

First Regular Session
Seventy-first General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 17-0156.01 Nicole Myers x4326

HOUSE BILL 17-1290

HOUSE SPONSORSHIP

Pettersen and Buckner,

SENATE SPONSORSHIP

Donovan and Todd,

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CREATION OF THE COLORADO SECURE SAVINGS
102 PLAN.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

The bill establishes the Colorado secure savings plan (plan), which is a retirement savings plan for private-sector employees in the form of an automatic enrollment payroll deduction individual retirement account. Employers with a specified number of employees in the state are required to participate in the plan, but any employer may choose to participate in the plan.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The Colorado secure savings plan board of trustees (board) is created and consists of the state controller, the director of the governor's office of state planning and budgeting, and 7 additional trustees with certain experience who are appointed by the governor and confirmed by the senate. The trustees on the board have a fiduciary duty to the plan's enrollees and beneficiaries and are required to:

- ! Establish investment options that offer employees returns on contributions without incurring debt or liabilities to the state;
- ! Establish the process for allocating investment earnings and losses to individual plan accounts on a pro rata basis;
- ! Make and enter into contracts and hire staff as necessary for the administration of the plan;
- ! Conduct a periodic review of the performance of any investment vendors;
- ! Cause money in the Colorado secure savings plan fund (fund) to be invested with the intent to achieve cost savings through efficiencies and economies of scale;
- ! Establish the process for an enrollee to contribute a portion of his or her wages to the plan for automatic deposit and establish the process by which the participating employer forwards those contributions to the plan;
- ! Establish the process for enrollment in the plan including the process by which an employee can opt not to participate in the plan;
- ! Accept gifts, grants, and donations from specified entities and pursue options for bank loans or a line of credit to cover the start-up costs of the plan;
- ! Procure, as needed, insurance against loss in connection with the property, assets, or activities of the plan;
- ! Allocate administrative fees to individual retirement accounts in the plan on a pro rata basis;
- ! Set minimum and maximum contribution levels;
- ! Facilitate education and outreach to employers and employees;
- ! Ensure that the plan complies with all applicable state and federal laws;
- ! Deposit all gifts, grants, donations, fees, and earnings from investment of moneys in the fund into the fund and pay the administrative costs and expenses for the creation, management, and operation of the plan from moneys in the fund;
- ! Determine any nominal and reasonable assistance that may be provided to businesses to offset the initial costs of enrolling employees in the plan;

- ! Prepare or cause to be prepared certain annual audits and annual reports regarding the plan;
- ! Develop a process to ensure that employers are in compliance with the requirements of the plan and develop a penalty structure for employers who fail, without reasonable cause, to enroll employees in the plan; and
- ! Conduct or cause to be conducted a financial feasibility study to ensure that the plan will be self-sustaining.

The bill specifies the process by which the board is required to engage an investment manager to invest the assets of the plan and specifies the investment options that the board is required to create.

The bill creates the fund as a trust outside of the state treasury, specifies that the fund will include the individual retirement accounts of enrollees in the plan, and allows the board to use a certain percentage of money in the fund for the administrative expenses of the plan. The money in the fund is not property of the state and cannot be commingled with state money.

The board must design and disseminate employer and employee information packets regarding the plan and the options for employee participation in the plan to all employers that participate in the plan.

If, based on the required financial feasibility study, the board determines that the plan will be self-sustaining and would promote greater retirement savings for private-sector employees, the board must recommend to the general assembly that the plan be implemented. The board may not implement the plan unless the general assembly, acting by bill, directs the board to implement the plan.

The bill dictates the timing for the board to implement the plan, if directed to do so by the general assembly, and a time frame for employers to establish a system by which enrollees in the plan can remit payroll deduction contributions to the plan. Employers must automatically enroll employees in the plan unless an employee has opted out of participation in the plan. Enrollees may select an investment option and contribution level or use the default investment option and contribution amount established by the board.

The bill specifies that the state and employers do not have any duty or liability to any party for the payments of any retirement savings benefits accrued by any individual through the plan.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) More than thirty-nine million working-age American

1 households do not have any retirement assets. For near-retirement
2 households, the median retirement account balance is only fourteen
3 thousand five hundred dollars and the average working-age household has
4 a median account balance of only two thousand five hundred dollars.

5 (b) Only three in ten women aged sixty-five and older and slightly
6 more than four in ten men aged sixty-five and older receive any income
7 from pensions and retirement savings. Women receive an average of nine
8 thousand dollars per year and men receive an average of fifteen thousand
9 three hundred ninety-six dollars per year.

10 (c) Nearly half of working-age families have nothing saved in
11 retirement accounts. Middle-class working-age families whose incomes
12 are at the fiftieth percentile have only five thousand dollars saved in
13 retirement accounts. Families with incomes at the ninetieth percentile
14 have two hundred seventy-four thousand in retirement savings accounts.

15 (d) Most African-American and Hispanic families have no
16 retirement savings. About four out of ten African-American families and
17 one out of four Hispanic families have retirement savings. The median
18 white family with retirement savings has over three times as much saved
19 as the median African-American or median Hispanic family.

20 (e) Coloradans are less prepared for retirement today than in
21 previous decades, and the overwhelming majority of people in the state
22 are concerned about their ability and their children's ability to retire;

23 (f) Older workers are working longer and delaying their
24 retirement. Many of today's seniors rely on their children, who are already
25 struggling to raise their own families, or on other social services that are
26 underfunded.

27 (g) Almost five out of ten Coloradans, aged twenty-five to

1 sixty-four, working in the private sector lack access to a retirement plan
2 at work;

3 (h) Colorado's younger workers are disproportionately affected,
4 with forty-nine percent of workers between the age of twenty-five and
5 twenty-nine, forty-five percent of workers between the age of thirty and
6 thirty-four, and forty-eight percent of workers between the age of
7 thirty-five and thirty-nine, lacking access to a retirement plan at work;

8 (i) Minority workers in Colorado are also disproportionately
9 affected, with forty-nine percent of African-American workers and
10 fifty-six percent of Hispanic workers lacking access to a retirement plan
11 at work;

12 (j) Colorado's lowest wage workers are also less likely to have
13 access to a workplace retirement savings plan. Seventy-six percent of
14 Colorado's workers in the lowest income quintile and fifty-two percent of
15 Colorado's workers in the second lowest income quintile have no access
16 to a retirement plan at work.

17 (k) The major reason why many workers do not participate in
18 retirement savings plans is their employers do not offer them. Experts on
19 retirement recommend that the best way to increase retirement savings is
20 to offer a workplace savings plan to all workers and enroll them
21 automatically with the right to opt out.

22 (l) For decades, Americans have built their retirement with
23 traditional pensions, social security, and individual savings, but America's
24 retirement system has unraveled. About half of Colorado workers in the
25 private sector do not have any type of employer-sponsored retirement
26 plan, and individual savings plans are not filling the gap and have proved
27 risky and unreliable.

1 (m) The future of Colorado's economic growth relies on our aging
2 population having sufficient income in retirement so they can afford to
3 live independently and have quality healthcare. Our seniors contribute
4 significantly to local economies throughout the state, and their retirement
5 investment spending provides stability to those communities.

6 (n) Colorado needs a remedy to the retirement security crisis so
7 that Coloradans can look forward to a retirement free from financial
8 anxiety or hardship; and

9 (o) Coloradans have a history of creating unique solutions to the
10 challenges that the state faces. The state has an opportunity to craft a plan
11 for the future that can ensure all Coloradans have the ability to save for
12 retirement.

13 (2) The general assembly further finds and declares that it is
14 therefore in the best interest of the state to establish the Colorado secure
15 savings plan to provide a workplace savings plan for all Colorado
16 workers whose employers do not provide such a plan.

17 **SECTION 2.** In Colorado Revised Statutes, **add** article 54.3 to
18 title 24 as follows:

19 **ARTICLE 54.3**

20 **Colorado Secure Savings Plan Act**

21 **24-54.3-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 54.3
22 IS THE "COLORADO SECURE SAVINGS PLAN ACT".

23 **24-54.3-102. Definitions.** AS USED IN THIS ARTICLE 54.3, UNLESS
24 THE CONTEXT OTHERWISE REQUIRES:

25 (1) "BOARD" MEANS THE COLORADO SECURE SAVINGS PLAN
26 BOARD OF TRUSTEES ESTABLISHED IN SECTION 24-54.3-104.

27 (2) "EMPLOYEE" MEANS ANY INDIVIDUAL WHO IS EIGHTEEN YEARS

1 OR OLDER, WHO IS EMPLOYED BY AN EMPLOYER, AND WHO EARNS WAGES
2 SUBJECT TO INCOME TAX PURSUANT TO SECTION 39-22-104.

3 (3) "EMPLOYER" MEANS A PERSON OR ENTITY ENGAGED IN A
4 BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE
5 STATE, WHETHER FOR PROFIT OR NOT FOR PROFIT, THAT:

6 (a) (I) EMPLOYS THE FOLLOWING NUMBER OF EMPLOYEES IN THE
7 STATE:

8 (A) FOR THE FIRST YEAR OF OPERATION OF THE PLAN, ONE
9 HUNDRED OR MORE EMPLOYEES AT ANY TIME DURING THE PREVIOUS
10 CALENDAR YEAR;

11 (B) FOR THE SECOND YEAR OF OPERATION OF THE PLAN, FIFTY OR
12 MORE EMPLOYEES AT ANY TIME DURING THE PREVIOUS CALENDAR YEAR;
13 AND

14 (C) FOR THE THIRD YEAR OF OPERATION OF THE PLAN AND FOR
15 EVERY YEAR OF OPERATION OF THE PLAN THEREAFTER, FIVE OR MORE
16 EMPLOYEES AT ANY TIME DURING THE PREVIOUS CALENDAR YEAR;

17 (II) HAS BEEN IN BUSINESS AT LEAST TWO YEARS; AND

18 (III) HAS NOT OFFERED A QUALIFIED RETIREMENT PLAN,
19 INCLUDING, BUT NOT LIMITED TO, A PLAN QUALIFIED UNDER SECTIONS
20 401(a), 401(k), 403(a), 403(b), 408(k), 408(p), OR 457(b) OF THE FEDERAL
21 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, IN THE PRECEDING
22 TWO YEARS; OR

23 (b) EMPLOYS FEWER THAN THE NUMBER OF EMPLOYEES SPECIFIED
24 IN SUBSECTION (3)(a)(I) OF THIS SECTION FOR THE APPLICABLE YEAR OF
25 OPERATION OF THE PLAN, HAS NOT OFFERED A QUALIFIED RETIREMENT
26 PLAN AS SPECIFIED IN SUBSECTION (3)(a)(III) OF THIS SECTION, AND
27 CHOOSES TO PARTICIPATE IN THE PLAN.

1 (4) "ENROLLEE" MEANS ANY EMPLOYEE WHO IS ENROLLED IN THE
2 PLAN.

3 (5) "FUND" MEANS THE COLORADO SECURE SAVINGS PLAN FUND
4 CREATED IN SECTION 24-54.3-110.

5 (6) "INTERNAL REVENUE CODE" MEANS THE FEDERAL "INTERNAL
6 REVENUE CODE OF 1986", AS AMENDED, OR ANY SUCCESSOR LAW.

7 (7) "IRA" MEANS A ROTH INDIVIDUAL RETIREMENT ACCOUNT
8 AUTHORIZED PURSUANT TO SECTION 408A OF THE INTERNAL REVENUE
9 CODE OR A TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT.

10 (8) "PARTICIPATING EMPLOYER" MEANS AN EMPLOYER THAT
11 PROVIDES A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT AS
12 PROVIDED FOR IN THIS ARTICLE 54.3 FOR ITS EMPLOYEES WHO ARE
13 ENROLLEES IN THE PLAN.

14 (9) "PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT"
15 MEANS AN ARRANGEMENT BY WHICH A PARTICIPATING EMPLOYER ALLOWS
16 ENROLLEES TO REMIT PAYROLL DEDUCTION CONTRIBUTIONS TO THE PLAN.

17 (10) "PLAN" MEANS THE COLORADO SECURE SAVINGS PLAN
18 CREATED IN THIS ARTICLE 54.3.

19 (11) "WAGES" MEANS ANY COMPENSATION WITHIN THE MEANING
20 OF SECTION 219(f)(1) OF THE INTERNAL REVENUE CODE THAT IS RECEIVED
21 BY AN ENROLLEE FROM A PARTICIPATING EMPLOYER DURING THE
22 CALENDAR YEAR.

23 **24-54.3-103. Colorado secure savings plan - established.** A
24 RETIREMENT SAVINGS PLAN IN THE FORM OF AN AUTOMATIC ENROLLMENT
25 PAYROLL DEDUCTION IRA, KNOWN AS THE COLORADO SECURE SAVINGS
26 PLAN, IS HEREBY ESTABLISHED. THE BOARD SHALL ADMINISTER THE PLAN
27 FOR THE PURPOSE OF PROMOTING GREATER RETIREMENT SAVINGS FOR

1 PRIVATE-SECTOR EMPLOYEES IN A CONVENIENT, LOW-COST, AND
2 PORTABLE MANNER.

3 **24-54.3-104. Colorado secure savings plan board - creation -**
4 **composition.** (1) THERE IS HEREBY CREATED THE BOARD OF TRUSTEES OF
5 THE PLAN, WHICH HAS THE RESPONSIBILITIES, DUTIES, AND AUTHORITIES
6 SET FORTH IN THIS ARTICLE 54.3.

7 (2) THE BOARD CONSISTS OF THE FOLLOWING NINE TRUSTEES:

8 (a) THE STATE CONTROLLER, OR HIS OR HER DESIGNEE;

9 (b) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF STATE PLANNING
10 AND BUDGETING, OR HIS OR HER DESIGNEE; AND

11 (c) SEVEN TRUSTEES APPOINTED BY THE GOVERNOR AND
12 CONFIRMED BY THE SENATE AS FOLLOWS:

13 (I) FOUR PUBLIC REPRESENTATIVES WITH EXPERTISE IN
14 INVESTMENT OR RETIREMENT SAVINGS PLAN ADMINISTRATION, INCLUDING
15 THE DAY-TO-DAY OPERATIONS OF PLANS, MAINTAINING INDIVIDUAL
16 ACCOUNTS, AND KEEPING TRACK OF TRANSACTIONS AND ASSETS AT THE
17 INDIVIDUAL PARTICIPANT ACCOUNT LEVEL;

18 (II) A REPRESENTATIVE OF PARTICIPATING EMPLOYERS;

19 (III) A REPRESENTATIVE OF ENROLLEES OR POTENTIAL ENROLLEES;

20 AND

21 (IV) A RETIRED COLORADO RESIDENT.

22 (3) THE INITIAL APPOINTMENTS FOR THE GOVERNOR'S APPOINTEES
23 ARE TWO PUBLIC REPRESENTATIVES FOR FOUR YEARS; THE
24 REPRESENTATIVE OF PARTICIPATING EMPLOYERS AND THE RETIRED
25 COLORADO RESIDENT FOR THREE YEARS; AND TWO PUBLIC
26 REPRESENTATIVES AND THE REPRESENTATIVE OF ENROLLEES OR
27 POTENTIAL ENROLLEES FOR TWO YEARS. THEREAFTER, ALL OF THE

1 GOVERNOR'S APPOINTEES ARE APPOINTED FOR TERMS OF FOUR YEARS.

2 (4) IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR
3 SHALL MAKE A CONCERTED EFFORT TO INCLUDE MEMBERS OF DIVERSE
4 POLITICAL, RACIAL, CULTURAL, INCOME, AND ABILITY GROUPS AND
5 MEMBERS FROM URBAN AND RURAL AREAS OF THE STATE.

6 (5) THE TRUSTEES SHALL ELECT FROM AMONG THEMSELVES A
7 CHAIRPERSON AND ANY OTHER OFFICERS AS MAY BE NECESSARY FOR THE
8 BOARD TO CARRY OUT ITS DUTIES AND RESPONSIBILITIES.

9 (6) A VACANCY IN THE TERM OF AN APPOINTED BOARD TRUSTEE
10 SHALL BE FILLED FOR THE BALANCE OF THE UNEXPIRED TERM IN THE SAME
11 MANNER AS THE ORIGINAL APPOINTMENT.

12 (7) TRUSTEES OF THE BOARD SERVE WITHOUT COMPENSATION BUT
13 MAY BE REIMBURSED FOR NECESSARY TRAVEL EXPENSES INCURRED IN
14 CONNECTION WITH THEIR BOARD DUTIES FROM MONEY IN THE FUND.

15 (8) AN INDIVIDUAL SHALL NOT BE OR CONTINUE TO BE A TRUSTEE
16 OF THE BOARD IF THAT INDIVIDUAL HAS BEEN ADJUDICATED OF VIOLATING
17 ANY PROVISIONS OF THIS ARTICLE 54.3 OR HAS BEEN CONVICTED OF A
18 FELONY OR ANY CRIME INVOLVING THE MISAPPROPRIATION OF FUNDS.

19 **24-54.3-105. Standard of conduct - fiduciary duty.** (1) THE
20 TRUSTEES OF THE BOARD, ANY OTHER AGENTS APPOINTED OR ENGAGED BY
21 THE BOARD, AND ALL PERSONS SERVING AS PLAN STAFF SHALL DISCHARGE
22 THEIR DUTIES WITH RESPECT TO THE PLAN SOLELY IN THE INTEREST OF THE
23 PLAN'S ENROLLEES AND BENEFICIARIES AS FOLLOWS:

24 (a) FOR THE EXCLUSIVE PURPOSES OF PROVIDING BENEFITS TO
25 ENROLLEES AND BENEFICIARIES AND DEFRAYING REASONABLE EXPENSES
26 OF ADMINISTERING THE PLAN; AND

27 (b) BY INVESTING WITH THE CARE, SKILL, PRUDENCE, AND

1 DILIGENCE UNDER THE PREVAILING CIRCUMSTANCES THAT A PRUDENT
2 PERSON ACTING IN A LIKE CAPACITY AND FAMILIAR WITH RELEVANT
3 MATTERS WOULD USE IN THE CONDUCT OF AN ENTERPRISE OF A LIKE
4 CHARACTER AND WITH LIKE AIMS.

5 (2) THE TRUSTEES OF THE BOARD SHALL NOT ENGAGE IN ANY
6 ACTIVITIES THAT MIGHT RESULT IN A CONFLICT OF INTEREST WITH THEIR
7 FUNCTIONS AS FIDUCIARIES FOR THE PLAN.

8 **24-54.3-106. Additional duties of the board.** (1) IN ADDITION
9 TO THE OTHER DUTIES AND RESPONSIBILITIES SPECIFIED IN THIS ARTICLE
10 54.3, THE BOARD SHALL:

11 (a) CAUSE THE PLAN TO BE DESIGNED, ESTABLISHED, AND
12 OPERATED IN A MANNER THAT:

13 (I) IS IN ACCORDANCE WITH BEST PRACTICES FOR RETIREMENT
14 SAVINGS VEHICLES AND IS BASED ON THE RESULTS OF A FINANCIAL
15 FEASIBILITY STUDY, CONDUCTED PURSUANT TO SUBSECTION (1)(u) OF THIS
16 SECTION, TO ENSURE THAT THE PLAN IS SELF-SUSTAINING;

17 (II) MAXIMIZES PARTICIPATION, SAVINGS, AND SOUND
18 INVESTMENT PRACTICES;

19 (III) MAXIMIZES SIMPLICITY, INCLUDING EASE OF ADMINISTRATION
20 FOR PARTICIPATING EMPLOYERS AND ENROLLEES;

21 (IV) PROVIDES AN EFFICIENT PRODUCT TO ENROLLEES BY POOLING
22 INVESTMENT FUNDS;

23 (V) ENSURES THE PORTABILITY OF BENEFITS; AND

24 (VI) PROVIDES FOR THE INVESTMENT AND DEACCUMULATION OF
25 ENROLLEE ASSETS IN A MANNER THAT MAXIMIZES FINANCIAL SECURITY IN
26 RETIREMENT;

27 (b) EXPLORE AND ESTABLISH INVESTMENT OPTIONS PURSUANT TO

1 SECTION 24-54.3-109 THAT OFFER EMPLOYEES RETURNS ON
2 CONTRIBUTIONS AND LIFETIME RETIREMENT INCOME WITHOUT INCURRING
3 DEBT OR LIABILITIES TO THE STATE;

4 (c) MAKE AND ENTER INTO CONTRACTS NECESSARY FOR THE
5 ADMINISTRATION OF THE PLAN AND FUND, INCLUDING, BUT NOT LIMITED
6 TO, RETAINING AND CONTRACTING WITH RECORD KEEPERS, INVESTMENT
7 MANAGERS, PRIVATE FINANCIAL INSTITUTIONS, PUBLIC ENTITIES, OTHER
8 FINANCIAL AND SERVICE PROVIDERS, CONSULTANTS, ACTUARIES,
9 COUNSEL, AUDITORS, THIRD-PARTY ADMINISTRATORS, AND OTHER
10 PROFESSIONALS AS NECESSARY;

11 (d) CONDUCT A REVIEW OF THE PERFORMANCE OF ANY
12 INVESTMENT VENDORS EVERY FOUR YEARS, INCLUDING, BUT NOT LIMITED
13 TO, A REVIEW OF RETURNS, FEES, AND CUSTOMER SERVICE. THE BOARD
14 SHALL MAKE THE RESULTS OF THE REVIEWS CONDUCTED PURSUANT TO
15 THIS SUBSECTION (1)(d) AVAILABLE TO THE PUBLIC.

16 (e) DETERMINE THE NUMBER AND DUTIES OF STAFF MEMBERS
17 NEEDED TO ADMINISTER THE PLAN AND ASSEMBLE SUCH A STAFF,
18 INCLUDING, AS NEEDED, THE EMPLOYMENT OF STAFF AND THE
19 APPOINTMENT OF A PLAN ADMINISTRATOR. THE BOARD MAY CONTRACT
20 WITH THIRD PARTIES, INCLUDING STATE AGENCIES, TO ASSIST IN
21 ADMINISTERING THE PLAN.

22 (f) INVEST MONEYS IN THE FUND TO ACHIEVE COST SAVINGS
23 THROUGH EFFICIENCIES AND ECONOMIES OF SCALE;

24 (g) EVALUATE AND ESTABLISH THE PROCESS BY WHICH AN
25 ENROLLEE IS ABLE TO CONTRIBUTE A PORTION OF HIS OR HER WAGES TO
26 THE PLAN FOR AUTOMATIC DEPOSIT OF THOSE CONTRIBUTIONS TO AN IRA
27 AND THE PROCESS BY WHICH THE PARTICIPATING EMPLOYER PROVIDES A

1 PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT TO FORWARD
2 THOSE CONTRIBUTIONS AND RELATED INFORMATION TO THE PLAN,
3 INCLUDING, BUT NOT LIMITED TO, CONTRACTING WITH FINANCIAL SERVICE
4 COMPANIES AND THIRD-PARTY ADMINISTRATORS WITH THE CAPABILITY TO
5 RECEIVE AND PROCESS EMPLOYEE INFORMATION AND CONTRIBUTIONS FOR
6 PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENTS OR SIMILAR
7 ARRANGEMENTS;

8 (h) DESIGN AND ESTABLISH THE PROCESS FOR ENROLLMENT
9 PURSUANT TO SECTION 24-54.3-113, INCLUDING THE PROCESS BY WHICH
10 AN EMPLOYEE CAN OPT NOT TO PARTICIPATE IN THE PLAN, SELECT A
11 CONTRIBUTION LEVEL, SELECT AN INVESTMENT OPTION, AND TERMINATE
12 PARTICIPATION IN THE PLAN;

13 (i) EVALUATE AND ESTABLISH THE PROCESS BY WHICH AN
14 INDIVIDUAL MAY VOLUNTARILY ENROLL IN AND MAKE CONTRIBUTIONS TO
15 THE PLAN;

16 (j) ACCEPT ANY GIFTS, GRANTS, AND DONATIONS, OR OTHER
17 MONEY FROM THE STATE, ANY UNIT OF FEDERAL, STATE, OR LOCAL
18 GOVERNMENT, OR ANY OTHER PERSON, FIRM, PARTNERSHIP, OR
19 CORPORATION THAT HAS OPERATIONS IN THE STATE TO COVER START-UP
20 COSTS OF THE PLAN. THE BOARD MAY ALSO PURSUE OPTIONS FOR BANK
21 LOANS OR A LINE OF CREDIT TO COVER THE START-UP COSTS OF THE PLAN.

22 (k) EVALUATE THE NEED FOR, AND PROCURE AS NEEDED,
23 INSURANCE AGAINST ANY AND ALL LOSS IN CONNECTION WITH THE
24 PROPERTY, ASSETS, OR ACTIVITIES OF THE PLAN, AND INDEMNIFY AS
25 NEEDED EACH MEMBER OF THE BOARD FROM PERSONAL LOSS OR LIABILITY
26 RESULTING FROM A MEMBER'S ACTION OR INACTION AS A MEMBER OF THE
27 BOARD;

1 (l) MAKE PROVISIONS FOR THE PAYMENT OF ADMINISTRATIVE
2 COSTS AND EXPENSES FOR THE CREATION, MANAGEMENT, AND OPERATION
3 OF THE PLAN. ALL ADMINISTRATIVE COSTS OF THE PLAN, INCLUDING
4 REPAYMENT OF ANY START-UP MONEYS, SHALL BE PAID BY ENROLLEES.
5 ANY GIFTS, GRANTS, OR DONATIONS RECEIVED PURSUANT TO SUBSECTION
6 (1)(j) OF THIS SECTION TO IMPLEMENT THE PLAN UNTIL THE PLAN IS
7 SELF-SUSTAINING SHALL NOT BE REPAID UNLESS THOSE MONEYS WERE
8 OFFERED CONTINGENT UPON A PROMISE OF REPAYMENT.

9 (m) SET MINIMUM AND MAXIMUM CONTRIBUTION LEVELS IN
10 ACCORDANCE WITH LIMITS ESTABLISHED FOR IRAS BY THE INTERNAL
11 REVENUE CODE;

12 (n) FACILITATE EDUCATION AND OUTREACH TO EMPLOYERS AND
13 EMPLOYEES;

14 (o) FACILITATE COMPLIANCE BY THE PLAN WITH ALL APPLICABLE
15 REQUIREMENTS FOR THE PLAN UNDER THE INTERNAL REVENUE CODE,
16 INCLUDING TAX QUALIFICATION REQUIREMENTS OR ANY OTHER
17 APPLICABLE LEGAL AND ACCOUNTING REQUIREMENTS;

18 (p) CARRY OUT THE DUTIES AND OBLIGATIONS OF THE PLAN IN AN
19 EFFECTIVE, EFFICIENT, AND LOW-COST MANNER;

20 (q) EXERCISE ANY AND ALL OTHER POWERS REASONABLY
21 NECESSARY FOR THE EFFECTUATION OF THE PURPOSES, OBJECTIVES, AND
22 PROVISIONS OF THIS ARTICLE 54.3;

23 (r) DEPOSIT INTO THE FUND ALL GIFTS, GRANTS, DONATIONS, AND
24 FEES THAT ARE USED TO RECOVER ADMINISTRATIVE COSTS. ALL EXPENSES
25 OF THE BOARD SHALL BE PAID FROM THE FUND.

26 (s) CONSIDER PROCESSES TO IMPLEMENT THE PLAN TO REDUCE THE
27 ACTIONS REQUIRED BY EMPLOYERS;

1 (t) DETERMINE ANY NOMINAL AND REASONABLE ASSISTANCE THAT
2 MAY BE PROVIDED FROM MONIES IN THE FUND TO BUSINESSES TO OFFSET
3 THE INITIAL COSTS OF ENROLLING EMPLOYEES IN THE PLAN;

4 (u) CONDUCT OR CAUSE TO BE CONDUCTED A FINANCIAL
5 FEASIBILITY STUDY TO ENSURE THAT THE PLAN WILL BE SELF-SUSTAINING;

6 (v) REGULARLY AND AUTOMATICALLY PROVIDE PLAN
7 PARTICIPANTS IMPORTANT INFORMATION ABOUT PLAN FEATURES AND
8 FUNDING;

9 (w) CONDUCT OR CAUSE TO BE CONDUCTED A STUDY ASSESSING
10 THE EFFECTS THAT GREATER FINANCIAL EDUCATION AMONG COLORADO
11 RESIDENTS WOULD HAVE ON INCREASING THEIR RETIREMENT SAVINGS AND
12 MAKE RECOMMENDATIONS FOR IMPROVING THE LEVEL OF FINANCIAL
13 EDUCATION;

14 (x) CONDUCT OR CAUSE TO BE CONDUCTED A STUDY ASSESSING
15 THE EFFECTIVENESS OF A SMALL BUSINESS RETIREMENT MARKETPLACE AS
16 A WAY TO INCREASE THE NUMBER OF COLORADO BUSINESSES THAT OFFER
17 RETIREMENT SAVINGS PLANS FOR THEIR EMPLOYEES AND MAKE A
18 RECOMMENDATION TO THE GENERAL ASSEMBLY REGARDING CREATING A
19 SMALL BUSINESS RETIREMENT MARKETPLACE OPTION.

20 **24-54.3-107. Risk management.** THE BOARD SHALL ANNUALLY
21 PREPARE AND ADOPT A WRITTEN STATEMENT OF INVESTMENT POLICY THAT
22 INCLUDES A RISK MANAGEMENT AND OVERSIGHT PROGRAM. THIS
23 INVESTMENT POLICY SHALL PROHIBIT THE BOARD, PLAN, AND FUND FROM
24 BORROWING FOR INVESTMENT PURPOSES. THE RISK MANAGEMENT AND
25 OVERSIGHT PROGRAM SHALL BE DESIGNED TO ENSURE THAT AN EFFECTIVE
26 RISK MANAGEMENT SYSTEM IS IN PLACE TO MONITOR THE RISK LEVELS OF
27 THE PLAN AND FUND PORTFOLIO, TO ENSURE THAT THE RISKS TAKEN ARE

1 PRUDENT AND PROPERLY MANAGED, TO PROVIDE AN INTEGRATED PROCESS
2 FOR OVERALL RISK MANAGEMENT, AND TO ASSESS INVESTMENT RETURNS
3 AS WELL AS RISKS IN ORDER TO DETERMINE IF THE RISKS TAKEN ARE
4 ADEQUATELY COMPENSATED COMPARED TO APPLICABLE PERFORMANCE
5 BENCHMARKS AND STANDARDS. THE BOARD SHALL CONSIDER THE
6 STATEMENT OF INVESTMENT POLICY AND ANY CHANGES IN THE
7 INVESTMENT POLICY AT A PUBLIC HEARING.

8 **24-54.3-108. Financial services vendors.** (1) THE BOARD SHALL
9 ENGAGE, AFTER AN OPEN BID PROCESS, ONE OR MORE FINANCIAL SERVICES
10 VENDORS TO SERVE AS AN INVESTMENT MANAGER FOR THE PLAN, INVEST
11 ANY OTHER ASSETS OF THE PLAN, AND HANDLE THE RECORD KEEPING FOR
12 THE PLAN. IN SELECTING THE VENDOR OR VENDORS, THE BOARD SHALL
13 TAKE INTO CONSIDERATION AND GIVE WEIGHT TO THE VENDOR'S FEES AND
14 CHARGES IN ORDER TO REDUCE THE PLAN'S ADMINISTRATIVE EXPENSES.

15 (2) THE VENDOR OR VENDORS SHALL COMPLY WITH ALL
16 APPLICABLE FEDERAL AND STATE LAWS, RULES, AND REGULATIONS, AS
17 WELL AS ALL RULES, POLICIES, AND GUIDELINES PROMULGATED BY THE
18 BOARD WITH RESPECT TO THE PLAN AND THE INVESTMENT OF MONEYS IN
19 THE FUND, INCLUDING, BUT NOT LIMITED TO, THE INVESTMENT POLICY.

20 (3) THE VENDOR OR VENDORS SHALL PROVIDE SUCH REPORTS AS
21 THE BOARD DEEMS NECESSARY FOR THE BOARD TO OVERSEE EACH
22 INVESTMENT MANAGER'S PERFORMANCE AND THE PERFORMANCE OF THE
23 FUND.

24 (4) THE BOARD MAY AWARD AN INITIAL RECORD KEEPING
25 CONTRACT FOR A TERM OF UP TO TEN YEARS TO PERMIT THE FINANCIAL
26 SERVICES VENDOR OR VENDORS TO RECOVER START-UP COSTS AND INITIAL
27 LOSSES.

1 **24-54.3-109. Investment options.** (1) THE BOARD MAY
2 ESTABLISH THE FOLLOWING INVESTMENT OPTIONS:

3 (a) A LOW-RISK INVESTMENT PORTFOLIO; AND

4 (b) A TARGET DATE FUND.

5 (2) THE TARGET DATE FUND AND LIFETIME INCOME OPTIONS MUST
6 BE THE DEFAULT INVESTMENT OPTION FOR ENROLLEES WHO FAIL TO ELECT
7 AN INVESTMENT OPTION UNLESS THE BOARD DESIGNATES BY RULE A NEW
8 INVESTMENT OPTION AS THE DEFAULT PURSUANT TO SUBSECTION (4) OF
9 THIS SECTION.

10 (3) UNDER NO CIRCUMSTANCES SHALL THE BOARD, PLAN, FUND,
11 STATE, OR ANY PARTICIPATING EMPLOYER ASSUME ANY LIABILITY FOR
12 INVESTMENT OR ACTUARIAL RISK. THE BOARD SHALL DETERMINE
13 WHETHER TO ESTABLISH INVESTMENT OPTIONS PURSUANT TO THIS SECTION
14 BASED UPON AN ANALYSIS OF THEIR COST, RISK PROFILE, BENEFIT LEVEL,
15 FEASIBILITY, AND EASE OF IMPLEMENTATION.

16 (4) IF THE BOARD ELECTS TO ESTABLISH A LOW-RISK INVESTMENT
17 PORTFOLIO, THE BOARD SHALL DETERMINE WHETHER THE PORTFOLIO WILL
18 REPLACE THE TARGET DATE FUND AS THE DEFAULT INVESTMENT OPTION
19 FOR ENROLLEES WHO DO NOT ELECT AN INVESTMENT OPTION. IN MAKING
20 THE DETERMINATION, THE BOARD SHALL CONSIDER THE COST, RISK
21 PROFILE, BENEFIT LEVEL, AND EASE OF ENROLLMENT IN THE LOW-RISK
22 INVESTMENT PORTFOLIO. THE BOARD MAY AT ANY TIME THEREAFTER
23 REVISIT THIS QUESTION AND, BASED ON AN ANALYSIS OF THESE CRITERIA,
24 ESTABLISH THE LOW-RISK INVESTMENT PORTFOLIO AS THE DEFAULT FOR
25 ENROLLEES WHO DO NOT ELECT AN INVESTMENT OPTION.

26 **24-54.3-110. Colorado secure savings plan fund - creation.**

27 (1) (a) THE COLORADO SECURE SAVINGS PLAN FUND IS HEREBY

1 ESTABLISHED AS A TRUST OUTSIDE OF THE STATE TREASURY. THE BOARD
2 IS THE TRUSTEE OF THE FUND.

3 (b) THE FUND CONSISTS OF MONEY RECEIVED FROM ENROLLEES
4 AND PARTICIPATING EMPLOYERS PURSUANT TO AUTOMATIC PAYROLL
5 DEDUCTIONS, CONTRIBUTIONS TO SAVINGS MADE UNDER THIS ARTICLE
6 54.3, AND ANY GIFTS, GRANTS, OR DONATIONS RECEIVED PURSUANT TO
7 THIS ARTICLE 54.3.

8 (c) FOR THE FIRST FIVE YEARS OF THE OPERATION OF THE PLAN,
9 THE BOARD MAY USE UP TO ONE PERCENT OF THE MONEY IN THE FUND TO
10 PAY FOR THE ADMINISTRATIVE COSTS THAT IT INCURS IN THE
11 PERFORMANCE OF ITS DUTIES UNDER THIS ARTICLE 54.3, INCLUDING
12 START-UP ADMINISTRATIVE EXPENSES. IN THE SIXTH YEAR OF THE
13 OPERATION OF THE PLAN AND IN EACH YEAR THEREAFTER, THE BOARD
14 MAY USE UP TO THREE-QUARTERS OF ONE PERCENT OF THE MONEY IN THE
15 FUND FOR SUCH ADMINISTRATIVE PURPOSES.

16 (2) MONEY DEPOSITED IN THE FUND IS NOT PROPERTY OF THE
17 STATE, AND THE FUND IS NOT A DEPARTMENT, INSTITUTION, OR AGENCY OF
18 THE STATE. AMOUNTS ON DEPOSIT IN THE FUND SHALL NOT BE
19 COMMINGLED WITH STATE MONEY AND THE STATE HAS NO CLAIM TO OR
20 AGAINST, OR INTEREST IN, SUCH MONEY.

21 (3) EXCEPT TO THE EXTENT NECESSARY TO ADMINISTER THE PLAN
22 IN ACCORDANCE WITH THE INTERNAL REVENUE CODE AND STATE TAX
23 LAWS, ALL INFORMATION CONTAINED IN THE ACCOUNTS OF INDIVIDUAL
24 ENROLLEES OF THE PLAN, INCLUDING BUT NOT LIMITED TO NAMES,
25 ADDRESSES, TELEPHONE NUMBERS, PERSONAL IDENTIFICATION
26 INFORMATION, AMOUNTS CONTRIBUTED, AND EARNINGS ON AMOUNTS
27 CONTRIBUTED, SHALL BE KEPT CONFIDENTIAL BY THE BOARD AND BY ANY

1 PERSON OR ENTITY WORKING ON BEHALF OF THE BOARD. THIS SECTION
2 DOES NOT APPLY TO THE EXTENT THAT AN INDIVIDUAL ENROLLEE OF THE
3 PLAN EXPRESSLY AGREES IN WRITING THAT CERTAIN INFORMATION
4 CONTAINED IN HIS OR HER ACCOUNT MAY BE DISCLOSED.

5 **24-54.3-111. Employer and employee information packets -**
6 **disclosure forms.** (1) PRIOR TO THE OPENING OF THE PLAN FOR
7 ENROLLMENT, THE BOARD SHALL DESIGN AND DISSEMINATE TO ALL
8 EMPLOYERS AN EMPLOYER INFORMATION PACKET AND AN EMPLOYEE
9 INFORMATION PACKET, WHICH MUST INCLUDE BACKGROUND INFORMATION
10 ON THE PLAN AND APPROPRIATE DISCLOSURES FOR EMPLOYEES.

11 (2) THE BOARD SHALL DETERMINE THE CONTENTS OF BOTH THE
12 EMPLOYEE INFORMATION PACKET AND THE EMPLOYER INFORMATION
13 PACKET.

14 (3) THE EMPLOYEE INFORMATION PACKET MUST INCLUDE A
15 DISCLOSURE FORM THAT EXPLAINS THE FOLLOWING:

16 (a) THE BENEFITS AND RISKS ASSOCIATED WITH MAKING
17 CONTRIBUTIONS TO THE PLAN;

18 (b) THE MECHANICS OF HOW TO MAKE CONTRIBUTIONS TO THE
19 PLAN;

20 (c) HOW TO OPT OUT OF THE PLAN;

21 (d) HOW TO PARTICIPATE IN THE PLAN WITH A LEVEL OF EMPLOYEE
22 CONTRIBUTIONS OTHER THAN FIVE PERCENT OF THE EMPLOYEE'S WAGES;

23 (e) THE PROCESS TO WITHDRAW RETIREMENT SAVINGS;

24 (f) HOW TO OBTAIN ADDITIONAL INFORMATION ABOUT THE PLAN;

25 (g) THAT EMPLOYEES SEEKING FINANCIAL ADVICE SHOULD
26 CONTACT FINANCIAL ADVISORS, THAT PARTICIPATING EMPLOYERS ARE
27 NOT IN A POSITION TO PROVIDE FINANCIAL ADVICE, AND THAT

1 PARTICIPATING EMPLOYERS ARE NOT LIABLE FOR DECISIONS EMPLOYEES
2 MAKE PURSUANT TO THIS ARTICLE 54.3;

3 (h) THAT THE PLAN IS NOT AN EMPLOYER-SPONSORED RETIREMENT
4 PLAN;

5 (i) THAT INVESTMENTS ARE NOT GUARANTEED BY THE STATE;

6 (j) FINANCIAL EDUCATION INFORMATION CONCERNING THE
7 IMPORTANCE OF SAVING AND PLANNING FOR RETIREMENT; AND

8 (k) ANY OTHER INFORMATION DEEMED NECESSARY BY THE BOARD.

9 (4) THE EMPLOYEE INFORMATION PACKET SHALL ALSO INCLUDE A
10 FORM FOR AN EMPLOYEE TO NOTE HIS OR HER DECISION TO OPT OUT OF
11 PARTICIPATION IN THE PLAN OR ELECT TO PARTICIPATE WITH A LEVEL OF
12 EMPLOYEE CONTRIBUTIONS OTHER THAN FIVE PERCENT OF THE
13 EMPLOYEE'S WAGES.

14 (5) PARTICIPATING EMPLOYERS SHALL SUPPLY THE EMPLOYEE
15 INFORMATION PACKET TO EMPLOYEES UPON LAUNCH OF THE PLAN.
16 PARTICIPATING EMPLOYERS SHALL SUPPLY THE EMPLOYEE INFORMATION
17 PACKET TO NEW EMPLOYEES AT THE TIME OF HIRING, AND NEW EMPLOYEES
18 MAY OPT OUT OF PARTICIPATION IN THE PLAN OR ELECT TO PARTICIPATE
19 WITH A LEVEL OF EMPLOYEE CONTRIBUTIONS OTHER THAN FIVE PERCENT
20 OF THE EMPLOYEE'S WAGES AT THAT TIME.

21 **24-54.3-112. Plan implementation - authorization.** IF, AFTER
22 CONDUCTING OR CAUSING TO BE CONDUCTED A FINANCIAL FEASIBILITY
23 STUDY IN ACCORDANCE WITH SECTION 24-54.3-106 (1)(u), THE BOARD
24 FINDS AND DETERMINES THAT THE PLAN WILL BE SELF-SUSTAINING AND
25 WOULD PROMOTE GREATER RETIREMENT SAVINGS FOR PRIVATE-SECTOR
26 EMPLOYEES IN A CONVENIENT, LOW-COST, AND PORTABLE MANNER, THE
27 BOARD SHALL RECOMMEND TO THE GENERAL ASSEMBLY THAT THE PLAN

1 BE IMPLEMENTED. THE BOARD SHALL NOT IMPLEMENT THE PLAN UNLESS
2 THE GENERAL ASSEMBLY, ACTING BY BILL, DIRECTS THE BOARD TO
3 IMPLEMENT THE PLAN. IF THE BOARD IS DIRECTED TO IMPLEMENT THE
4 PLAN, IT SHALL BEGIN IMPLEMENTATION ON A DATE SPECIFIED BY THE
5 GENERAL ASSEMBLY IN THE BILL.

6 **24-54.3-113. Plan implementation - enrollment.** (1) EXCEPT AS
7 OTHERWISE PROVIDED IN SECTION 24-54.3-119, THE BOARD SHALL ENSURE
8 THAT THE PLAN IS FULLY IMPLEMENTED AND THAT ENROLLMENT OF
9 EMPLOYEES BEGINS WITHIN TWENTY-FOUR MONTHS OF THE DATE THAT
10 THE BOARD WAS AUTHORIZED TO BEGIN IMPLEMENTING THE PLAN AS
11 SPECIFIED IN THE BILL ENACTED BY THE GENERAL ASSEMBLY PURSUANT TO
12 SECTION 24-54.3-112.

13 (2) EACH EMPLOYER SHALL ESTABLISH A PAYROLL DEPOSIT
14 RETIREMENT SAVINGS ARRANGEMENT TO ALLOW EACH EMPLOYEE TO
15 PARTICIPATE IN THE PLAN AS FOLLOWS:

16 (a) FOR AN EMPLOYER THAT EMPLOYS ONE HUNDRED OR MORE
17 EMPLOYEES AT ANY TIME DURING THE CALENDAR YEAR IMMEDIATELY
18 PRECEDING THE YEAR IN WHICH THE PLAN IS OPERATING, THE EMPLOYER
19 SHALL ESTABLISH A PAYROLL DEPOSIT RETIREMENT SAVINGS
20 ARRANGEMENT WITHIN NINE MONTHS AFTER THE IMPLEMENTATION DATE
21 OF THE PLAN;

22 (b) FOR AN EMPLOYER THAT EMPLOYS FIFTY OR MORE EMPLOYEES
23 AT ANY TIME DURING THE CALENDAR YEAR IMMEDIATELY PRECEDING THE
24 SECOND YEAR IN WHICH THE PLAN IS OPERATING, THE EMPLOYER SHALL
25 ESTABLISH A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT
26 WITHIN ONE YEAR AND NINE MONTHS AFTER THE IMPLEMENTATION DATE
27 OF THE PLAN; AND

1 (c) FOR AN EMPLOYER THAT EMPLOYS FIVE OR MORE EMPLOYEES
2 AT ANY TIME DURING THE CALENDAR YEAR IMMEDIATELY PRECEDING THE
3 THIRD YEAR IN WHICH THE PLAN IS OPERATING OR IN ANY SUCCEEDING
4 YEAR IN WHICH THE PLAN IS OPERATING, THE EMPLOYER SHALL ESTABLISH
5 A PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT WITHIN TWO
6 YEARS AND NINE MONTHS AFTER THE IMPLEMENTATION DATE OF THE
7 PLAN.

8 (3) EMPLOYERS SHALL AUTOMATICALLY ENROLL IN THE PLAN
9 EACH OF THEIR EMPLOYEES WHO HAS NOT OPTED OUT OF PARTICIPATION
10 IN THE PLAN AND SHALL PROVIDE PAYROLL DEDUCTION RETIREMENT
11 SAVINGS ARRANGEMENTS FOR SUCH EMPLOYEES AND DEPOSIT, ON BEHALF
12 OF SUCH EMPLOYEES, THE MONEY DEDUCTED INTO THE PLAN. ANY
13 EMPLOYER MAY, BUT IS NOT REQUIRED TO, PROVIDE PAYROLL DEDUCTION
14 RETIREMENT SAVINGS ARRANGEMENTS FOR EACH EMPLOYEE WHO ELECTS
15 TO PARTICIPATE IN THE PLAN.

16 (4) ENROLLEES MAY SELECT A LEVEL OF CONTRIBUTION INTO THE
17 FUND. THIS LEVEL MAY BE EXPRESSED AS A PERCENTAGE OF WAGES OR AS
18 A DOLLAR AMOUNT UP TO THE DEDUCTIBLE AMOUNT FOR THE ENROLLEE'S
19 TAXABLE YEAR UNDER SECTION 219(b)(1)(A) OF THE INTERNAL REVENUE
20 CODE. ENROLLEES MAY CHANGE THEIR LEVEL OF CONTRIBUTION AT ANY
21 TIME, SUBJECT TO RULES PROMULGATED BY THE BOARD. IF AN ENROLLEE
22 FAILS TO SELECT A LEVEL OF CONTRIBUTION, THEN HE OR SHE SHALL
23 CONTRIBUTE FIVE PERCENT OF HIS OR HER WAGES TO THE PLAN, SO LONG
24 AS SUCH CONTRIBUTIONS SHALL NOT CAUSE THE ENROLLEE'S TOTAL
25 CONTRIBUTIONS TO IRAS FOR THE YEAR TO EXCEED THE DEDUCTIBLE
26 AMOUNT FOR THE ENROLLEE'S TAXABLE YEAR UNDER SECTION
27 219(b)(1)(A) OF THE INTERNAL REVENUE CODE.

1 (5) ENROLLEES MAY SELECT AN INVESTMENT OPTION FROM THE
2 PERMITTED INVESTMENT OPTIONS SPECIFIED IN SECTION 24-54.3-109.
3 ENROLLEES MAY CHANGE THEIR INVESTMENT OPTION AT ANY TIME,
4 SUBJECT TO RULES PROMULGATED BY THE BOARD. IN THE EVENT THAT AN
5 ENROLLEE FAILS TO SELECT AN INVESTMENT OPTION, THAT ENROLLEE
6 SHALL BE PLACED IN THE INVESTMENT OPTION SELECTED BY THE BOARD
7 AS THE DEFAULT PURSUANT TO SECTION 24-54.3-109. IF THE BOARD HAS
8 NOT SELECTED A DEFAULT INVESTMENT OPTION PURSUANT TO SECTION
9 24-54.3-109, THEN AN ENROLLEE WHO FAILS TO SELECT AN INVESTMENT
10 OPTION SHALL BE PLACED IN THE TARGET DATE FUND.

11 (6) FOLLOWING INITIAL IMPLEMENTATION OF THE PLAN PURSUANT
12 TO THIS SECTION, AT LEAST ONCE EVERY YEAR, PARTICIPATING
13 EMPLOYERS SHALL DESIGNATE AN OPEN ENROLLMENT PERIOD DURING
14 WHICH EMPLOYEES WHO PREVIOUSLY OPTED OUT OF THE PLAN MAY
15 ENROLL IN THE PLAN. AN EMPLOYEE WHO OPTS OUT OF THE PLAN WHO
16 SUBSEQUENTLY WANTS TO PARTICIPATE THROUGH THE PARTICIPATING
17 EMPLOYER'S PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT MAY
18 ONLY ENROLL DURING THE PARTICIPATING EMPLOYER'S DESIGNATED OPEN
19 ENROLLMENT PERIOD OR, IF PERMITTED BY THE PARTICIPATING EMPLOYER,
20 AT AN EARLIER TIME.

21 (7) EMPLOYERS SHALL RETAIN THE OPTION AT ALL TIMES TO
22 ESTABLISH ANY TYPE OF EMPLOYER-SPONSORED RETIREMENT PLAN, SUCH
23 AS A DEFINED BENEFIT PLAN OR 401(k) PLAN, SIMPLIFIED EMPLOYEE
24 PENSION PLAN, OR SAVINGS INCENTIVE MATCH PLAN FOR EMPLOYEES
25 PLAN, OR TO OFFER AN AUTOMATIC ENROLLMENT PAYROLL DEDUCTION
26 IRA, INSTEAD OF HAVING A PAYROLL DEPOSIT RETIREMENT SAVINGS
27 ARRANGEMENT TO ALLOW EMPLOYEE PARTICIPATION IN THE PLAN.

1 (8) AN EMPLOYEE MAY TERMINATE HIS OR HER PARTICIPATION IN
2 THE PLAN AT ANY TIME IN A MANNER PRESCRIBED BY THE BOARD.

3 **24-54.3-114. Payments.** (1) EMPLOYEE CONTRIBUTIONS
4 DEDUCTED BY THE PARTICIPATING EMPLOYER THROUGH PAYROLL
5 DEDUCTIONS SHALL BE PAID BY THE PARTICIPATING EMPLOYER TO THE
6 FUND OR THE IRA CUSTODIAN USING ONE OR MORE PAYROLL DEPOSIT
7 RETIREMENT SAVINGS ARRANGEMENTS ESTABLISHED BY THE BOARD
8 PURSUANT TO SECTION 24-54.3-106 (1)(h) EITHER:

9 (a) ON OR BEFORE THE LAST DAY OF THE MONTH FOLLOWING THE
10 MONTH IN WHICH THE COMPENSATION WOULD HAVE OTHERWISE BEEN
11 PAYABLE TO THE EMPLOYEE IN CASH; OR

12 (b) BEFORE SUCH LATER DEADLINE PRESCRIBED BY THE BOARD
13 FOR MAKING SUCH PAYMENTS, BUT NOT LATER THAN THE DUE DATE FOR
14 THE DEPOSIT OF TAX REQUIRED TO BE DEDUCTED AND WITHHELD
15 RELATING TO COLLECTION OF INCOME TAX ON WAGES OR FOR THE DEPOSIT
16 OF TAX REQUIRED TO BE PAID UNDER THE UNEMPLOYMENT INSURANCE
17 SYSTEM FOR THE PAYROLL PERIOD TO WHICH SUCH PAYMENTS RELATE.

18 **24-54.3-115. Duty and liability - state.** (1) THE STATE HAS NO
19 DUTY OR LIABILITY TO ANY PARTY FOR THE PAYMENT OF ANY RETIREMENT
20 SAVINGS BENEFITS ACCRUED BY ANY INDIVIDUAL UNDER THE PLAN. ANY
21 FINANCIAL LIABILITY FOR THE PAYMENT OF RETIREMENT SAVINGS
22 BENEFITS IN EXCESS OF FUNDS AVAILABLE UNDER THE PLAN SHALL BE
23 BORNE SOLELY BY THE ENTITIES WITH WHOM THE BOARD CONTRACTS TO
24 PROVIDE INSURANCE TO PROTECT THE VALUE OF THE PLAN.

25 (2) NO STATE BOARD, COMMISSION, AGENCY, OR ANY OFFICER OR
26 EMPLOYEE THEREOF IS LIABLE FOR ANY LOSS OR DEFICIENCY RESULTING
27 FROM PARTICULAR INVESTMENTS SELECTED UNDER THIS ARTICLE 54.3.

1 **24-54.3-116. Duty and liability - participating employers.**

2 (1) PARTICIPATING EMPLOYERS HAVE NO LIABILITY FOR AN EMPLOYEE'S
3 DECISION TO PARTICIPATE IN, OR OPT OUT OF, THE PLAN OR FOR THE
4 INVESTMENT DECISIONS OF THE BOARD OR OF ANY ENROLLEE.

5 (2) A PARTICIPATING EMPLOYER IS NOT A FIDUCIARY, OR
6 CONSIDERED TO BE A FIDUCIARY, OVER THE PLAN. A PARTICIPATING
7 EMPLOYER DOES NOT BEAR RESPONSIBILITY FOR THE ADMINISTRATION,
8 INVESTMENT, OR INVESTMENT PERFORMANCE OF THE PLAN. A
9 PARTICIPATING EMPLOYER IS NOT LIABLE WITH REGARD TO INVESTMENT
10 RETURNS, PLAN DESIGN, AND BENEFITS PAID TO PLAN ENROLLEES.

11 **24-54.3-117. Audit and reports.** (1) THE BOARD SHALL PREPARE
12 OR CAUSE TO BE PREPARED THE FOLLOWING ON AN ANNUAL BASIS:

13 (a) AN ANNUAL AUDITED FINANCIAL REPORT, PREPARED IN
14 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, ON
15 THE OPERATIONS OF THE PLAN DURING THE PREVIOUS CALENDAR YEAR;

16 (b) A REPORT THAT INCLUDES, BUT IS NOT LIMITED TO, A
17 SUMMARY OF THE BENEFITS PROVIDED BY THE PLAN, THE NUMBER OF
18 ENROLLEES IN THE PLAN, THE PERCENTAGE AND AMOUNTS OF INVESTMENT
19 OPTIONS AND RATES OF RETURN FOR THE PLAN, AND SUCH OTHER
20 INFORMATION THAT IS RELEVANT TO MAKE A FULL, FAIR, AND EFFECTIVE
21 DISCLOSURE OF THE OPERATIONS OF THE PLAN AND THE FUND; AND

22 (c) AN AUDIT TO BE MADE BY AN INDEPENDENT CERTIFIED PUBLIC
23 ACCOUNTANT CHOSEN BY THE BOARD THAT SHALL INCLUDE, BUT IS NOT
24 LIMITED TO, DIRECT AND INDIRECT COSTS ATTRIBUTABLE TO THE USE OF
25 OUTSIDE CONSULTANTS, INDEPENDENT CONTRACTORS, AND ANY OTHER
26 PERSONS FOR THE ADMINISTRATION OF THE PLAN DURING THE PREVIOUS
27 CALENDAR YEAR.

1 (2) ONE YEAR AFTER THE INCEPTION OF THE PLAN, AND ON OR
2 BEFORE SUCH DATE EACH YEAR THEREAFTER, THE BOARD SHALL SUBMIT
3 THE REPORTS AND THE AUDIT REQUIRED IN THIS SECTION TO THE
4 GOVERNOR, THE STATE CONTROLLER, THE STATE TREASURER, AND THE
5 GENERAL ASSEMBLY.

6 (3) IN ADDITION TO ANY OTHER STATEMENTS OR REPORTS
7 REQUIRED BY LAW, THE BOARD SHALL PROVIDE ANNUAL REPORTS TO
8 PARTICIPATING EMPLOYERS, REPORTING THE NAMES OF EACH ENROLLEE
9 EMPLOYED BY THE PARTICIPATING EMPLOYER AND THE CONTRIBUTION
10 AMOUNTS MADE BY THE PARTICIPATING EMPLOYER ON BEHALF OF EACH
11 EMPLOYEE DURING THE REPORTING PERIOD, AS WELL AS ANNUAL REPORTS
12 TO ENROLLEES, REPORTING CONTRIBUTIONS AND INVESTMENT INCOME
13 ALLOCATED TO, WITHDRAWALS FROM, AND BALANCES IN THEIR PLAN
14 ACCOUNTS FOR THE REPORTING PERIOD. THE REPORTS MAY INCLUDE ANY
15 OTHER INFORMATION REGARDING THE PLAN AS DEEMED NECESSARY BY
16 THE BOARD.

17 **24-54.3-118. Penalties.** (1) THE BOARD SHALL DEVELOP A
18 PROCESS AND CONTRACT WITH THIRD PARTIES, WHICH MAY INCLUDE
19 STATE AGENCIES, TO ENSURE THAT BUSINESSES ARE IN COMPLIANCE WITH
20 THE REQUIREMENTS OF THIS ARTICLE 54.3.

21 (2) THE BOARD SHALL DETERMINE A PENALTY STRUCTURE FOR
22 EMPLOYERS WHO FAIL, WITHOUT REASONABLE CAUSE, TO ENROLL
23 EMPLOYEES IN THE PLAN WITHIN THE TIME SPECIFIED IN SECTION
24 24-54.3-113; EXCEPT THAT THE PENALTY IMPOSED ON AN EMPLOYER
25 SHALL NOT EXCEED TWO HUNDRED FIFTY DOLLARS FOR EACH EMPLOYEE
26 FOR EACH CALENDAR YEAR OR PORTION OF A CALENDAR YEAR DURING
27 WHICH THE EMPLOYEE WAS NEITHER ENROLLED IN THE PLAN NOR HAD

1 OPTED OUT OF PARTICIPATING IN THE PLAN.

2 (3) THE BOARD SHALL DEVELOP A PROCESS FOR EMPLOYEES TO
3 REPORT EMPLOYER NONCOMPLIANCE WITH THE PROVISIONS OF THIS
4 ARTICLE 54.3. AN EMPLOYER SHALL NOT TAKE DISCIPLINARY ACTION OR
5 OTHERWISE RETALIATE AGAINST AN EMPLOYEE WHO REPORTS, IN
6 ACCORDANCE WITH THE PROCESS ESTABLISHED BY THE BOARD, HIS OR HER
7 EMPLOYER'S NONCOMPLIANCE WITH THIS ARTICLE 54.3.

8 **24-54.3-119. Delayed implementation.** IF THE BOARD DOES NOT
9 OBTAIN ADEQUATE MONEYS TO IMPLEMENT THE PLAN WITHIN THE TIME
10 SPECIFIED IN SECTION 24-54.3-113, THE BOARD MAY DELAY THE
11 IMPLEMENTATION OF THE PLAN.

12 **24-54.3-120. Federal considerations.** (1) THE BOARD SHALL NOT
13 IMPLEMENT THE PLAN IF THE IRA ARRANGEMENTS OFFERED UNDER THE
14 PLAN FAIL TO QUALIFY FOR THE FAVORABLE FEDERAL INCOME TAX
15 TREATMENT ORDINARILY ACCORDED TO IRAS UNDER THE INTERNAL
16 REVENUE CODE OR IF IT IS DETERMINED THAT THE PLAN IS AN EMPLOYEE
17 BENEFIT PLAN AND STATE OR EMPLOYER LIABILITY IS ESTABLISHED UNDER
18 THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT", 29
19 U.S.C. SEC. 1001 ET SEQ.

20 (2) THE BOARD SHALL ENSURE THAT THE PLAN COMPLIES WITH
21 ANY APPLICABLE LABOR REGULATIONS PROMULGATED BY THE FEDERAL
22 DEPARTMENT OF LABOR.

23 **SECTION 3. Act subject to petition - effective date.** This act
24 takes effect at 12:01 a.m. on the day following the expiration of the
25 ninety-day period after final adjournment of the general assembly (August
26 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a
27 referendum petition is filed pursuant to section 1 (3) of article V of the

1 state constitution against this act or an item, section, or part of this act
2 within such period, then the act, item, section, or part will not take effect
3 unless approved by the people at the general election to be held in
4 November 2018 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.