

REFERENCE TITLE: individual savings plan program; appropriation

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
First Regular Session  
2025

## **HB 2903**

Introduced by  
Representatives Austin: Abeytia, Cavero, Crews

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 OFFICE SHALL  
42 PROVIDE SUPPORT STAFF TO THE BOARD. THE BOARD SHALL REIMBURSE THE STATE  
43 TREASURER'S OFFICE FOR THE FULL COST OF ANY STAFF TIME PROVIDED TO THE  
44 BOARD.

1 F. THE FIRST MEETING OF THE BOARD SHALL BE NOT LATER THAN MAY 1,  
2 2026.

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 SECTION, 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.

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

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

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

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

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

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

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

(a) SERVICES OF PRIVATE AND PUBLIC FINANCIAL INSTITUTIONS, DEPOSITORIES, CONSULTANTS, ACTUARIES, COUNSEL, AUDITORS, INVESTMENT ADVISORS, INVESTMENT ADMINISTRATORS, INVESTMENT MANAGEMENT FIRMS, OTHER INVESTMENT FIRMS, THIRD-PARTY ADMINISTRATORS, OTHER PROFESSIONALS AND SERVICE PROVIDERS, THE RETIREMENT SYSTEM, THE STATE TREASURER'S OFFICE, 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 PROVIDING TIMELY INFORMATION TO COVERED  
12 EMPLOYERS REGARDING THE PROGRAM AND HOW IT APPLIES TO THEM, WITH SPECIAL  
13 EMPHASIS ON THEIR ABILITY AT ANY TIME TO SPONSOR A SPECIFIED TAX-FAVORED  
14 RETIREMENT PLAN THAT WOULD EXEMPT THEM FROM ANY RESPONSIBILITIES UNDER THE  
15 PROGRAM.

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

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

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

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

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

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

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

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

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

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

38-1204. Required elements of the program: implementation

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

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

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

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

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

5. PROVIDE ON A UNIFORM BASIS, IF AND WHEN THE BOARD SO DETERMINES IN ITS DISCRETION, FOR AN ANNUAL INCREASE OF EACH PARTICIPANT'S CONTRIBUTION RATE, BY NOT MORE THAN ONE PERCENT OF SALARY OR WAGES PER YEAR UP TO A MAXIMUM OF EIGHT PERCENT. ANY SUCH INCREASES MUST APPLY TO PARTICIPANTS, AS DETERMINED BY THE BOARD IN ITS DISCRETION, EITHER BY 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, 2027, 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, 2027, 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, 2028, 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, 2027.

38-1205. Penalties

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

1. BEFORE APRIL 1, 2028, THE MAXIMUM PENALTY PER COVERED EMPLOYEE IS \$10.

2. BEGINNING APRIL 1, 2028 TO MARCH 31, 2029, THE MAXIMUM PENALTY PER COVERED EMPLOYEE IS \$20.

3. BEGINNING APRIL 1, 2029 TO SEPTEMBER 30, 2030, THE MAXIMUM PENALTY PER COVERED EMPLOYEE IS \$50.

4. ON OR AFTER OCTOBER 1, 2030, THE MAXIMUM PENALTY PER COVERED EMPLOYEE IS \$100.

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

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

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

E. IF A COVERED EMPLOYER FAILS TO REMIT A PAYROLL DEDUCTION CONTRIBUTION TO THE PROGRAM ON THE EARLIEST DATE THE AMOUNT WITHHELD FROM THE COVERED EMPLOYEE'S COMPENSATION CAN REASONABLY BE SEGREGATED FROM THE COVERED EMPLOYER'S ASSETS, BUT NOT LATER THAN THE FIFTEENTH DAY OF THE MONTH FOLLOWING THE MONTH IN WHICH THE COVERED EMPLOYEE'S CONTRIBUTION AMOUNTS ARE WITHHELD FROM THE COVERED EMPLOYEE'S PAYCHECK, THE FAILURE TO REMIT THE CONTRIBUTION ON A TIMELY BASIS IS SUBJECT TO THE SAME PENALTIES THAT APPLY TO EMPLOYER MISAPPROPRIATION OF EMPLOYEE WAGE WITHHOLDINGS AND 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 RELATING  
26 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, 2028 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 2025-2026 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.