

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1654
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 38, Arizona Revised Statutes, is amended by
3 adding 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.

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

3 6. "IRA" MEANS A TRADITIONAL OR ROTH INDIVIDUAL RETIREMENT ACCOUNT
4 OR INDIVIDUAL RETIREMENT ANNUITY UNDER 26 UNITED STATES CODE SECTION
5 408(a), 408(b) OR 408A.

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

8 8. "PAYROLL DEDUCTION IRA" MEANS AN ARRANGEMENT BY WHICH AN
9 EMPLOYER ALLOWS EMPLOYEES TO CONTRIBUTE TO AN IRA BY MEANS OF PAYROLL
10 DEDUCTION.

11 9. "PROGRAM" MEANS THE ARIZONA RETIREMENT SAVINGS PROGRAM
12 ESTABLISHED BY THIS ARTICLE.

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

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

17 12. "SPECIFIED TAX-FAVORED RETIREMENT PLAN" MEANS A RETIREMENT PLAN
18 THAT IS TAX-QUALIFIED UNDER OR IS DESCRIBED IN AND SATISFIES THE
19 REQUIREMENTS OF 26 UNITED STATES CODE SECTION 401(a), 401(k), 403(a),
20 403(b), 408(k), 408(p) OR 457(b) WITHOUT REGARD TO WHETHER IT CONSTITUTES
21 AN EMPLOYEE BENEFIT PLAN UNDER ERISA.

22 13. "TRADITIONAL IRA" MEANS A TRADITIONAL INDIVIDUAL RETIREMENT
23 ACCOUNT OR TRADITIONAL INDIVIDUAL RETIREMENT ANNUITY UNDER 26 UNITED
24 STATES CODE SECTION 408(a) OR 408(b).

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

28 38-1202. Board; members; appointment; terms; reimbursement

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

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

41 C. A MAJORITY OF THE VOTING MEMBERS OF THE BOARD CONSTITUTES A
42 QUORUM FOR THE TRANSACTION OF BUSINESS.

43 D. APPOINTED MEMBERS OF THE BOARD ARE NOT ELIGIBLE FOR COMPENSATION
44 BUT ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT TO CHAPTER
45 4, ARTICLE 2 OF THIS TITLE.

46 E. EXCEPT AS OTHERWISE PROVIDED, THE STATE TREASURER'S OFFICE SHALL
47 PROVIDE SUPPORT STAFF TO THE BOARD. THE BOARD SHALL REIMBURSE THE STATE
48 TREASURER'S OFFICE FOR THE FULL COST OF ANY STAFF TIME PROVIDED TO THE
49 BOARD.

1 F. THE FIRST MEETING OF THE BOARD SHALL BE NOT LATER THAN MAY 1,
2 2027.

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.

44 7. CAUSE THE PROGRAM, THE FUND AND THE ARRANGEMENTS AND ACCOUNTS
45 ESTABLISHED UNDER THE PROGRAM TO BE DESIGNED, ESTABLISHED AND OPERATED
46 CONSISTENT WITH ALL OF THE FOLLOWING:

47 (a) IN ACCORDANCE WITH BEST PRACTICES FOR RETIREMENT SAVINGS
48 ACCOUNTS.

1 (b) TO ENCOURAGE PARTICIPATION AND SAVING AND TO MAKE IT SIMPLE,
2 EASY AND CONVENIENT FOR PARTICIPANTS TO CONTRIBUTE AND MANAGE THEIR
3 SAVINGS.

4 (c) TO PROMOTE SOUND INVESTMENT PRACTICES AND APPROPRIATE
5 INVESTMENT MENUS AND DEFAULT INVESTMENTS.

6 (d) TO MAXIMIZE SIMPLICITY AND EASE OF ADMINISTRATION FOR COVERED
7 EMPLOYERS.

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

10 (f) TO PROMOTE PORTABILITY OF BENEFITS.

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

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

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

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

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

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

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

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

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

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

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

30 (a) SERVICES OF PRIVATE AND PUBLIC FINANCIAL INSTITUTIONS,
31 DEPOSITORIES, CONSULTANTS, ACTUARIES, COUNSEL, AUDITORS, INVESTMENT
32 ADVISORS, INVESTMENT ADMINISTRATORS, INVESTMENT MANAGEMENT FIRMS, OTHER
33 INVESTMENT FIRMS, THIRD-PARTY ADMINISTRATORS, OTHER PROFESSIONALS AND
34 SERVICE PROVIDERS, THE RETIREMENT SYSTEM, THE STATE TREASURER'S OFFICE,
35 OTHER STATE TREASURERS AND OTHER STATE PUBLIC RETIREMENT SYSTEMS.

36 (b) RESEARCH, TECHNICAL, FINANCIAL, ADMINISTRATIVE AND OTHER
37 SERVICES.

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

44 (d) SERVICES TO DEVELOP AND IMPLEMENT OUTREACH EFFORTS TO GAIN
45 INPUT AND DISSEMINATE INFORMATION REGARDING THE PROGRAM AND RETIREMENT
46 SAVING IN GENERAL, INCLUDING PROVIDING TIMELY INFORMATION TO COVERED
47 EMPLOYERS REGARDING THE PROGRAM AND HOW IT APPLIES TO THEM, WITH SPECIAL
48 EMPHASIS ON THEIR ABILITY AT ANY TIME TO SPONSOR A SPECIFIED TAX-FAVORED

1 RETIREMENT PLAN THAT WOULD EXEMPT THEM FROM ANY RESPONSIBILITIES UNDER THE
2 PROGRAM.

3 16. ENSURE THAT ALL CONTRIBUTIONS TO AN IRA UNDER THE PROGRAM ARE
4 USED ONLY TO PAY BENEFITS TO PARTICIPANTS UNDER THE PROGRAM, PAY THE COST
5 OF ADMINISTERING THE PROGRAM OR MAKE INVESTMENTS FOR THE BENEFIT OF THE
6 PROGRAM AND THAT NO ASSETS OF THE PROGRAM OR FUND ARE TRANSFERRED TO THE
7 STATE GENERAL FUND OR TO ANY OTHER FUND OF THIS STATE OR ARE OTHERWISE
8 ENCUMBERED OR USED FOR ANY OTHER PURPOSE.

9 17. CONSIDER WHETHER PROCEDURES SHOULD BE ADOPTED TO ALLOW
10 EMPLOYERS THAT ARE NOT COVERED EMPLOYERS BECAUSE THEY ARE EXEMPT FROM
11 COVERED EMPLOYER STATUS TO VOLUNTARILY PARTICIPATE IN THE PROGRAM BY
12 AUTOMATICALLY ENROLLING THEIR EMPLOYEES, CONSIDERING, AMONG OTHER FACTORS,
13 THE POTENTIAL LEGAL CONSEQUENCES AND THE DEGREE OF EMPLOYER DEMAND TO
14 PARTICIPATE OR FACILITATE PARTICIPATION BY EMPLOYEES.

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

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

22 20. COLLABORATE WITH, AND EVALUATE THE ROLE OF, FINANCIAL ADVISORS
23 OR OTHER FINANCIAL PROFESSIONALS, INCLUDING IN ASSISTING AND PROVIDING
24 GUIDANCE FOR COVERED EMPLOYEES.

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

29 (a) DIRECTLY OR INDIRECTLY HAVE ANY INTEREST IN THE MAKING OF ANY
30 INVESTMENT UNDER THE PROGRAM OR IN GAINS OR PROFITS ACCRUING FROM ANY SUCH
31 INVESTMENT.

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

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

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

41 38-1204. Required elements of the program; implementation

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

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

48 2. NOTWITHSTANDING ANY PROVISION OF STATE LAW RELATED TO PAYROLL
49 DEDUCTION, REQUIRE EACH COVERED EMPLOYER TO OFFER ITS COVERED EMPLOYEES

1 THE CHOICE WHETHER TO CONTRIBUTE TO A PAYROLL DEDUCTION IRA BY
2 AUTOMATICALLY ENROLLING THEM IN THE PAYROLL DEDUCTION IRA WITH THE
3 OPPORTUNITY TO OPT OUT. A COVERED EMPLOYEE WHO IS NOT A PARTICIPANT
4 BECAUSE THAT EMPLOYEE HAS OPTED OUT WILL BE AUTOMATICALLY REENROLLED WITH
5 THE OPPORTUNITY TO OPT OUT AGAIN AT REGULAR OR AD HOC INTERVALS DETERMINED
6 BY THE BOARD IN ITS DISCRETION, BUT NOT MORE FREQUENTLY THAN ANNUALLY.

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

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

22 5. PROVIDE ON A UNIFORM BASIS, IF AND WHEN THE BOARD SO DETERMINES
23 IN ITS DISCRETION, FOR AN ANNUAL INCREASE OF EACH PARTICIPANT'S
24 CONTRIBUTION RATE, BY NOT MORE THAN ONE PERCENT OF SALARY OR WAGES PER
25 YEAR UP TO A MAXIMUM OF EIGHT PERCENT. ANY SUCH INCREASES MUST APPLY TO
26 PARTICIPANTS, AS DETERMINED BY THE BOARD IN ITS DISCRETION, EITHER BY
27 DEFAULT OR ONLY IF INITIATED BY AFFIRMATIVE PARTICIPANT ELECTION AND ARE
28 IN EITHER CASE SUBJECT TO THE IRA CONTRIBUTION AND INCOME ELIGIBILITY
29 LIMITS APPLICABLE UNDER THE INTERNAL REVENUE CODE.

30 6. PROVIDE FOR DIRECT DEPOSIT OF CONTRIBUTIONS INTO INVESTMENTS
31 UNDER THE PROGRAM, INCLUDING A DEFAULT INVESTMENT SUCH AS A SERIES OF
32 TARGET DATE FUNDS AND A LIMITED NUMBER OF INVESTMENT ALTERNATIVES,
33 INCLUDING A PRINCIPAL PRESERVATION OPTION DETERMINED BY THE BOARD. IN
34 ADDITION, THE BOARD MAY PROVIDE THAT EACH PARTICIPANT'S INITIAL
35 CONTRIBUTIONS, UP TO A SPECIFIED DOLLAR AMOUNT OR FOR A SPECIFIED PERIOD
36 OF TIME, ARE REQUIRED TO BE INVESTED IN A PRINCIPAL PRESERVATION
37 INVESTMENT OR, IN THE BOARD'S DISCRETION, MUST BE DEFAULTED INTO SUCH AN
38 INVESTMENT UNLESS THE PARTICIPANT AFFIRMATIVELY OPTS FOR A DIFFERENT
39 INVESTMENT FOR THOSE CONTRIBUTIONS. THE BOARD SHALL DETERMINE HOW OFTEN
40 PARTICIPANTS WILL HAVE THE OPPORTUNITY TO CHANGE THEIR SELECTIONS OF
41 INVESTMENTS FOR FUTURE CONTRIBUTIONS OR EXISTING BALANCES OR BOTH.

42 7. PROVIDE THAT EMPLOYER CONTRIBUTIONS BY A COVERED EMPLOYER ARE
43 NOT REQUIRED OR ALLOWED.

44 8. BE PROFESSIONALLY MANAGED.

45 9. WHEN POSSIBLE AND PRACTICABLE, USE EXISTING EMPLOYER AND PUBLIC
46 INFRASTRUCTURE TO FACILITATE CONTRIBUTIONS, RECORD KEEPING AND OUTREACH
47 AND USE POOLED OR COLLECTIVE INVESTMENT ARRANGEMENTS FOR AMOUNTS
48 CONTRIBUTED TO THE PROGRAM.

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

5 11. PROVIDE FOR REPORTS ON THE STATUS OF EACH PARTICIPANT'S ACCOUNT
6 TO BE PROVIDED TO EACH PARTICIPANT AT LEAST ANNUALLY AND MAKE BEST EFFORTS
7 TO PROVIDE EACH PARTICIPANT FREQUENT OR CONTINUAL ONLINE ACCESS TO
8 INFORMATION ON THE STATUS OF THAT PARTICIPANT'S ACCOUNT.

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

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

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

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

23 16. SEEK TO KEEP FEES, COSTS AND EXPENSES OF THE PROGRAM AS LOW AS
24 PRACTICABLE, EXCEPT THAT ANY ADMINISTRATIVE FEE IMPOSED ON A COVERED
25 EMPLOYEE FOR PARTICIPATING IN THE PROGRAM SHOULD BE SIMILAR TO ESTABLISHED
26 PROGRAMS IN OTHER STATES. THE FEE MAY BE AN ASSET-BASED OR INVESTMENT
27 RETURN FEE, FLAT FEE OR HYBRID OF THE PERMISSIBLE FEE STRUCTURES
28 IDENTIFIED IN THIS PARAGRAPH.

29 17. ADOPT RULES AND ESTABLISH PROCEDURES GOVERNING THE DISTRIBUTION
30 OF MONIES FROM THE PROGRAM, INCLUDING SUCH DISTRIBUTIONS AS MAY BE ALLOWED
31 OR REQUIRED BY THE PROGRAM AND ANY APPLICABLE PROVISIONS OF TAX LAWS, WITH
32 THE OBJECTIVES OF MAXIMIZING FINANCIAL SECURITY IN RETIREMENT, HELPING TO
33 PROTECT SPOUSAL RIGHTS AND ASSISTING PARTICIPANTS WITH THE CHALLENGES OF
34 DECUMULATION OF SAVINGS. THE BOARD HAS THE AUTHORITY TO PROVIDE FOR ONE
35 OR MORE REASONABLY PRICED DISTRIBUTION OPTIONS TO PROVIDE A SOURCE OF
36 REGULAR RETIREMENT INCOME, INCLUDING INCOME FOR LIFE OR FOR THE
37 PARTICIPANT'S LIFE EXPECTANCY OR FOR JOINT LIVES AND LIFE EXPECTANCIES, AS
38 APPLICABLE.

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

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

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

1 21. ALLOW THE BOARD TO PROVIDE FOR THE ESTABLISHMENT, MAINTENANCE,
2 ADMINISTRATION, OPERATION AND IMPLEMENTATION OF THE PROGRAM TO BE CARRIED
3 OUT JOINTLY WITH, OR IN PARTNERSHIP, COLLABORATION, COORDINATION OR
4 ALLIANCE WITH ONE OR MORE OTHER STATES, THE FEDERAL GOVERNMENT OR ANY
5 FEDERAL, STATE OR LOCAL AGENCIES OR INSTRUMENTALITIES.

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

7 1. BEGINNING APRIL 1, 2028, THE BOARD SHALL REQUIRE A COVERED
8 EMPLOYER WITH TWENTY-FIVE OR MORE COVERED EMPLOYEES TO OFFER THE PROGRAM
9 TO ITS COVERED EMPLOYEES.

10 2. BEGINNING OCTOBER 1, 2028, THE BOARD SHALL REQUIRE A COVERED
11 EMPLOYER WITH FIFTEEN TO TWENTY-FOUR COVERED EMPLOYEES TO OFFER THE
12 PROGRAM TO ITS COVERED EMPLOYEES.

13 3. BEGINNING APRIL 1, 2029, THE BOARD SHALL REQUIRE A COVERED
14 EMPLOYER WITH ONE TO FOURTEEN COVERED EMPLOYEES TO OFFER THE PROGRAM TO
15 ITS COVERED EMPLOYEES.

16 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A COVERED EMPLOYER
17 MAY VOLUNTARILY OFFER THE PROGRAM TO ITS COVERED EMPLOYEES ON OR AFTER
18 APRIL 1, 2028.

19 38-1205. Penalties

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

31 1. BEFORE APRIL 1, 2029, THE MAXIMUM PENALTY PER COVERED EMPLOYEE
32 IS \$10.

33 2. BEGINNING APRIL 1, 2029 TO MARCH 31, 2030, THE MAXIMUM PENALTY
34 PER COVERED EMPLOYEE IS \$20.

35 3. BEGINNING APRIL 1, 2030 TO SEPTEMBER 30, 2031, THE MAXIMUM
36 PENALTY PER COVERED EMPLOYEE IS \$50.

37 4. ON OR AFTER OCTOBER 1, 2031, THE MAXIMUM PENALTY PER COVERED
38 EMPLOYEE IS \$100.

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

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

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

5 E. IF A COVERED EMPLOYER FAILS TO REMIT A PAYROLL DEDUCTION
6 CONTRIBUTION TO THE PROGRAM ON THE EARLIEST DATE THE AMOUNT WITHHELD FROM
7 THE COVERED EMPLOYEE'S COMPENSATION CAN REASONABLY BE SEGREGATED FROM THE
8 COVERED EMPLOYER'S ASSETS, BUT NOT LATER THAN THE FIFTEENTH DAY OF THE
9 MONTH FOLLOWING THE MONTH IN WHICH THE COVERED EMPLOYEE'S CONTRIBUTION
10 AMOUNTS ARE WITHHELD FROM THE COVERED EMPLOYEE'S PAYCHECK, THE FAILURE TO
11 REMIT THE CONTRIBUTION ON A TIMELY BASIS IS SUBJECT TO THE SAME PENALTIES
12 THAT APPLY TO EMPLOYER MISAPPROPRIATION OF EMPLOYEE WAGE WITHHOLDINGS AND
13 TO THE PENALTIES SPECIFIED IN SUBSECTION A OF THIS SECTION.

14 F. THE ATTORNEY GENERAL SHALL REPRESENT THE BOARD IN ENFORCEMENT
15 AND COLLECTION OF PENALTIES.

16 38-1206. Rules

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

18 1. ESTABLISH THE PROCESSES FOR ENROLLMENT AND CONTRIBUTIONS TO AN
19 IRA UNDER THE PROGRAM, NOTWITHSTANDING ANY PROVISION OF STATE LAW RELATED
20 TO PAYROLL DEDUCTIONS TO THE CONTRARY, INCLUDING WITHHOLDING BY COVERED
21 EMPLOYERS OF EMPLOYEE PAYROLL DEDUCTION CONTRIBUTIONS FROM WAGES AND
22 REMITTANCE FOR DEPOSIT TO AN IRA, AUTOMATIC ENROLLMENT IN A PAYROLL
23 DEDUCTION IRA AND OPT-OUTS BY COVERED EMPLOYEES, VOLUNTARY CONTRIBUTIONS
24 BY OTHERS, INCLUDING SELF-EMPLOYED INDIVIDUALS AND INDEPENDENT
25 CONTRACTORS, THROUGH PAYROLL DEDUCTION OR OTHERWISE, THE MAKING OF DEFAULT
26 CONTRIBUTIONS USING DEFAULT INVESTMENTS AND PARTICIPANT SELECTION OF
27 ALTERNATIVE CONTRIBUTION RATES OR AMOUNTS AND ALTERNATIVE INVESTMENTS FROM
28 AMONG THE OPTIONS OFFERED UNDER THE PROGRAM.

29 2. ESTABLISH THE PROCESSES FOR WITHDRAWALS, ROLLOVERS AND DIRECT
30 TRANSFERS FROM AN IRA UNDER THE PROGRAM IN THE INTEREST OF FACILITATING
31 PORTABILITY OF BENEFITS.

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

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

38 5. ESTABLISH A PROCESS FOR A PARTICIPANT TO MAKE NONPAYROLL
39 CONTRIBUTIONS TO ACCOUNTS UNDER THE PROGRAM.

40 6. ESTABLISH A PROCESS FOR AN EMPLOYER TO BE DETERMINED TO BE
41 EXEMPT FROM THE PROGRAM BECAUSE THE EMPLOYER SPONSORS A SPECIFIED
42 TAX-FAVORED RETIREMENT PLAN.

43 7. CONDUCT OUTREACH TO INDIVIDUALS, EMPLOYERS, OTHER STAKEHOLDERS
44 AND THE PUBLIC REGARDING THE PROGRAM, INCLUDING SPECIFYING THE CONTENTS,
45 FREQUENCY, TIMING AND MEANS OF REQUIRED DISCLOSURES FROM THE PROGRAM TO
46 COVERED EMPLOYEES, PARTICIPANTS, OTHER INDIVIDUALS ELIGIBLE TO PARTICIPATE
47 IN THE PROGRAM, COVERED EMPLOYERS AND OTHER INTERESTED PARTIES. THESE
48 DISCLOSURES MUST INCLUDE THE FOLLOWING:

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

3 (b) THE POTENTIAL ADVANTAGES AND DISADVANTAGES ASSOCIATED WITH
4 CONTRIBUTING TO A ROTH IRA AND, IF APPLICABLE, A TRADITIONAL IRA UNDER THE
5 PROGRAM.

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

8 (d) THAT THE INDIVIDUAL AND NOT THE EMPLOYER, THIS STATE, THE
9 BOARD, ANY BOARD MEMBER OR OTHER STATE OFFICIAL OR THE PROGRAM IS SOLELY
10 RESPONSIBLE FOR DETERMINING WHETHER, AND, IF SO, HOW MUCH, THE INDIVIDUAL
11 IS ELIGIBLE TO CONTRIBUTE ON A TAX-FAVORED BASIS TO AN IRA.

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

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

18 (g) INSTRUCTIONS FOR OPTING OUT OF EACH OF THE ROTH IRA, THE
19 DEFAULT CONTRIBUTION RATE AND THE DEFAULT INVESTMENT IF THE COVERED
20 EMPLOYEE PREFERS A TRADITIONAL IRA, INCLUDING THE POSSIBILITY OF
21 CONTRIBUTING TO A TRADITIONAL IRA, IF OFFERED AS AN OPTION UNDER THE
22 PROGRAM, A HIGHER OR LOWER CONTRIBUTION RATE OR DIFFERENT INVESTMENT
23 ALTERNATIVES.

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

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

31 (j) THAT THE PAYROLL DEDUCTION IRA IS NOT INTENDED TO BE AN
32 EMPLOYER-SPONSORED RETIREMENT PLAN AND THAT THE PROGRAM IS NOT AN
33 EMPLOYER-SPONSORED RETIREMENT PLAN.

34 (k) THE POTENTIAL IMPLICATIONS OF ACCOUNT BALANCES UNDER THE
35 PROGRAM FOR THE APPLICATION OF ASSET LIMITS UNDER CERTAIN PUBLIC
36 ASSISTANCE PROGRAMS.

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

41 (m) ADDITIONAL INFORMATION ABOUT RETIREMENT AND SAVING AND OTHER
42 INFORMATION DESIGNED TO PROMOTE FINANCIAL LITERACY AND CAPABILITY, WHICH
43 MAY TAKE THE FORM OF LINKS TO, OR EXPLANATIONS OF HOW TO OBTAIN, SUCH
44 INFORMATION.

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

46 38-1207. Employer protection from liability

47 A. A COVERED EMPLOYER OR OTHER EMPLOYER IS NOT LIABLE FOR OR DOES
48 NOT BEAR RESPONSIBILITY FOR:

1 1. AN EMPLOYEE'S DECISION WHETHER TO PARTICIPATE IN THE PROGRAM OR
2 A PARTICIPANT'S SPECIFIC ELECTIONS UNDER THE PROGRAM.
3 2. A PARTICIPANT'S OR THE BOARD'S INVESTMENT DECISIONS.
4 3. THE ADMINISTRATION, INVESTMENT, INVESTMENT RETURNS OR INVESTMENT
5 PERFORMANCE OF THE PROGRAM, INCLUDING ANY INTEREST RATE OR OTHER RATE OF
6 RETURN ON ANY CONTRIBUTION OR ACCOUNT BALANCE IF THE EMPLOYER DOES NOT
7 PLAY A ROLE.
8 4. THE PROGRAM DESIGN OR THE BENEFITS PAID TO PARTICIPANTS.
9 5. AN INDIVIDUAL'S AWARENESS OF OR COMPLIANCE WITH THE CONDITIONS
10 AND OTHER PROVISIONS OF THE TAX LAWS THAT DETERMINE WHICH INDIVIDUALS ARE
11 ELIGIBLE TO MAKE TAX-FAVORED CONTRIBUTIONS TO IRAS, IN WHAT AMOUNT AND IN
12 WHAT TIME FRAME AND MANNER.
13 6. ANY LOSS, FAILURE TO REALIZE ANY GAIN OR ANY OTHER ADVERSE
14 CONSEQUENCES, INCLUDING ANY ADVERSE TAX CONSEQUENCES OR LOSS OF FAVORABLE
15 TAX TREATMENT, PUBLIC ASSISTANCE OR OTHER BENEFITS INCURRED BY ANY PERSON
16 WHO PARTICIPATES IN THE PROGRAM.
17 B. A COVERED EMPLOYER OR OTHER EMPLOYER IS NOT, AND IS NOT
18 CONSIDERED TO BE, A FIDUCIARY IN RELATION TO THE PROGRAM OR FUND OR ANY
19 OTHER ARRANGEMENT UNDER THE PROGRAM.
20 38-1208. Protection from liability
21 A. THIS STATE, THE BOARD, EACH MEMBER OF THE BOARD OR OTHER STATE
22 OFFICIAL, OTHER STATE BOARDS, COMMISSIONS OR AGENCIES OR ANY MEMBER,
23 OFFICER OR EMPLOYEE THEREOF AND THE PROGRAM:
24 1. HAVE NO RESPONSIBILITY FOR INDIVIDUALS TO COMPLY WITH THE
25 CONDITIONS AND OTHER PROVISIONS OF THE INTERNAL REVENUE CODE THAT
26 DETERMINE WHICH INDIVIDUALS ARE ELIGIBLE TO MAKE TAX-FAVORED CONTRIBUTIONS
27 TO IRAS, IN WHAT AMOUNT AND IN WHAT TIME FRAME AND MANNER.
28 2. HAVE NO DUTY, RESPONSIBILITY OR LIABILITY TO ANY PARTY FOR THE
29 PAYMENT OF ANY BENEFITS UNDER THE PROGRAM, REGARDLESS OF WHETHER
30 SUFFICIENT MONIES ARE AVAILABLE UNDER THE PROGRAM TO PAY THOSE BENEFITS.
31 3. DO NOT AND MAY NOT GUARANTEE ANY INTEREST RATE OR OTHER RATE OF
32 RETURN ON OR INVESTMENT PERFORMANCE OF ANY CONTRIBUTION OR ACCOUNT
33 BALANCE.
34 4. ARE NOT AND MAY NOT BE LIABLE OR RESPONSIBLE FOR ANY LOSS,
35 DEFICIENCY, FAILURE TO REALIZE ANY GAIN OR ANY OTHER ADVERSE CONSEQUENCES,
36 INCLUDING ANY ADVERSE TAX CONSEQUENCES OR LOSS OF FAVORABLE TAX TREATMENT,
37 PUBLIC ASSISTANCE OR OTHER BENEFITS, INCURRED BY ANY PERSON AS A RESULT OF
38 PARTICIPATING IN THE PROGRAM.
39 B. THE DEBTS, CONTRACTS AND OBLIGATIONS OF THE PROGRAM OR THE BOARD
40 ARE NOT THE DEBTS, CONTRACTS AND OBLIGATIONS OF THIS STATE, AND NEITHER
41 THE FAITH AND CREDIT NOR THE TAXING POWER OF THIS STATE IS PLEDGED
42 DIRECTLY OR INDIRECTLY TO THE PAYMENT OF THE DEBTS, CONTRACTS AND
43 OBLIGATIONS OF THE PROGRAM OR THE BOARD.
44 38-1209. Confidentiality
45 INDIVIDUAL ACCOUNT INFORMATION RELATING TO ACCOUNTS UNDER THE
46 PROGRAM AND RELATING TO INDIVIDUAL PARTICIPANTS, INCLUDING NAMES,
47 ADDRESSES, TELEPHONE NUMBERS, EMAIL ADDRESSES, PERSONAL IDENTIFICATION
48 INFORMATION, INVESTMENTS, CONTRIBUTIONS AND EARNINGS, IS CONFIDENTIAL AND
49 MUST BE MAINTAINED AS CONFIDENTIAL:

1 THE REPORT MUST INCLUDE THE NUMBER OF PARTICIPANTS, THE INVESTMENT OPTIONS
2 AND THEIR RATES OF RETURN AND OTHER INFORMATION REGARDING THE PROGRAM AND
3 MUST ALSO INCLUDE PROJECTED ACTIVITIES OF THE PROGRAM FOR THE CURRENT
4 CALENDAR YEAR. A COPY OF THE REPORT SHALL BE SUBMITTED TO THE SECRETARY
5 OF STATE.

6 Sec. 2. Appropriation; Arizona retirement savings board;
7 Arizona retirement savings program; exemption

8 A. The sum of \$1,600,000 is appropriated from the state general
9 fund in fiscal year 2026-2027 to the Arizona retirement savings board for
10 the purposes of title 38, chapter 9, Arizona Revised Statutes, as added by
11 this act.

12 B. The appropriation made in subsection A of this section is exempt
13 from the provisions of section 35-190, Arizona Revised Statutes, relating
14 to lapsing of appropriations."

15 Amend title to conform

LORENA AUSTIN

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