IRA ACCOUNT BALANCE UNDER THE PROGRAM.

3 8. "PAYROLL DEDUCTION IRA" MEANS AN ARRANGEMENT BY WHICH AN
4 EMPLOYER ALLOWS EMPLOYEES TO CONTRIBUTE TO AN IRA BY MEANS OF PAYROLL
5 DEDUCTION.

6 9. "PROGRAM" MEANS THE ARIZONA RETIREMENT SAVINGS PROGRAM
7 ESTABLISHED BY THIS ARTICLE.

8 10. "RETIREMENT SYSTEM" MEANS THE ARIZONA STATE RETIREMENT SYSTEM
9 ESTABLISHED IN CHAPTER 5, ARTICLE 2 OF THIS TITLE.

10 11. "ROTH IRA" MEANS A ROTH INDIVIDUAL RETIREMENT ACCOUNT OR
11 INDIVIDUAL RETIREMENT ANNUITY UNDER 26 UNITED STATES CODE SECTION 408A.

12 12. "SPECIFIED TAX-FAVORED RETIREMENT PLAN" MEANS A RETIREMENT PLAN
13 THAT IS TAX-QUALIFIED UNDER OR IS DESCRIBED IN AND SATISFIES THE
14 REQUIREMENTS OF 26 UNITED STATES CODE SECTION 401(a), 401(k), 403(a),
15 403(b), 408(k), 408(p) OR 457(b) WITHOUT REGARD TO WHETHER IT CONSTITUTES
16 AN EMPLOYEE BENEFIT PLAN UNDER ERISA.

17 13. "TRADITIONAL IRA" MEANS A TRADITIONAL INDIVIDUAL RETIREMENT
18 ACCOUNT OR TRADITIONAL INDIVIDUAL RETIREMENT ANNUITY UNDER 26 UNITED
19 STATES CODE SECTION 408(a) OR 408(b).

20 14. "WAGES" MEANS ANY COMPENSATION WITHIN THE MEANING OF 26 UNITED
21 STATES CODE SECTION 219(f)(1) THAT IS RECEIVED BY AN EMPLOYEE FROM AN
22 EMPLOYER DURING A CALENDAR YEAR.

23 38-1202. Board; members; appointment; terms; reimbursement

24 A. THE ARIZONA RETIREMENT SAVINGS BOARD IS ESTABLISHED TO DEVELOP
25 AND MAINTAIN THE ARIZONA RETIREMENT SAVINGS PROGRAM FOR INDIVIDUALS WHO
26 ARE EMPLOYED OR SELF-EMPLOYED FOR WAGES OR OTHER COMPENSATION IN THIS
27 STATE. THE BOARD CONSISTS OF THE STATE TREASURER OR THE STATE TREASURER'S
28 DESIGNEE AND EIGHT MEMBERS APPOINTED BY THE GOVERNOR WHO HAVE EXPERIENCE
29 WITH RETIREMENT PLANS, FINANCIAL SECURITY OR EMPLOYEE AND EMPLOYER ISSUES.

30 B. THE TERM OF OFFICE OF EACH MEMBER OF THE BOARD APPOINTED BY THE
31 GOVERNOR IS FOUR YEARS. A MEMBER IS ELIGIBLE FOR REAPPOINTMENT. IF THERE
32 IS A VACANCY FOR ANY REASON FOR A MEMBER APPOINTED BY THE GOVERNOR, THE
33 GOVERNOR SHALL MAKE A MEMBER APPOINTMENT THAT IS IMMEDIATELY EFFECTIVE FOR
34 THE REMAINDER OF THE UNEXPIRED TERM. THE MEMBERS OF THE BOARD SHALL ELECT
35 ONE OF ITS MEMBERS ANNUALLY TO SERVE AS CHAIRPERSON.

36 C. A MAJORITY OF THE VOTING MEMBERS OF THE BOARD CONSTITUTES A
37 QUORUM FOR THE TRANSACTION OF BUSINESS.

38 D. APPOINTED MEMBERS OF THE BOARD ARE NOT ELIGIBLE FOR COMPENSATION
39 BUT ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT TO CHAPTER
40 4, ARTICLE 2 OF THIS TITLE.

41 E. EXCEPT AS OTHERWISE PROVIDED, THE STATE TREASURER'S OFFICES
42 SHALL PROVIDE SUPPORT STAFF TO THE BOARD. THE BOARD SHALL REIMBURSE THE
43 STATE TREASURER'S OFFICE FOR THE FULL COST OF ANY STAFF TIME PROVIDED TO
44 THE BOARD.

1 F. THE FIRST MEETING OF THE BOARD SHALL BE NOT LATER THAN MAY 1,
2 2025.

3 38-1203. Duties of the board; requirement of the program

4 THE BOARD SHALL:

5 1. CONDUCT MARKET, LEGAL AND FEASIBILITY ANALYSES IF THE BOARD
6 CONSIDERS THEM ADVISABLE.

7 2. ADOPT RULES THE BOARD CONSIDERS NECESSARY OR ADVISABLE FOR THE
8 IMPLEMENTATION AND GENERAL ADMINISTRATION AND OPERATION OF THE PROGRAM AS
9 PROVIDED IN SECTION 38-1204, CONSISTENT WITH THE INTERNAL REVENUE CODE AND
10 REGULATIONS UNDER THE INTERNAL REVENUE CODE, INCLUDING TO ENSURE THAT THE
11 PROGRAM SATISFIES ALL CRITERIA FOR FAVORABLE FEDERAL TAX TREATMENT AND
12 COMPLIES, TO THE EXTENT NECESSARY, WITH ANY OTHER APPLICABLE FEDERAL OR
13 STATE LAW.

14 3. USE PRIVATE SECTOR PARTNERSHIPS TO CONTRACT WITH A PROGRAM
15 ADMINISTRATOR TO ADMINISTER THE PROGRAM AND MANAGE THE INVESTMENTS UNDER
16 THE SUPERVISION AND GUIDANCE OF THE BOARD IN ACCORDANCE WITH THIS CHAPTER.

17 4. CAUSE FUNDS TO BE HELD AND INVESTED AND REINVESTED UNDER THE
18 PROGRAM.

19 5. DEVELOP AND IMPLEMENT AN INVESTMENT POLICY THAT DEFINES THE
20 PROGRAM'S INVESTMENT OBJECTIVES CONSISTENT WITH THE OBJECTIVES OF THE
21 PROGRAM AND THAT PROVIDES FOR POLICIES AND PROCEDURES CONSISTENT WITH
22 THOSE INVESTMENT OBJECTIVES. THE BOARD SHALL STRIVE TO SELECT AND OFFER
23 INVESTMENT OPTIONS AVAILABLE TO PARTICIPANTS AND OTHER PROGRAM FEATURES
24 THAT ARE INTENDED TO ACHIEVE MAXIMUM POSSIBLE INCOME REPLACEMENT BALANCED
25 WITH AN APPROPRIATE LEVEL OF RISK IN AN IRA-BASED ENVIRONMENT CONSISTENT
26 WITH THE INVESTMENT OBJECTIVES UNDER THE POLICY. THE INVESTMENT OPTIONS
27 MAY ENCOMPASS A RANGE OF RISK AND RETURN OPPORTUNITIES AND ALLOW FOR A
28 RATE OF RETURN COMMENSURATE WITH AN APPROPRIATE LEVEL OF RISK IN VIEW OF
29 THE INVESTMENT OBJECTIVES UNDER THE POLICY. THE MENU OF INVESTMENT
30 OPTIONS MUST BE DETERMINED BY CONSIDERING THE NATURE AND OBJECTIVES OF THE
31 PROGRAM, THE DESIRABILITY BASED ON BEHAVIORAL RESEARCH FINDINGS OF
32 LIMITING INVESTMENT OPTIONS UNDER THE PROGRAM TO A REASONABLE NUMBER AND
33 THE EXTENSIVE INVESTMENT OPTIONS AVAILABLE TO PARTICIPANTS IN THE EVENT
34 THAT THEY ROLL OVER FUNDS IN AN IRA ESTABLISHED UNDER THE PROGRAM TO AN
35 IRA OUTSIDE THE PROGRAM. IN ACCORDANCE WITH PARAGRAPHS 11 AND 15 OF THIS
36 SUBSECTION, THE BOARD, IN CARRYING OUT ITS RESPONSIBILITIES AND EXERCISING
37 ITS POWERS UNDER THIS CHAPTER, SHALL EMPLOY OR RETAIN APPROPRIATE ENTITIES
38 OR PERSONNEL TO ASSIST OR ADVISE THE BOARD AND TO WHOM TO DELEGATE THE
39 CARRYING OUT OF SUCH RESPONSIBILITIES AND EXERCISE OF SUCH POWERS.

40 6. ARRANGE FOR COLLECTIVE, COMMON AND POOLED INVESTMENT OF ASSETS
41 OF THE PROGRAM AND FUND, INCLUDING INVESTMENTS IN CONJUNCTION WITH OTHER
42 FUNDS WITH WHICH THESE ASSETS ARE ALLOWED TO BE COLLECTIVELY INVESTED,
43 WITH A VIEW TO SAVING COSTS THROUGH EFFICIENCIES AND ECONOMIES OF SCALE.

1 7. CAUSE THE PROGRAM, THE FUND AND THE ARRANGEMENTS AND ACCOUNTS
2 ESTABLISHED UNDER THE PROGRAM TO BE DESIGNED, ESTABLISHED AND OPERATED
3 CONSISTENT WITH ALL OF THE FOLLOWING:

4 (a) IN ACCORDANCE WITH BEST PRACTICES FOR RETIREMENT SAVINGS
5 ACCOUNTS.

6 (b) TO ENCOURAGE PARTICIPATION AND SAVING AND TO MAKE IT SIMPLE,
7 EASY AND CONVENIENT FOR PARTICIPANTS TO CONTRIBUTE AND MANAGE THEIR
8 SAVINGS.

9 (c) TO PROMOTE SOUND INVESTMENT PRACTICES AND APPROPRIATE
10 INVESTMENT MENUS AND DEFAULT INVESTMENTS.

11 (d) TO MAXIMIZE SIMPLICITY AND EASE OF ADMINISTRATION FOR COVERED
12 EMPLOYERS.

13 (e) TO MINIMIZE COSTS, INCLUDING BY COLLECTIVE INVESTMENT AND
14 ECONOMIES OF SCALE.

15 (f) TO PROMOTE PORTABILITY OF BENEFITS.

16 (g) TO AVOID PREEMPTION OF THE PROGRAM BY FEDERAL LAW.

17 8. EDUCATE PARTICIPANTS AND POTENTIAL PARTICIPANTS ON THE BENEFITS
18 OF PLANNING AND SAVING FOR RETIREMENT, HELP THEM DECIDE THE LEVEL OF
19 PARTICIPATION AND SAVING STRATEGIES THAT MAY BE APPROPRIATE FOR THEM AND
20 HELP THEM DEVELOP GREATER FINANCIAL CAPABILITY AND FINANCIAL LITERACY,
21 INCLUDING THROUGH PARTNERSHIPS WITH ORGANIZATIONS BASED IN THIS STATE
22 SPECIALIZING IN FINANCIAL LITERACY EDUCATION.

23 9. IN ACCORDANCE WITH RULES ADOPTED BY THE BOARD, DETERMINE THE
24 ELIGIBILITY OF AN EMPLOYER, EMPLOYEE OR OTHER INDIVIDUAL TO PARTICIPATE IN
25 THE PROGRAM, INCLUDING CONDITIONS UNDER WHICH AN EMPLOYER THAT TERMINATES
26 THE OFFERING OF A SPECIFIED TAX-FAVORED RETIREMENT PLAN CAN BECOME A
27 COVERED EMPLOYER ELIGIBLE TO PARTICIPATE IN THE PROGRAM.

28 10. ARRANGE FOR AND FACILITATE COMPLIANCE BY THE PROGRAM OR
29 ARRANGEMENTS ESTABLISHED UNDER THE PROGRAM WITH ALL REQUIREMENTS
30 APPLICABLE TO THE PROGRAM UNDER THE INTERNAL REVENUE CODE, INCLUDING
31 REQUIREMENTS FOR FAVORABLE TAX TREATMENT OF THE IRAS, AND ANY OTHER
32 APPLICABLE FEDERAL OR STATE LAW OR ACCOUNTING REQUIREMENTS, INCLUDING
33 USING ITS BEST EFFORTS TO IMPLEMENT PROCEDURES MINIMIZING THE RISK THAT
34 COVERED EMPLOYEES WILL EXCEED THE LIMITS ON TAX-FAVORED IRA CONTRIBUTIONS
35 THAT THEY ARE ELIGIBLE TO MAKE AND OTHERWISE PROVIDING OR ARRANGING FOR
36 ASSISTANCE TO COVERED EMPLOYERS AND COVERED EMPLOYEES IN COMPLYING WITH
37 APPLICABLE LAW AND TAX-RELATED REQUIREMENTS IN A COST EFFECTIVE MANNER.
38 THE BOARD MAY ESTABLISH ANY PROCESSES IT REASONABLY CONSIDERS TO BE
39 NECESSARY OR ADVISABLE TO VERIFY WHETHER AN EMPLOYER IS A COVERED
40 EMPLOYER, INCLUDING REFERENCE TO ONLINE DATA AND POSSIBLE USE OF QUESTIONS
41 IN EMPLOYER STATE TAX FILINGS, CONSISTENT WITH THE OBJECTIVE OF AVOIDING
42 TO THE FULLEST EXTENT PRACTICABLE ANY NEED TO REQUIRE EMPLOYERS THAT ARE
43 NOT COVERED EMPLOYERS TO REGISTER WITH THE PROGRAM OR TAKE OTHER ACTION TO
44 DEMONSTRATE THAT THEY MAINTAIN SPECIFIED TAX-FAVORED RETIREMENT PLANS OR
45 ARE EXEMPT FOR OTHER REASONS FROM BEING TREATED AS COVERED EMPLOYERS.

1 11. EMPLOY OR OTHERWISE RETAIN A PROGRAM ADMINISTRATOR, AN
2 EXECUTIVE DIRECTOR, STAFF, A TRUSTEE, A RECORD KEEPER, INVESTMENT
3 MANAGERS, INVESTMENT ADVISORS, OTHER ADMINISTRATIVE, PROFESSIONAL AND
4 EXPERT ADVISORS AND SERVICE PROVIDERS, NONE OF WHOM MAY BE MEMBERS OF THE
5 BOARD AND ALL OF WHOM SERVE AT THE PLEASURE OF THE BOARD, AND THE BOARD
6 SHALL DETERMINE THEIR DUTIES AND COMPENSATION. THE BOARD MAY AUTHORIZE
7 THE EXECUTIVE DIRECTOR EMPLOYED BY THE BOARD TO ENTER INTO CONTRACTS, AS
8 DESCRIBED IN PARAGRAPH 15 OF THIS SUBSECTION, ON BEHALF OF THE BOARD OR
9 CONDUCT ANY BUSINESS NECESSARY FOR THE EFFICIENT OPERATION OF THE BOARD.

10 12. DISCHARGE ITS DUTIES AND ENSURE THAT THE MEMBERS OF THE BOARD
11 DISCHARGE THEIR DUTIES WITH RESPECT TO THE PROGRAM SOLELY IN THE INTEREST
12 OF THE PARTICIPANTS AS FOLLOWS:

13 (a) FOR THE EXCLUSIVE PURPOSE OF PROVIDING BENEFITS TO PARTICIPANTS
14 AND DEFRAYING REASONABLE EXPENSES OF ADMINISTERING THE PROGRAM.

15 (b) WITH THE CARE, SKILL, PRUDENCE AND DILIGENCE UNDER THE
16 CIRCUMSTANCES THEN PREVAILING THAT PERSONS OF PRUDENCE, DISCRETION AND
17 INTELLIGENCE, ACTING IN A LIKE CAPACITY AND FAMILIAR WITH THOSE MATTERS,
18 WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE CHARACTER AND WITH
19 LIKE AIMS.

20 13. MAKE PROVISION FOR COSTS AND EXPENSES INCURRED TO INITIATE,
21 IMPLEMENT, MAINTAIN, MANAGE AND ADMINISTER THE PROGRAM AND ITS INVESTMENTS
22 TO BE PAID OR DEFRAYED FROM INVESTMENT RETURNS OR ASSETS OF THE PROGRAM OR
23 FROM THE CHARGING AND COLLECTION OF OTHER FEES, CHARGES OR FUNDS, WHETHER
24 ACCOUNT-BASED, ASSET-BASED, PER CAPITA OR OTHERWISE, BY OR FOR THE PROGRAM
25 OR PURSUANT TO ARRANGEMENTS ESTABLISHED UNDER THE PROGRAM TO THE EXTENT
26 ALLOWED UNDER FEDERAL AND STATE LAW.

27 14. ACCEPT ANY GRANTS, GIFTS, LEGISLATIVE APPROPRIATION, LOANS AND
28 OTHER FUNDS FROM THIS STATE, ANY UNIT OF FEDERAL, STATE OR LOCAL
29 GOVERNMENT OR ANY OTHER PERSON, FIRM OR ENTITY TO DEFRAY THE COSTS OF
30 ADMINISTERING AND OPERATING THE PROGRAM IN ACCORDANCE WITH THE
31 REQUIREMENTS OF THIS CHAPTER.

32 15. MAKE AND ENTER INTO CONTRACTS, AGREEMENTS OR ARRANGEMENTS FOR
33 AND COLLABORATE AND COOPERATE WITH AND RETAIN, EMPLOY AND CONTRACT WITH OR
34 FOR ANY OF THE FOLLOWING TO THE EXTENT THE BOARD CONSIDERS NECESSARY OR
35 ADVISABLE FOR THE EFFECTIVE AND EFFICIENT DESIGN, IMPLEMENTATION AND
36 ADMINISTRATION OF THE PROGRAM CONSISTENT WITH THE PURPOSES SET FORTH IN
37 THIS CHAPTER AND TO MAXIMIZE OUTREACH TO COVERED EMPLOYERS AND COVERED
38 EMPLOYEES:

39 (a) SERVICES OF PRIVATE AND PUBLIC FINANCIAL INSTITUTIONS,
40 DEPOSITORIES, CONSULTANTS, ACTUARIES, COUNSEL, AUDITORS, INVESTMENT
41 ADVISORS, INVESTMENT ADMINISTRATORS, INVESTMENT MANAGEMENT FIRMS, OTHER
42 INVESTMENT FIRMS, THIRD-PARTY ADMINISTRATORS, OTHER PROFESSIONALS AND
43 SERVICE PROVIDERS, THE RETIREMENT SYSTEM, THE STATE TREASURER'S OFFICE,
44 OTHER STATE TREASURERS AND OTHER STATE PUBLIC RETIREMENT SYSTEMS.

1 (b) RESEARCH, TECHNICAL, FINANCIAL, ADMINISTRATIVE AND OTHER
2 SERVICES.

3 (c) SERVICES OF OTHER STATE AGENCIES AND INSTRUMENTALITIES,
4 INCLUDING THOSE WITH RESPONSIBILITIES FOR TAX COLLECTION, BUDGET, FINANCE,
5 LABOR AND EMPLOYMENT REGULATION, CONSUMER PROTECTION, BUSINESS REGULATION
6 AND LIAISON, BENEFITS AND PUBLIC ASSISTANCE, TO ASSIST THE BOARD IN THE
7 EXERCISE OF ITS POWERS AND DUTIES, AND ALL SUCH AGENCIES AND
8 INSTRUMENTALITIES SHALL PROVIDE SUCH ASSISTANCE AT THE BOARD'S REQUEST.

9 (d) SERVICES TO DEVELOP AND IMPLEMENT OUTREACH EFFORTS TO GAIN
10 INPUT AND DISSEMINATE INFORMATION REGARDING THE PROGRAM AND RETIREMENT
11 SAVING IN GENERAL, INCLUDING TIMELY INFORMATION TO COVERED EMPLOYERS
12 REGARDING THE PROGRAM AND HOW IT APPLIES TO THEM, WITH SPECIAL EMPHASIS ON
13 THEIR ABILITY AT ANY TIME TO SPONSOR A SPECIFIED TAX-FAVORED RETIREMENT
14 PLAN THAT WOULD EXEMPT THEM FROM ANY RESPONSIBILITIES UNDER THE PROGRAM.

15 16. ENSURE THAT ALL CONTRIBUTIONS TO AN IRA UNDER THE PROGRAM ARE
16 USED ONLY TO PAY BENEFITS TO PARTICIPANTS UNDER THE PROGRAM, PAY THE COST
17 OF ADMINISTERING THE PROGRAM OR MAKE INVESTMENTS FOR THE BENEFIT OF THE
18 PROGRAM AND THAT NO ASSETS OF THE PROGRAM OR FUND ARE TRANSFERRED TO THE
19 STATE GENERAL FUND OR TO ANY OTHER FUND OF THIS STATE OR ARE OTHERWISE
20 ENCUMBERED OR USED FOR ANY OTHER PURPOSE.

21 17. CONSIDER WHETHER PROCEDURES SHOULD BE ADOPTED TO ALLOW
22 EMPLOYERS THAT ARE NOT COVERED EMPLOYERS BECAUSE THEY ARE EXEMPT FROM
23 COVERED EMPLOYER STATUS TO VOLUNTARILY PARTICIPATE IN THE PROGRAM BY
24 AUTOMATICALLY ENROLLING THEIR EMPLOYEES, CONSIDERING, AMONG OTHER FACTORS,
25 THE POTENTIAL LEGAL CONSEQUENCES AND THE DEGREE OF EMPLOYER DEMAND TO
26 PARTICIPATE OR FACILITATE PARTICIPATION BY EMPLOYEES.

27 18. EVALUATE THE NEED FOR, AND PROCURE IF AND AS CONSIDERED
28 NECESSARY, INSURANCE AGAINST ANY LOSS IN CONNECTION WITH THE PROPERTY,
29 ASSETS OR ACTIVITIES OF THE PROGRAM, INCLUDING, IF AND AS CONSIDERED
30 NECESSARY, POOLED PRIVATE INSURANCE.

31 19. INDEMNIFY, INCLUDING PROCUREMENT OF INSURANCE IF AND AS NEEDED
32 FOR THIS PURPOSE, EACH MEMBER OF THE BOARD FROM PERSONAL LOSS OR LIABILITY
33 RESULTING FROM A MEMBER'S ACTION OR INACTION AS A MEMBER OF THE BOARD.

34 20. COLLABORATE WITH, AND EVALUATE THE ROLE OF, FINANCIAL ADVISORS
35 OR OTHER FINANCIAL PROFESSIONALS, INCLUDING IN ASSISTING AND PROVIDING
36 GUIDANCE FOR COVERED EMPLOYEES.

37 21. ALONG WITH ITS MEMBERS, THE PROGRAM ADMINISTRATOR AND OTHER
38 STAFF OF THE BOARD, COMPLY WITH ANY APPLICABLE STATE ETHICS AND GIFT LAWS,
39 PROCUREMENT CODES AND RESTRICTIONS AND RESTRICTIONS ON HONORARIA AND MAY
40 NOT DO ANY OF THE FOLLOWING:

41 (a) DIRECTLY OR INDIRECTLY HAVE ANY INTEREST IN THE MAKING OF ANY
42 INVESTMENT UNDER THE PROGRAM OR IN GAINS OR PROFITS ACCRUING FROM ANY SUCH
43 INVESTMENT.

1 (b) BORROW ANY PROGRAM-RELATED FUNDS OR DEPOSITS, OR USE ANY SUCH
2 FUNDS OR DEPOSITS IN ANY MANNER, FOR THE BENEFIT OF THE BOARD OR ANY
3 MEMBER OR AS AN AGENT OR PARTNER OF OTHERS.

4 (c) BECOME AN ENDORSER, SURETY OR OBLIGOR ON INVESTMENTS MADE UNDER
5 THE PROGRAM.

6 22. CARRY OUT ITS POWERS AND DUTIES UNDER THE PROGRAM PURSUANT TO
7 THIS CHAPTER AND EXERCISE ANY OTHER POWERS AS ARE APPROPRIATE FOR THE
8 EFFECTUATION OF THE PURPOSES, OBJECTIVES AND PROVISIONS OF THIS CHAPTER
9 PERTAINING TO THE PROGRAM.

10 38-1204. Required elements of the program: implementation

11 A. CONSISTENT WITH THE IMPLEMENTATION DATES IN SUBSECTION B OF THIS
12 SECTION, THE PROGRAM SHALL:

13 1. ALLOW AN ELIGIBLE INDIVIDUAL IN THIS STATE TO CHOOSE WHETHER TO
14 CONTRIBUTE TO AN IRA UNDER THE PROGRAM, INCLUDING ALLOWING A COVERED
15 EMPLOYEE IN THIS STATE THE CHOICE TO CONTRIBUTE TO AN IRA UNDER THE
16 PROGRAM THROUGH A PAYROLL DEDUCTION IRA ARRANGEMENT.

17 2. NOTWITHSTANDING ANY PROVISION OF STATE LAW RELATED TO PAYROLL
18 DEDUCTION, REQUIRE EACH COVERED EMPLOYER TO OFFER ITS COVERED EMPLOYEES
19 THE CHOICE WHETHER TO CONTRIBUTE TO A PAYROLL DEDUCTION IRA BY
20 AUTOMATICALLY ENROLLING THEM IN THE PAYROLL DEDUCTION IRA WITH THE
21 OPPORTUNITY TO OPT OUT. A COVERED EMPLOYEE WHO IS NOT A PARTICIPANT
22 BECAUSE THAT EMPLOYEE HAS OPTED OUT WILL BE AUTOMATICALLY REENROLLED WITH
23 THE OPPORTUNITY TO OPT OUT AGAIN AT REGULAR OR AD HOC INTERVALS DETERMINED
24 BY THE BOARD IN ITS DISCRETION, BUT NOT MORE FREQUENTLY THAN ANNUALLY.

25 3. PROVIDE THAT THE IRA TO WHICH CONTRIBUTIONS ARE MADE IS A ROTH
26 IRA, EXCEPT THAT THE BOARD HAS THE AUTHORITY AT ANY TIME, IN ITS
27 DISCRETION, TO ADD AN OPTION FOR ALL PARTICIPANTS TO AFFIRMATIVELY ELECT
28 TO CONTRIBUTE TO A TRADITIONAL IRA AS AN ALTERNATIVE TO THE ROTH IRA.

29 4. PROVIDE THAT, UNLESS OTHERWISE SPECIFIED BY THE COVERED
30 EMPLOYEE, A COVERED EMPLOYEE MUST AUTOMATICALLY INITIALLY CONTRIBUTE FIVE
31 PERCENT OF THE COVERED EMPLOYEE'S SALARY OR WAGES TO THE PROGRAM AND MAY
32 ELECT TO OPT OUT OF THE PROGRAM AT ANY TIME OR CONTRIBUTE AT ANY HIGHER OR
33 LOWER RATE, EXPRESSED AS A PERCENTAGE OF SALARY OR WAGES OR, IF THE BOARD
34 IN ITS DISCRETION ALLOWS, EXPRESSED AS A FLAT DOLLAR AMOUNT, SUBJECT IN
35 ALL CASES TO THE IRA CONTRIBUTION AND INCOME ELIGIBILITY LIMITS APPLICABLE
36 UNDER THE INTERNAL REVENUE CODE AT NO ADDITIONAL CHARGE. THE BOARD IS
37 AUTHORIZED TO CHANGE, FROM TIME TO TIME, THE FIVE PERCENT AUTOMATIC
38 INITIAL DEFAULT CONTRIBUTION RATE FOR ALL COVERED EMPLOYEES IN ITS
39 DISCRETION.

40 5. PROVIDE ON A UNIFORM BASIS, IF AND WHEN THE BOARD SO DETERMINES
41 IN ITS DISCRETION, FOR AN ANNUAL INCREASE OF EACH PARTICIPANT'S
42 CONTRIBUTION RATE, BY NOT MORE THAN ONE PERCENT OF SALARY OR WAGES PER
43 YEAR UP TO A MAXIMUM OF EIGHT PERCENT. ANY SUCH INCREASES MUST APPLY TO
44 PARTICIPANTS, AS DETERMINED BY THE BOARD IN ITS DISCRETION, EITHER BY
45 DEFAULT OR ONLY IF INITIATED BY AFFIRMATIVE PARTICIPANT ELECTION AND ARE

1 IN EITHER CASE SUBJECT TO THE IRA CONTRIBUTION AND INCOME ELIGIBILITY
2 LIMITS APPLICABLE UNDER THE INTERNAL REVENUE CODE.

3 6. PROVIDE FOR DIRECT DEPOSIT OF CONTRIBUTIONS INTO INVESTMENTS
4 UNDER THE PROGRAM, INCLUDING A DEFAULT INVESTMENT SUCH AS A SERIES OF
5 TARGET DATE FUNDS AND A LIMITED NUMBER OF INVESTMENT ALTERNATIVES,
6 INCLUDING A PRINCIPAL PRESERVATION OPTION DETERMINED BY THE BOARD. IN
7 ADDITION, THE BOARD MAY PROVIDE THAT EACH PARTICIPANT'S INITIAL
8 CONTRIBUTIONS, UP TO A SPECIFIED DOLLAR AMOUNT OR FOR A SPECIFIED PERIOD
9 OF TIME, ARE REQUIRED TO BE INVESTED IN A PRINCIPAL PRESERVATION
10 INVESTMENT OR, IN THE BOARD'S DISCRETION, MUST BE DEFAULTED INTO SUCH AN
11 INVESTMENT UNLESS THE PARTICIPANT AFFIRMATIVELY OPTS FOR A DIFFERENT
12 INVESTMENT FOR THOSE CONTRIBUTIONS. THE BOARD SHALL DETERMINE HOW OFTEN
13 PARTICIPANTS WILL HAVE THE OPPORTUNITY TO CHANGE THEIR SELECTIONS OF
14 INVESTMENTS FOR FUTURE CONTRIBUTIONS OR EXISTING BALANCES OR BOTH.

15 7. PROVIDE THAT EMPLOYER CONTRIBUTIONS BY A COVERED EMPLOYER ARE
16 NOT REQUIRED OR ALLOWED.

17 8. BE PROFESSIONALLY MANAGED.

18 9. WHEN POSSIBLE AND PRACTICABLE, USE EXISTING EMPLOYER AND PUBLIC
19 INFRASTRUCTURE TO FACILITATE CONTRIBUTIONS, RECORD KEEPING AND OUTREACH
20 AND USE POOLED OR COLLECTIVE INVESTMENT ARRANGEMENTS FOR AMOUNTS
21 CONTRIBUTED TO THE PROGRAM.

22 10. REQUIRE THE MAINTENANCE OF SEPARATE RECORDS AND ACCOUNTING FOR
23 EACH ACCOUNT UNDER THE PROGRAM AND ALLOW FOR PARTICIPANTS TO MAINTAIN
24 THEIR ACCOUNTS REGARDLESS OF PLACE OF EMPLOYMENT AND TO ROLL OVER FUNDS
25 INTO OTHER IRAS OR OTHER RETIREMENT ACCOUNTS.

26 11. PROVIDE FOR REPORTS ON THE STATUS OF EACH PARTICIPANT'S ACCOUNT
27 TO BE PROVIDED TO EACH PARTICIPANT AT LEAST ANNUALLY AND MAKE BEST EFFORTS
28 TO PROVIDE EACH PARTICIPANT FREQUENT OR CONTINUAL ONLINE ACCESS TO
29 INFORMATION ON THE STATUS OF THAT PARTICIPANT'S ACCOUNT.

30 12. PROVIDE THAT EACH PARTICIPANT OWNS THE CONTRIBUTIONS TO AND
31 EARNINGS ON AMOUNTS CONTRIBUTED TO THE PARTICIPANT'S ACCOUNT UNDER THE
32 PROGRAM AND THAT THIS STATE AND COVERED EMPLOYERS HAVE NO PROPRIETARY
33 INTEREST IN THOSE CONTRIBUTIONS OR EARNINGS.

34 13. BE DESIGNED AND IMPLEMENTED IN A MANNER CONSISTENT WITH FEDERAL
35 LAW TO THE EXTENT THAT IT APPLIES AND IS CONSISTENT WITH THE PROGRAM NOT
36 BEING PREEMPTED BY AND THE PAYROLL DEDUCTION IRAS AND COVERED EMPLOYERS
37 NOT BEING SUBJECT TO ERISA.

38 14. PROMOTE EXPANDED RETIREMENT SAVING BY ENCOURAGING EMPLOYERS IN
39 THIS STATE THAT WOULD OTHERWISE BE COVERED EMPLOYERS TO INSTEAD ADOPT A
40 SPECIFIED TAX-FAVORED RETIREMENT PLAN.

41 15. MAKE PROVISION FOR PARTICIPATION IN THE PROGRAM BY INDIVIDUALS
42 WHO ARE NOT EMPLOYEES, SUCH AS SELF-EMPLOYED INDIVIDUALS AND INDEPENDENT
43 CONTRACTORS, AS PROVIDED IN RULES ADOPTED PURSUANT TO SECTION 38-1207.

44 16. SEEK TO KEEP FEES, COSTS AND EXPENSES OF THE PROGRAM AS LOW AS
45 PRACTICABLE, EXCEPT THAT ANY ADMINISTRATIVE FEE IMPOSED ON A COVERED

1 EMPLOYEE FOR PARTICIPATING IN THE PROGRAM SHOULD BE SIMILAR TO ESTABLISHED
2 PROGRAMS IN OTHER STATES. THE FEE MAY BE AN ASSET-BASED OR INVESTMENT
3 RETURN FEE, FLAT FEE OR HYBRID OF THE PERMISSIBLE FEE STRUCTURES
4 IDENTIFIED IN THIS PARAGRAPH.

5 17. ADOPT RULES AND ESTABLISH PROCEDURES GOVERNING THE DISTRIBUTION
6 OF MONIES FROM THE PROGRAM, INCLUDING SUCH DISTRIBUTIONS AS MAY BE ALLOWED
7 OR REQUIRED BY THE PROGRAM AND ANY APPLICABLE PROVISIONS OF TAX LAWS, WITH
8 THE OBJECTIVES OF MAXIMIZING FINANCIAL SECURITY IN RETIREMENT, HELPING TO
9 PROTECT SPOUSAL RIGHTS AND ASSISTING PARTICIPANTS WITH THE CHALLENGES OF
10 DECUMULATION OF SAVINGS. THE BOARD HAS THE AUTHORITY TO PROVIDE FOR ONE
11 OR MORE REASONABLY PRICED DISTRIBUTION OPTIONS TO PROVIDE A SOURCE OF
12 REGULAR RETIREMENT INCOME, INCLUDING INCOME FOR LIFE OR FOR THE
13 PARTICIPANT'S LIFE EXPECTANCY OR FOR JOINT LIVES AND LIFE EXPECTANCIES, AS
14 APPLICABLE.

15 18. ADOPT RULES AND ESTABLISH PROCEDURES PROMOTING PORTABILITY OF
16 BENEFITS, INCLUDING THE ABILITY TO MAKE TAX-FREE ROLLOVERS OR TRANSFERS
17 FROM IRAS UNDER THE PROGRAM TO OTHER IRAS OR TO TAX-QUALIFIED PLANS THAT
18 ACCEPT SUCH ROLLOVERS OR TRANSFERS.

19 19. ESTABLISH PENALTIES IN ACCORDANCE WITH SECTION 38-1205 FOR A
20 COVERED EMPLOYER THAT FAILS WITHOUT REASONABLE CAUSE TO ENROLL A COVERED
21 EMPLOYEE IN THE PROGRAM AS REQUIRED OR THAT FAILS TO TRANSMIT A PAYROLL
22 DEDUCTION IRA CONTRIBUTION TO THE PROGRAM AS REQUIRED.

23 20. IN ACCORDANCE WITH SECTION 38-1203, PARAGRAPH 3, USE PRIVATE
24 SECTOR ENTITIES TO ADMINISTER THE PROGRAM AND INVEST THE CONTRIBUTIONS TO
25 THE PROGRAM UNDER THE SUPERVISION AND GUIDANCE OF THE BOARD.

26 21. ALLOW THE BOARD TO PROVIDE FOR THE ESTABLISHMENT, MAINTENANCE,
27 ADMINISTRATION, OPERATION AND IMPLEMENTATION OF THE PROGRAM TO BE CARRIED
28 OUT JOINTLY WITH, OR IN PARTNERSHIP, COLLABORATION, COORDINATION OR
29 ALLIANCE WITH ONE OR MORE OTHER STATES, THE FEDERAL GOVERNMENT OR ANY
30 FEDERAL, STATE OR LOCAL AGENCIES OR INSTRUMENTALITIES.

31 B. THE BOARD SHALL IMPLEMENT THE PROGRAM AS FOLLOWS:

32 1. BEGINNING APRIL 1, 2026, THE BOARD SHALL REQUIRE A COVERED
33 EMPLOYER WITH TWENTY-FIVE OR MORE COVERED EMPLOYEES TO OFFER THE PROGRAM
34 TO ITS COVERED EMPLOYEES.

35 2. BEGINNING OCTOBER 1, 2026, THE BOARD SHALL REQUIRE A COVERED
36 EMPLOYER WITH FIFTEEN TO TWENTY-FOUR COVERED EMPLOYEES TO OFFER THE
37 PROGRAM TO ITS COVERED EMPLOYEES.

38 3. BEGINNING APRIL 1, 2027, THE BOARD SHALL REQUIRE A COVERED
39 EMPLOYER WITH ONE TO FOURTEEN COVERED EMPLOYEES TO OFFER THE PROGRAM TO
40 ITS COVERED EMPLOYEES.

41 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A COVERED EMPLOYER
42 MAY VOLUNTARILY OFFER THE PROGRAM TO ITS COVERED EMPLOYEES ON OR AFTER
43 APRIL 1, 2026.

1 38-1205. Penalties

2 A. IF A COVERED EMPLOYER FAILS TO ENROLL A COVERED EMPLOYEE WITHOUT
3 REASONABLE CAUSE, THE COVERED EMPLOYER IS SUBJECT TO A PENALTY FOR EACH
4 COVERED EMPLOYEE FOR EACH CALENDAR YEAR OR PORTION OF A CALENDAR YEAR
5 DURING WHICH THE COVERED EMPLOYEE WAS NOT ENROLLED IN THE PROGRAM OR HAD
6 NOT OPTED OUT OF PARTICIPATING IN THE PROGRAM AND, FOR EACH CALENDAR YEAR
7 BEGINNING AFTER THE DATE ON WHICH A PENALTY HAS BEEN ASSESSED WITH RESPECT
8 TO A COVERED EMPLOYEE, IS SUBJECT TO A PENALTY FOR ANY PORTION OF THAT
9 CALENDAR YEAR DURING WHICH THE COVERED EMPLOYEE CONTINUES TO BE UNENROLLED
10 WITHOUT OPTING OUT OF PARTICIPATING IN THE PROGRAM. THE AMOUNT OF ANY
11 PENALTY IMPOSED ON A COVERED EMPLOYER FOR THE FAILURE TO ENROLL A COVERED
12 EMPLOYEE WITHOUT REASONABLE CAUSE IS DETERMINED AS FOLLOWS:

13 1. BEFORE APRIL 1, 2027, THE MAXIMUM PENALTY PER COVERED EMPLOYEE
14 IS \$10.

15 2. BEGINNING APRIL 1, 2027 TO MARCH 31, 2028, THE MAXIMUM PENALTY
16 PER COVERED EMPLOYEE IS \$20.

17 3. BEGINNING APRIL 1, 2028 TO SEPTEMBER 30, 2029, THE MAXIMUM
18 PENALTY PER COVERED EMPLOYEE IS \$50.

19 4. ON OR AFTER OCTOBER 1, 2029, THE MAXIMUM PENALTY PER COVERED
20 EMPLOYEE IS \$100.

21 B. A PENALTY MAY NOT BE IMPOSED ON A COVERED EMPLOYER FOR ANY
22 FAILURE TO ENROLL A COVERED EMPLOYEE FOR WHICH IT IS ESTABLISHED THAT THE
23 COVERED EMPLOYER DID NOT KNOW THAT THE FAILURE EXISTED AND EXERCISED
24 REASONABLE DILIGENCE TO MEET THE REQUIREMENTS OF THIS CHAPTER.

25 C. A PENALTY MAY NOT BE IMPOSED ON A COVERED EMPLOYER FOR ANY
26 FAILURE TO ENROLL A COVERED EMPLOYEE IF THE COVERED EMPLOYER EXERCISED
27 REASONABLE DILIGENCE TO MEET THE REQUIREMENTS OF THIS CHAPTER AND THE
28 COVERED EMPLOYER COMPLIES WITH THOSE REQUIREMENTS WITH RESPECT TO EACH
29 COVERED EMPLOYEE BY THE END OF THE NINETY-DAY PERIOD BEGINNING ON THE
30 FIRST DATE THE COVERED EMPLOYER KNEW, OR EXERCISING REASONABLE DILIGENCE
31 WOULD HAVE KNOWN, THAT THE FAILURE EXISTED.

32 D. IN THE CASE OF A FAILURE THAT IS DUE TO REASONABLE CAUSE AND NOT
33 TO WILFUL NEGLIGENCE, ALL OR PART OF THE PENALTY MAY BE WAIVED TO THE EXTENT
34 THAT THE PAYMENT OF THE PENALTY WOULD BE EXCESSIVE OR OTHERWISE
35 INEQUITABLE RELATIVE TO THE FAILURE INVOLVED.

36 E. IF A COVERED EMPLOYER FAILS TO REMIT A PAYROLL DEDUCTION
37 CONTRIBUTION TO THE PROGRAM ON THE EARLIEST DATE THE AMOUNT WITHHELD FROM
38 THE COVERED EMPLOYEE'S COMPENSATION CAN REASONABLY BE SEGREGATED FROM THE
39 COVERED EMPLOYER'S ASSETS, BUT NOT LATER THAN THE FIFTEENTH DAY OF THE
40 MONTH FOLLOWING THE MONTH IN WHICH THE COVERED EMPLOYEE'S CONTRIBUTION
41 AMOUNTS ARE WITHHELD FROM THE COVERED EMPLOYEE'S PAYCHECK, THE FAILURE TO
42 REMIT THE CONTRIBUTION ON A TIMELY BASIS IS SUBJECT TO THE SAME PENALTIES
43 THAT APPLY TO EMPLOYER MISAPPROPRIATION OF EMPLOYEE WAGE WITHHOLDINGS AND
44 TO THE PENALTIES SPECIFIED IN SUBSECTION A OF THIS SECTION.

1 F. THE ATTORNEY GENERAL SHALL REPRESENT THE BOARD IN ENFORCEMENT
2 AND COLLECTION OF PENALTIES.

3 38-1206. Rules

4 THE BOARD SHALL ADOPT RULES TO DO ALL OF THE FOLLOWING:

5 1. ESTABLISH THE PROCESSES FOR ENROLLMENT AND CONTRIBUTIONS TO AN
6 IRA UNDER THE PROGRAM, NOTWITHSTANDING ANY PROVISION OF STATE LAW RELATED
7 TO PAYROLL DEDUCTIONS TO THE CONTRARY, INCLUDING WITHHOLDING BY COVERED
8 EMPLOYERS OF EMPLOYEE PAYROLL DEDUCTION CONTRIBUTIONS FROM WAGES AND
9 REMITTANCE FOR DEPOSIT TO AN IRA, AUTOMATIC ENROLLMENT IN A PAYROLL
10 DEDUCTION IRA AND OPT-OUTS BY COVERED EMPLOYEES, VOLUNTARY CONTRIBUTIONS
11 BY OTHERS, INCLUDING SELF-EMPLOYED INDIVIDUALS AND INDEPENDENT
12 CONTRACTORS, THROUGH PAYROLL DEDUCTION OR OTHERWISE, THE MAKING OF DEFAULT
13 CONTRIBUTIONS USING DEFAULT INVESTMENTS AND PARTICIPANT SELECTION OF
14 ALTERNATIVE CONTRIBUTION RATES OR AMOUNTS AND ALTERNATIVE INVESTMENTS FROM
15 AMONG THE OPTIONS OFFERED UNDER THE PROGRAM.

16 2. ESTABLISH THE PROCESSES FOR WITHDRAWALS, ROLLOVERS AND DIRECT
17 TRANSFERS FROM AN IRA UNDER THE PROGRAM IN THE INTEREST OF FACILITATING
18 PORTABILITY OF BENEFITS.

19 3. ESTABLISH PROCESSES FOR PHASING IN ENROLLMENT OF ELIGIBLE
20 INDIVIDUALS, INCLUDING PHASING IN ENROLLMENT OF COVERED EMPLOYEES BY SIZE
21 OR TYPE OF COVERED EMPLOYER IN THE PROVISIONS OF THIS CHAPTER.

22 4. ESTABLISH REQUIREMENTS FOR THE DETERMINATION OF WHETHER A
23 PART-TIME, SEASONAL OR TEMPORARY EMPLOYEE IS A COVERED EMPLOYEE ELIGIBLE
24 TO PARTICIPATE IN THE PROGRAM.

25 5. ESTABLISH A PROCESS FOR A PARTICIPANT TO MAKE NONPAYROLL
26 CONTRIBUTIONS TO ACCOUNTS UNDER THE PROGRAM.

27 6. ESTABLISH A PROCESS FOR AN EMPLOYER TO BE DETERMINED TO BE
28 EXEMPT FROM THE PROGRAM BECAUSE THE EMPLOYER SPONSORS A SPECIFIED
29 TAX-FAVORED RETIREMENT PLAN.

30 7. CONDUCT OUTREACH TO INDIVIDUALS, EMPLOYERS, OTHER STAKEHOLDERS
31 AND THE PUBLIC REGARDING THE PROGRAM, INCLUDING SPECIFYING THE CONTENTS,
32 FREQUENCY, TIMING AND MEANS OF REQUIRED DISCLOSURES FROM THE PROGRAM TO
33 COVERED EMPLOYEES, PARTICIPANTS, OTHER INDIVIDUALS ELIGIBLE TO PARTICIPATE
34 IN THE PROGRAM, COVERED EMPLOYERS AND OTHER INTERESTED PARTIES. THESE
35 DISCLOSURES MUST INCLUDE THE FOLLOWING:

36 (a) THE BENEFITS AND RISKS ASSOCIATED WITH TAX-FAVORED RETIREMENT
37 SAVINGS UNDER THE PROGRAM.

38 (b) THE POTENTIAL ADVANTAGES AND DISADVANTAGES ASSOCIATED WITH
39 CONTRIBUTING TO A ROTH IRA AND, IF APPLICABLE, A TRADITIONAL IRA UNDER THE
40 PROGRAM.

41 (c) THE ELIGIBILITY RULES FOR A ROTH IRA AND, IF APPLICABLE, A
42 TRADITIONAL IRA.

43 (d) THAT THE INDIVIDUAL AND NOT THE EMPLOYER, THIS STATE, THE
44 BOARD, ANY BOARD MEMBER OR OTHER STATE OFFICIAL OR THE PROGRAM IS SOLELY

1 RESPONSIBLE FOR DETERMINING WHETHER, AND, IF SO, HOW MUCH, THE INDIVIDUAL
2 IS ELIGIBLE TO CONTRIBUTE ON A TAX-FAVORED BASIS TO AN IRA.

3 (e) THE PENALTY FOR EXCESS CONTRIBUTIONS TO AN IRA AND THE METHOD
4 OF CORRECTING EXCESS CONTRIBUTIONS.

5 (f) INSTRUCTIONS FOR ENROLLING, OPTING OUT OF PARTICIPATION, MAKING
6 CONTRIBUTIONS AND MAKING WITHDRAWALS, INCLUDING THE POSSIBILITY OF
7 CONTRIBUTING TO AN IRA, WHETHER OFFERED UNDER THE PROGRAM OR NOT, BY MEANS
8 OTHER THAN AUTOMATIC ENROLLMENT IN A PAYROLL DEDUCTION IRA.

9 (g) INSTRUCTIONS FOR OPTING OUT OF EACH OF THE ROTH IRA, THE
10 DEFAULT CONTRIBUTION RATE AND THE DEFAULT INVESTMENT IF THE COVERED
11 EMPLOYEE PREFERS A TRADITIONAL IRA, INCLUDING THE POSSIBILITY OF
12 CONTRIBUTING TO A TRADITIONAL IRA, IF OFFERED AS AN OPTION UNDER THE
13 PROGRAM, A HIGHER OR LOWER CONTRIBUTION RATE OR DIFFERENT INVESTMENT
14 ALTERNATIVES.

15 (h) THE POTENTIAL AVAILABILITY OF A SAVER'S TAX CREDIT, INCLUDING
16 THE ELIGIBILITY CONDITIONS FOR THE CREDIT AND INSTRUCTIONS ON HOW TO CLAIM
17 THE CREDIT.

18 (i) THAT EMPLOYEES SEEKING TAX, INVESTMENT OR OTHER FINANCIAL
19 ADVICE SHOULD CONTACT APPROPRIATE PROFESSIONAL ADVISORS AND THAT COVERED
20 EMPLOYERS ARE NOT IN A POSITION TO PROVIDE SUCH ADVICE AND ARE NOT LIABLE
21 FOR DECISIONS INDIVIDUALS MAKE IN RELATION TO THE PROGRAM.

22 (j) THAT THE PAYROLL DEDUCTION IRA IS NOT INTENDED TO BE AN
23 EMPLOYER-SPONSORED RETIREMENT PLAN AND THAT THE PROGRAM IS NOT AN
24 EMPLOYER-SPONSORED RETIREMENT PLAN.

25 (k) THE POTENTIAL IMPLICATIONS OF ACCOUNT BALANCES UNDER THE
26 PROGRAM FOR THE APPLICATION OF ASSET LIMITS UNDER CERTAIN PUBLIC
27 ASSISTANCE PROGRAMS.

28 (l) THAT THE PARTICIPANT IS SOLELY RESPONSIBLE FOR INVESTMENT
29 PERFORMANCE, INCLUDING MARKET GAINS AND LOSSES, AND THAT IRAS AND RATES OF
30 RETURN ARE NOT GUARANTEED BY ANY EMPLOYER, THIS STATE, THE BOARD, ANY
31 BOARD MEMBER OR STATE OFFICIAL OR THE PROGRAM.

32 (m) ADDITIONAL INFORMATION ABOUT RETIREMENT AND SAVING AND OTHER
33 INFORMATION DESIGNED TO PROMOTE FINANCIAL LITERACY AND CAPABILITY, WHICH
34 MAY TAKE THE FORM OF LINKS TO, OR EXPLANATIONS OF HOW TO OBTAIN, SUCH
35 INFORMATION.

36 (n) HOW TO OBTAIN ADDITIONAL INFORMATION ABOUT THE PROGRAM.

37 38-1207. Employer protection from liability

38 A. A COVERED EMPLOYER OR OTHER EMPLOYER IS NOT LIABLE FOR OR DOES
39 NOT BEAR RESPONSIBILITY FOR:

40 1. AN EMPLOYEE'S DECISION WHETHER TO PARTICIPATE IN THE PROGRAM OR
41 A PARTICIPANT'S SPECIFIC ELECTIONS UNDER THE PROGRAM.

42 2. A PARTICIPANT'S OR THE BOARD'S INVESTMENT DECISIONS.

43 3. THE ADMINISTRATION, INVESTMENT, INVESTMENT RETURNS OR INVESTMENT
44 PERFORMANCE OF THE PROGRAM, INCLUDING ANY INTEREST RATE OR OTHER RATE OF

1 RETURN ON ANY CONTRIBUTION OR ACCOUNT BALANCE IF THE EMPLOYER DOES NOT
2 PLAY A ROLE.

3 4. THE PROGRAM DESIGN OR THE BENEFITS PAID TO PARTICIPANTS.

4 5. AN INDIVIDUAL'S AWARENESS OF OR COMPLIANCE WITH THE CONDITIONS
5 AND OTHER PROVISIONS OF THE TAX LAWS THAT DETERMINE WHICH INDIVIDUALS ARE
6 ELIGIBLE TO MAKE TAX-FAVORED CONTRIBUTIONS TO IRAS, IN WHAT AMOUNT AND IN
7 WHAT TIME FRAME AND MANNER.

8 6. ANY LOSS, FAILURE TO REALIZE ANY GAIN OR ANY OTHER ADVERSE
9 CONSEQUENCES, INCLUDING ANY ADVERSE TAX CONSEQUENCES OR LOSS OF FAVORABLE
10 TAX TREATMENT, PUBLIC ASSISTANCE OR OTHER BENEFITS INCURRED BY ANY PERSON
11 WHO PARTICIPATES IN THE PROGRAM.

12 B. A COVERED EMPLOYER OR OTHER EMPLOYER IS NOT, AND IS NOT
13 CONSIDERED TO BE, A FIDUCIARY IN RELATION TO THE PROGRAM OR FUND OR ANY
14 OTHER ARRANGEMENT UNDER THE PROGRAM.

15 38-1208. Protection from liability

16 A. THIS STATE, THE BOARD, EACH MEMBER OF THE BOARD OR OTHER STATE
17 OFFICIAL, OTHER STATE BOARDS, COMMISSIONS OR AGENCIES, OR ANY MEMBER,
18 OFFICER OR EMPLOYEE THEREOF AND THE PROGRAM:

19 1. HAVE NO RESPONSIBILITY FOR INDIVIDUALS TO COMPLY WITH THE
20 CONDITIONS AND OTHER PROVISIONS OF THE INTERNAL REVENUE CODE THAT
21 DETERMINE WHICH INDIVIDUALS ARE ELIGIBLE TO MAKE TAX-FAVORED CONTRIBUTIONS
22 TO IRAS, IN WHAT AMOUNT AND IN WHAT TIME FRAME AND MANNER.

23 2. HAVE NO DUTY, RESPONSIBILITY OR LIABILITY TO ANY PARTY FOR THE
24 PAYMENT OF ANY BENEFITS UNDER THE PROGRAM, REGARDLESS OF WHETHER
25 SUFFICIENT MONIES ARE AVAILABLE UNDER THE PROGRAM TO PAY THOSE BENEFITS.

26 3. DO NOT AND MAY NOT GUARANTEE ANY INTEREST RATE OR OTHER RATE OF
27 RETURN ON OR INVESTMENT PERFORMANCE OF ANY CONTRIBUTION OR ACCOUNT
28 BALANCE.

29 4. ARE NOT AND MAY NOT BE LIABLE OR RESPONSIBLE FOR ANY LOSS,
30 DEFICIENCY, FAILURE TO REALIZE ANY GAIN OR ANY OTHER ADVERSE CONSEQUENCES,
31 INCLUDING ANY ADVERSE TAX CONSEQUENCES OR LOSS OF FAVORABLE TAX TREATMENT,
32 PUBLIC ASSISTANCE OR OTHER BENEFITS, INCURRED BY ANY PERSON AS A RESULT OF
33 PARTICIPATING IN THE PROGRAM.

34 B. THE DEBTS, CONTRACTS AND OBLIGATIONS OF THE PROGRAM OR THE BOARD
35 ARE NOT THE DEBTS, CONTRACTS AND OBLIGATIONS OF THIS STATE, AND NEITHER
36 THE FAITH AND CREDIT NOR THE TAXING POWER OF THIS STATE IS PLEDGED
37 DIRECTLY OR INDIRECTLY TO THE PAYMENT OF THE DEBTS, CONTRACTS AND
38 OBLIGATIONS OF THE PROGRAM OR THE BOARD.

39 38-1209. Confidentiality

40 INDIVIDUAL ACCOUNT INFORMATION RELATING TO ACCOUNTS UNDER THE
41 PROGRAM AND RELATING TO INDIVIDUAL PARTICIPANTS, INCLUDING NAMES,
42 ADDRESSES, TELEPHONE NUMBERS, EMAIL ADDRESSES, PERSONAL IDENTIFICATION
43 INFORMATION, INVESTMENTS, CONTRIBUTIONS AND EARNINGS, IS CONFIDENTIAL AND
44 MUST BE MAINTAINED AS CONFIDENTIAL:

1 1. EXCEPT TO THE EXTENT NECESSARY TO ADMINISTER THE PROGRAM IN A
2 MANNER CONSISTENT WITH THIS CHAPTER, THE TAX LAWS OF THIS STATE AND THE
3 INTERNAL REVENUE CODE.

4 2. UNLESS THE INDIVIDUAL WHO PROVIDES THE INFORMATION OR WHO IS THE
5 SUBJECT OF THE INFORMATION EXPRESSLY AGREES IN WRITING TO THE INFORMATION
6 DISCLOSURE.

7 38-1210. Intergovernmental agreement and memorandum of
8 understanding

9 THE BOARD MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT OR
10 MEMORANDUM OF UNDERSTANDING WITH THIS STATE AND ANY AGENCY OF THIS STATE
11 TO RECEIVE OUTREACH, TECHNICAL ASSISTANCE, ENFORCEMENT AND COMPLIANCE
12 SERVICES, COLLECTION OR DISSEMINATION OF INFORMATION PERTINENT TO THE
13 PROGRAM, SUBJECT TO THE OBLIGATIONS OF CONFIDENTIALITY AS MAY BE AGREED OR
14 REQUIRED BY LAW, OR OTHER SERVICES OR ASSISTANCE. THIS STATE AND ANY
15 AGENCIES OF THIS STATE THAT ENTER INTO AN AGREEMENT OR MEMORANDUM OF
16 UNDERSTANDING SHALL COLLABORATE TO PROVIDE THE OUTREACH, ASSISTANCE,
17 INFORMATION AND COMPLIANCE OR OTHER SERVICES OR ASSISTANCE TO THE BOARD.
18 THE MEMORANDUM OF UNDERSTANDING MAY COVER THE SHARING OF COSTS INCURRED IN
19 GATHERING AND DISSEMINATING INFORMATION AND THE REIMBURSEMENT OF COSTS FOR
20 ANY ENFORCEMENT ACTIVITIES OR ASSISTANCE.

21 38-1211. Arizona retirement savings program fund

22 A. THE ARIZONA RETIREMENT SAVINGS PROGRAM FUND IS ESTABLISHED
23 CONSISTING OF LEGISLATIVE APPROPRIATIONS AND GIFTS, GRANTS AND DONATIONS.
24 THE BOARD SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY
25 APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190,
26 RELATING TO LAPSING OF APPROPRIATIONS.

27 B. THE BOARD MAY USE THE MONIES IN THE FUND ONLY TO PAY THE
28 ADMINISTRATIVE COSTS AND EXPENSES OF THE PROGRAM AND THE ADMINISTRATIVE
29 COSTS AND EXPENSES THE BOARD INCURS IN THE PERFORMANCE OF ITS DUTIES UNDER
30 THIS CHAPTER.

31 38-1212. Audit; report

32 A. THE BOARD SHALL CAUSE AN ACCURATE ACCOUNT OF ALL OF THE
33 PROGRAM'S, FUND'S AND BOARD'S ACTIVITIES, OPERATIONS, RECEIPTS AND
34 EXPENDITURES TO BE MAINTAINED ON A CALENDAR YEAR BASIS. A FULL AUDIT OF
35 THE BOOKS AND ACCOUNTS OF THE BOARD PERTAINING TO THOSE ACTIVITIES,
36 OPERATIONS, RECEIPTS AND EXPENDITURES MUST BE CONDUCTED BY A CERTIFIED
37 PUBLIC ACCOUNTANT, INCLUDING DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE
38 USE OF OUTSIDE CONSULTANTS, INDEPENDENT CONTRACTORS AND ANY OTHER PERSONS
39 WHO ARE NOT STATE EMPLOYEES FOR THE ADMINISTRATION OF THE PROGRAM. FOR
40 THE PURPOSES OF THE AUDIT, THE AUDITORS MUST HAVE ACCESS TO THE PROPERTIES
41 AND RECORDS OF THE PROGRAM AND BOARD AND MAY PRESCRIBE METHODS OF
42 ACCOUNTING AND THE RENDERING OF PERIODIC REPORTS IN RELATION TO PROJECTS
43 UNDERTAKEN BY THE PROGRAM.

44 B. BEGINNING FEBRUARY 1, 2027 AND ANNUALLY THEREAFTER, THE BOARD
45 SHALL SUBMIT TO THE GOVERNOR, THE STATE TREASURER, THE PRESIDENT OF THE

1 SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AN AUDITED
2 FINANCIAL REPORT, PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED
3 ACCOUNTING PRINCIPLES, DETAILING THE ACTIVITIES, OPERATIONS, RECEIPTS AND
4 EXPENDITURES OF THE PROGRAM AND BOARD DURING THE PRECEDING CALENDAR YEAR.
5 THE REPORT MUST INCLUDE THE NUMBER OF PARTICIPANTS, THE INVESTMENT OPTIONS
6 AND THEIR RATES OF RETURN AND OTHER INFORMATION REGARDING THE PROGRAM AND
7 MUST ALSO INCLUDE PROJECTED ACTIVITIES OF THE PROGRAM FOR THE CURRENT
8 CALENDAR YEAR. A COPY OF THE REPORT SHALL BE SUBMITTED TO THE SECRETARY
9 OF STATE.

10 Sec. 2. Appropriation; Arizona retirement savings board;
11 Arizona retirement savings program; exemption

12 A. The sum of \$1,600,000 is appropriated from the state general
13 fund in fiscal year 2024-2025 to the Arizona retirement savings board for
14 the purposes of title 38, chapter 9, Arizona Revised Statutes, as added by
15 this act.

16 B. The appropriation made in subsection A of this section is exempt
17 from the provisions of section 35-190, Arizona Revised Statutes, relating
18 to lapsing of appropriations.