

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**No. **1056** Session of  
2024INTRODUCED BY ARGALL, PHILLIPS-HILL, COSTA, BROWN, BAKER,  
SCHWANK AND MILLER, FEBRUARY 12, 2024AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, OCTOBER 2, 2024

## AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled  
2 "An act relating to the finances of the State government;  
3 providing for cancer control, prevention and research, for  
4 ambulatory surgical center data collection, for the Joint  
5 Underwriting Association, for entertainment business  
6 financial management firms, for private dam financial  
7 assurance and for reinstatement of item vetoes; providing for  
8 the settlement, assessment, collection, and lien of taxes,  
9 bonus, and all other accounts due the Commonwealth, the  
10 collection and recovery of fees and other money or property  
11 due or belonging to the Commonwealth, or any agency thereof,  
12 including escheated property and the proceeds of its sale,  
13 the custody and disbursement or other disposition of funds  
14 and securities belonging to or in the possession of the  
15 Commonwealth, and the settlement of claims against the  
16 Commonwealth, the resettlement of accounts and appeals to the  
17 courts, refunds of moneys erroneously paid to the  
18 Commonwealth, auditing the accounts of the Commonwealth and  
19 all agencies thereof, of all public officers collecting  
20 moneys payable to the Commonwealth, or any agency thereof,  
21 and all receipts of appropriations from the Commonwealth,  
22 authorizing the Commonwealth to issue tax anticipation notes  
23 to defray current expenses, implementing the provisions of  
24 section 7(a) of Article VIII of the Constitution of  
25 Pennsylvania authorizing and restricting the incurring of  
26 certain debt and imposing penalties; affecting every  
27 department, board, commission, and officer of the State  
28 government, every political subdivision of the State, and  
29 certain officers of such subdivisions, every person,  
30 association, and corporation required to pay, assess, or  
31 collect taxes, or to make returns or reports under the laws  
32 imposing taxes for State purposes, or to pay license fees or

1 other moneys to the Commonwealth, or any agency thereof,  
2 every State depository and every debtor or creditor of the  
3 Commonwealth," in Treasury Department, further providing for <--  
4 investment of moneys-; ESTABLISHING THE KEYSTONE SAVES  
5 PROGRAM, THE KEYSTONE SAVES PROGRAM FUND, THE KEYSTONE SAVES  
6 ADMINISTRATIVE FUND AND THE KEYSTONE SAVES PROGRAM ADVISORY  
7 BOARD; AND PROVIDING FOR POWERS AND DUTIES OF THE TREASURY  
8 DEPARTMENT, FOR INVESTMENT AND FIDUCIARY RESPONSIBILITIES AND  
9 FOR PROGRAM IMPLEMENTATION.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 301.1(i)(2) of the act of April 9, 1929  
13 (P.L.343, No.176), known as The Fiscal Code, AMENDED JULY 11, <--  
14 2024 (P.L.550, NO.54), is amended to read:

15 Section 301.1. Investment of Moneys.--\* \* \*

16 (i) \* \* \*

17 (2) The authority to invest or reinvest the moneys of any  
18 fund pursuant to this subsection shall expire December 31,  
19 ~~{2024}~~ 2034 [2034] 2035. The Treasury Department may maintain <--  
20 investments pursuant to this subsection which are in existence  
21 on the expiration date in this paragraph for not more than two  
22 years following such expiration date.

23 SECTION 2. THE ACT IS AMENDED BY ADDING AN ARTICLE TO READ: <--

24 ARTICLE III-A

25 KEYSTONE SAVES PROGRAM

26 SUBARTICLE A

27 PRELIMINARY PROVISIONS

28 SECTION 301-A. SCOPE OF ARTICLE.

29 THIS ARTICLE RELATES TO THE KEYSTONE SAVES PROGRAM.

30 SECTION 302-A. LEGISLATIVE INTENT (RESERVED).

31 SECTION 303-A. DEFINITIONS.

32 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE  
33 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
34 CONTEXT CLEARLY INDICATES OTHERWISE:

1 "ADMINISTRATIVE FUND." THE KEYSTONE SAVES ADMINISTRATIVE  
2 FUND ESTABLISHED UNDER SECTION 313-A.

3 "BOARD." THE KEYSTONE SAVES PROGRAM ADVISORY BOARD  
4 ESTABLISHED UNDER SECTION 321-A.

5 "COVERED EMPLOYEE." AS FOLLOWS:

6 (1) AN INDIVIDUAL WHO:

7 (I) IS EMPLOYED BY A COVERED EMPLOYER;

8 (II) HAS GROSS WAGES OR OTHER COMPENSATION THAT ARE  
9 ALLOCABLE TO THE COMMONWEALTH IN A CALENDAR YEAR; AND

10 (III) IS AT LEAST 18 YEARS OF AGE.

11 (2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

12 (I) AN EMPLOYEE COVERED UNDER 45 U.S.C. § 151 ET  
13 SEQ. (RAILWAY LABOR ACT).

14 (II) AN EMPLOYEE ON WHOSE BEHALF AN EMPLOYER MAKES  
15 CONTRIBUTIONS TO A MULTI-EMPLOYER PENSION TRUST FUND.

16 (III) AN EMPLOYEE OF THE FEDERAL GOVERNMENT.

17 (IV) AN EMPLOYEE OF THIS COMMONWEALTH OR ANY OTHER  
18 STATE.

19 (V) AN EMPLOYEE OF A POLITICAL SUBDIVISION,  
20 MUNICIPAL CORPORATION OR SCHOOL DISTRICT IN THIS  
21 COMMONWEALTH OR ANY OTHER STATE.

22 "COVERED EMPLOYER." AS FOLLOWS:

23 (1) A PERSON ENGAGED IN A BUSINESS, INDUSTRY,  
24 PROFESSION, TRADE OR OTHER ENTERPRISE IN THIS COMMONWEALTH  
25 THAT EMPLOYS INDIVIDUALS, WHETHER FOR PROFIT OR NOT FOR  
26 PROFIT.

27 (2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

28 (I) AN EMPLOYER THAT HAS FOUR OR FEWER EMPLOYEES:

29 (A) AS OF JULY 1 OR LATER OF A CURRENT CALENDAR  
30 YEAR, FOR AT LEAST SIX MONTHS OF THAT CALENDAR YEAR;

1           AND

2                   (B) FOR AT LEAST SIX CONSECUTIVE MONTHS OF THE  
3                   PRECEDING CALENDAR YEAR.

4                   (II) AN EMPLOYER THAT HAS BEEN IN BUSINESS AT ALL  
5                   TIMES FOR LESS THAN 15 CONSECUTIVE MONTHS.

6                   (III) AN EMPLOYER THAT MAINTAINS OR CONTRIBUTES TO A  
7                   SPECIFIED TAX-FAVORED RETIREMENT PLAN FOR THE EMPLOYER'S  
8                   EMPLOYEES OR HAS DONE SO EFFECTIVE IN FORM AND OPERATION  
9                   AT ANY TIME WITHIN THE CURRENT OR THREE PRECEDING  
10                   CALENDAR YEARS. IF AN EMPLOYER DOES NOT MAINTAIN A  
11                   SPECIFIED TAX-FAVORED RETIREMENT PLAN FOR A PORTION OF A  
12                   CALENDAR YEAR ENDING ON OR AFTER THE EFFECTIVE DATE OF  
13                   THIS DEFINITION AND ADOPTS A SPECIFIED TAX-FAVORED  
14                   RETIREMENT PLAN FOR THE REMAINDER OF THE CALENDAR YEAR,  
15                   THE EMPLOYER IS NOT INCLUDED IN THIS TERM FOR THE  
16                   REMAINDER OF THE CALENDAR YEAR.

17           "DEPARTMENT." THE TREASURY DEPARTMENT OF THE COMMONWEALTH.

18           "ERISA." 29 U.S.C. § 1001 ET SEQ. (THE EMPLOYEE RETIREMENT  
19           INCOME SECURITY ACT OF 1974).

20           "INTERNAL REVENUE CODE." 26 U.S.C. § 1 ET SEQ. (THE INTERNAL  
21           REVENUE CODE OF 1986).

22           "IRA." AN INDIVIDUAL RETIREMENT ACCOUNT OR INDIVIDUAL  
23           RETIREMENT ANNUITY, INCLUDING A TRADITIONAL IRA OR A ROTH IRA,  
24           UNDER ONE OF THE FOLLOWING SECTIONS OF THE INTERNAL REVENUE  
25           CODE:

26                   (1) 26 U.S.C. § 408(A) OR (B) (RELATING TO INDIVIDUAL  
27                   RETIREMENT ACCOUNTS).

28                   (2) 26 U.S.C. § 408A (RELATING TO ROTH IRAS).

29           "PARTICIPANT." AN INDIVIDUAL WHO IS CONTRIBUTING TO AN IRA  
30           UNDER THE PROGRAM OR HAS AN IRA ACCOUNT BALANCE UNDER THE

1 PROGRAM.

2 "PARTICIPATING EMPLOYER." INCLUDES A COVERED EMPLOYER OR A  
3 NONCOVERED EMPLOYER THAT VOLUNTARILY PARTICIPATES IN THE  
4 PROGRAM.

5 "PAYROLL SERVICE." A THIRD PARTY THAT PROVIDES PAYROLL  
6 SYSTEM ACTIVITIES TO OTHER PERSONS, GENERALLY PURSUANT TO A  
7 CONTRACTUAL OR SIMILAR ARRANGEMENT, FOR COMPENSATION.

8 "PAYROLL SYSTEM." A SYSTEM THAT USES SOFTWARE TO  
9 AUTOMATICALLY PROCESS PAYROLL, INCLUDING CALCULATING TOTAL WAGE  
10 EARNINGS, WITHHOLDING AND REMITTING OF DEDUCTIONS, FILING  
11 PAYROLL TAXES, AND DELIVERING PAYMENT OF NET WAGES TO EMPLOYEES.

12 "PERSON." A CORPORATION, PARTNERSHIP, LIMITED LIABILITY  
13 COMPANY, BUSINESS TRUST, OTHER ASSOCIATION, ESTATE, TRUST,  
14 FOUNDATION OR NATURAL PERSON, INCLUDING NATURAL PERSONS DOING  
15 BUSINESS AS SOLE PROPRIETORS.

16 "PROGRAM." THE KEYSTONE SAVES PROGRAM ESTABLISHED UNDER  
17 SECTION 311-A.

18 "PROGRAM FUND." THE KEYSTONE SAVES PROGRAM FUND ESTABLISHED  
19 UNDER SECTION 312-A.

20 "QUALIFIED PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT" OR  
21 "QUALIFIED ARRANGEMENT." AN ARRANGEMENT FACILITATED BY A  
22 PARTICIPATING EMPLOYER THAT ALLOWS EMPLOYEES TO CONTRIBUTE TO AN  
23 IRA BY PROCESSING EMPLOYER PAYROLL DEDUCTIONS AND CONTRIBUTING  
24 THE DEDUCTIONS TO THE PROGRAM IN ACCORDANCE WITH SECTION 352-A.

25 "QUARTER." ANY OF THE FOLLOWING PERIODS:

26 (1) JANUARY 1 TO MARCH 31 OF EACH YEAR.

27 (2) APRIL 1 TO JUNE 30 OF EACH YEAR.

28 (3) JULY 1 TO SEPTEMBER 30 OF EACH YEAR.

29 (4) OCTOBER 1 TO DECEMBER 31 OF EACH YEAR.

30 "ROTH IRA." A ROTH INDIVIDUAL RETIREMENT ACCOUNT OR

1 INDIVIDUAL RETIREMENT ANNUITY UNDER SECTION 408A OF THE INTERNAL  
2 REVENUE CODE.

3 "SPECIFIED TAX-FAVORED RETIREMENT PLAN." A RETIREMENT PLAN  
4 THAT IS TAX-QUALIFIED UNDER OR INTENDED TO SATISFY THE  
5 REQUIREMENTS OF SECTION 401(A) OR (K), 403(A) OR (B) OR 408(K)  
6 OR (P) OF THE INTERNAL REVENUE CODE.

7 "TOTAL FEES AND EXPENSES." ALL FEES, COSTS AND EXPENSES OF  
8 OPERATING THE PROGRAM, INCLUDING, BUT NOT LIMITED TO, ANY OF THE  
9 FOLLOWING:

- 10 (1) INITIAL PLANNING AND ORGANIZATIONAL COSTS.  
11 (2) ADMINISTRATIVE EXPENSES.  
12 (3) INVESTMENT EXPENSES.  
13 (4) INVESTMENT ADVICE EXPENSES.  
14 (5) ACCOUNTING COSTS, ACTUARIAL COSTS, LEGAL COSTS,  
15 MARKETING EXPENSES, EDUCATION EXPENSES, TRADING COSTS,  
16 INSURANCE ANNUITIZATION COSTS AND OTHER COSTS REASONABLY  
17 RELATED TO THE PROGRAM.

18 "TRADITIONAL IRA." A TRADITIONAL INDIVIDUAL RETIREMENT  
19 ACCOUNT OR TRADITIONAL INDIVIDUAL RETIREMENT ANNUITY UNDER  
20 SECTION 408(A) OR (B) OF THE INTERNAL REVENUE CODE.

21 SUBARTICLE B

22 ESTABLISHMENT

23 SECTION 311-A. ESTABLISHMENT OF PROGRAM.

24 THERE IS ESTABLISHED A RETIREMENT SAVINGS PROGRAM IN THE FORM  
25 OF AN AUTOMATIC ENROLLMENT PAYROLL DEDUCTION IRA, KNOWN AS THE  
26 KEYSTONE SAVES PROGRAM, WITHIN THE DEPARTMENT. THE PROGRAM SHALL  
27 BE ADMINISTERED BY THE DEPARTMENT FOR THE PURPOSES OF PROMOTING  
28 GREATER RETIREMENT SAVINGS FOR COVERED EMPLOYEES IN A  
29 CONVENIENT, LOW-COST AND PORTABLE MANNER.

30 SECTION 312-A. KEYSTONE SAVES PROGRAM FUND.

1 (A) ESTABLISHMENT.--THE KEYSTONE SAVES PROGRAM FUND IS  
2 ESTABLISHED AS A SEPARATE FUND IN THE STATE TREASURY. THE  
3 FOLLOWING SHALL APPLY:

4 (1) THE PROGRAM FUND SHALL BE USED FOR THE EXCLUSIVE  
5 BENEFIT OF PARTICIPANTS AND THE PAYMENT OF PROGRAM EXPENSES.

6 (2) THE CONSTRUCTION OF A PARTICIPANT'S PROGRAM ACCOUNT  
7 AS SELF-SETTLED SHALL NOT CAUSE THE PROGRAM ACCOUNT TO BE  
8 TREATED AS OTHER THAN A TRUST.

9 (3) THE PROGRAM FUND SHALL INCLUDE THE INDIVIDUAL  
10 RETIREMENT ACCOUNTS OF PARTICIPANTS, WHICH SHALL BE ACCOUNTED  
11 FOR AS INDIVIDUAL ACCOUNTS.

12 (4) MONEY IN THE PROGRAM FUND SHALL INCLUDE MONEY  
13 RECEIVED FROM PARTICIPANTS THROUGH PARTICIPATING EMPLOYERS.

14 (5) INVESTMENT EARNINGS AND INTEREST THAT ARE  
15 ATTRIBUTABLE TO MONEY IN THE PROGRAM FUND SHALL BE DEPOSITED  
16 IN THE PROGRAM FUND AND CREDITED APPROPRIATELY TO INDIVIDUAL  
17 ACCOUNTS.

18 (B) AMOUNTS ON DEPOSIT.--EXCEPT AS PROVIDED UNDER SECTION  
19 314-A(C), THE FOLLOWING SHALL APPLY:

20 (1) THE MONEY DEPOSITED INTO THE PROGRAM FUND, OR ANY  
21 EARNINGS THEREOF, DOES NOT CONSTITUTE PROPERTY OF THE  
22 COMMONWEALTH.

23 (2) MONEY DEPOSITED INTO THE PROGRAM FUND MAY NOT BE  
24 COMMINGLED WITH COMMONWEALTH FUNDS.

25 (3) THE COMMONWEALTH SHALL HAVE NO CLAIM TO OR AGAINST,  
26 OR INTEREST IN, THE MONEY DEPOSITED INTO THE PROGRAM FUND.

27 (C) EXEMPTION FROM SECURITIES LAWS.--THE PROGRAM FUND SHALL  
28 BE CONSTRUED TO BE AN AGENCY OR INSTRUMENTALITY OF THE  
29 COMMONWEALTH AND SHALL BE EXEMPT FROM ANY STATUTE REGULATING  
30 SECURITIES, INCLUDING THE ACT OF DECEMBER 5, 1972 (P.L.1280,

1 NO.284), KNOWN AS THE PENNSYLVANIA SECURITIES ACT OF 1972.

2 SECTION 313-A. KEYSTONE SAVES ADMINISTRATIVE FUND.

3 (A) ESTABLISHMENT.--THE KEYSTONE SAVES ADMINISTRATIVE FUND  
4 IS ESTABLISHED AS A SEPARATE TRUST FUND IN THE STATE TREASURY.  
5 MONEY IN THE ADMINISTRATIVE FUND SHALL BE SEGREGATED FROM THE  
6 PROGRAM FUND AND ACCOUNTED FOR SEPARATELY FROM THE PROGRAM FUND.

7 (B) USE OF MONEY.--THE DEPARTMENT SHALL USE MONEY IN THE  
8 ADMINISTRATIVE FUND TO PAY FOR ALL ADMINISTRATIVE AND OPERATING  
9 COSTS, FEES AND EXPENSES INCURRED SOLELY IN PERFORMING THE  
10 DUTIES OF THE DEPARTMENT UNDER THIS ARTICLE.

11 (C) SOURCES OF MONEY.--THE ADMINISTRATIVE FUND SHALL RECEIVE  
12 DEPOSITS FROM THE INDIVIDUAL ACCOUNT ASSESSMENTS UNDER SECTION  
13 314-A(C) AND FUNDS DESIGNATED FOR ADMINISTRATIVE PURPOSES FROM  
14 THE FEDERAL GOVERNMENT, THE COMMONWEALTH OR A LOCAL GOVERNMENT  
15 ENTITY OR IN THE FORM OF GIFTS, DONATIONS OR GRANTS MADE BY ANY  
16 OTHER PERSON, FIRM, PARTNERSHIP OR CORPORATION FOR DEPOSIT INTO  
17 THE ADMINISTRATIVE FUND.

18 (D) EARNINGS AND INTEREST.--INVESTMENT EARNINGS AND INTEREST  
19 THAT ARE ATTRIBUTABLE TO MONEY IN THE ADMINISTRATIVE FUND SHALL  
20 BE DEPOSITED INTO THE ADMINISTRATIVE FUND.

21 (E) APPROPRIATION.--ALL MONEY IN THE ADMINISTRATIVE FUND IS  
22 APPROPRIATED TO THE DEPARTMENT ON A CONTINUING BASIS TO CARRY  
23 OUT THE PROVISIONS OF THIS ARTICLE.

24 SECTION 314-A. ADMINISTRATION AND FUNDING.

25 (A) DUTIES OF DEPARTMENT.--SUBJECT TO THE PROVISIONS OF THIS  
26 ARTICLE, THE DEPARTMENT SHALL IMPLEMENT AND ADMINISTER THE  
27 PROGRAM.

28 (B) OPERATING AND ADMINISTRATIVE COSTS.--

29 (1) THE DEPARTMENT SHALL, THROUGH THE GOVERNOR, ANNUALLY  
30 SUBMIT TO THE GENERAL ASSEMBLY A BUDGET COVERING THE TOTAL



1 FEES AND EXPENSES FOR THE PROGRAM. UPON APPROVAL BY THE  
2 GENERAL ASSEMBLY IN AN APPROPRIATION BILL, TOTAL FEES AND  
3 EXPENSES AS INCURRED BY THE PROGRAM AND THE DEPARTMENT SHALL  
4 BE PAID FROM THE FEES, CHARGES AND INVESTMENT EARNINGS OF THE  
5 ADMINISTRATIVE FUND OR FROM OTHER AVAILABLE MONEY.

6 (2) BEGINNING FIVE YEARS AFTER PARTICIPANTS ARE ENROLLED  
7 IN THE PROGRAM AND UPON APPROVAL BY THE GENERAL ASSEMBLY IN  
8 AN APPROPRIATION BILL, TOTAL FEES AND EXPENSES AS INCURRED BY  
9 THE PROGRAM SHALL BE PAID FROM THE FEES, CHARGES, INVESTMENT  
10 EARNINGS AND INTEREST OF THE ADMINISTRATIVE FUND OR FROM  
11 OTHER AVAILABLE MONEY.

12 (C) PROGRAM COSTS.--ALL FEES, COSTS AND EXPENSES OF  
13 ADMINISTERING AND OPERATING THE PROGRAM AND INVESTING THE ASSETS  
14 OF THE PROGRAM FUND SHALL BE INCURRED BY THE PARTICIPANTS AND  
15 PAID FROM ASSESSMENTS AGAINST THE BALANCES OF THE INDIVIDUAL  
16 PROGRAM ACCOUNTS AS ESTABLISHED BY THE STATE TREASURER AND  
17 DEPOSITED IN THE ADMINISTRATIVE FUND. ALL FEES, COSTS AND  
18 EXPENSES OF ADMINISTERING AND OPERATING THE PROGRAM SHALL BE  
19 PAID BY THE COMMONWEALTH THROUGH ANNUAL APPROPRIATIONS FROM THE  
20 ADMINISTRATIVE FUND. THE ASSESSMENT FOR AN INDIVIDUAL PROGRAM  
21 ACCOUNT SHALL NOT EXCEED AN AMOUNT EQUIVALENT TO 75 BASIS POINTS  
22 PER YEAR CALCULATED ON THE INDIVIDUAL PROGRAM ACCOUNT BALANCE AS  
23 OF THE DATE OF EACH ASSESSMENT, WHICH SHALL BE CALCULATED PRO  
24 RATA. THE ASSESSMENT LIMITATION UNDER THIS SUBSECTION SHALL NOT  
25 APPLY DURING THE FIVE-YEAR PERIOD COMMENCING WITH THE ENROLLMENT  
26 OF PARTICIPANTS IN THE PROGRAM AND DURING THE REPAYMENT PERIOD  
27 UNDER SUBSECTION (D) OF AN APPROPRIATION PROVIDED DURING THE  
28 FIVE-YEAR PERIOD.

29 (D) REPAYMENT OF APPROPRIATION.--THE DEPARTMENT SHALL OVER  
30 TIME REPAY TO THE GENERAL FUND MONEY APPROPRIATED COVERING THE

1 TOTAL COSTS, FEES AND EXPENSES FOR THE PROGRAM. THE REPAYMENT  
2 SHALL BE MADE FROM THE FEES, CHARGES, INVESTMENT EARNINGS AND  
3 INTEREST OF THE ADMINISTRATIVE FUND OR FROM ANY OTHER AVAILABLE  
4 MONEY.

5 SUBARTICLE C

6 KEYSTONE SAVES PROGRAM ADVISORY BOARD

7 SECTION 321-A. ESTABLISHMENT OF BOARD.

8 THE KEYSTONE SAVES PROGRAM ADVISORY BOARD IS ESTABLISHED  
9 WITHIN THE DEPARTMENT.

10 SECTION 322-A. COMPOSITION OF BOARD.

11 (A) MEMBERS.--THE BOARD SHALL CONSIST OF THE FOLLOWING  
12 MEMBERS:

13 (1) THE GOVERNOR, OR A DESIGNEE.

14 (2) THE STATE TREASURER, OR A DESIGNEE.

15 (3) FOUR MEMBERS, ONE EACH APPOINTED BY THE PRESIDENT  
16 PRO TEMPORE OF THE SENATE, THE SPEAKER OF THE HOUSE OF  
17 REPRESENTATIVES, THE MINORITY LEADER OF THE SENATE AND THE  
18 MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES. THE FOUR  
19 APPOINTED MEMBERS MUST HAVE KNOWLEDGE, SKILL AND EXPERTISE IN  
20 FINANCIAL PLANNING AND SAVING FOR RETIREMENT.

21 (B) CHAIRPERSON.--THE STATE TREASURER, OR A DESIGNEE, SHALL  
22 SERVE AS CHAIRPERSON OF THE BOARD.

23 SECTION 323-A. TERMS OF BOARD MEMBERS.

24 (A) TERM GENERALLY.--EACH APPOINTED BOARD MEMBER SHALL SERVE  
25 A TERM OF FOUR YEARS.

26 (B) VACANCY.--A VACANCY ON THE BOARD SHALL BE FILLED FOR THE  
27 UNEXPIRED TERM OF AN APPOINTED MEMBER OF THE BOARD IN THE SAME  
28 MANNER AS THE ORIGINAL APPOINTMENT.

29 SECTION 324-A. MEETINGS OF BOARD.

30 (A) ORGANIZATIONAL MEETING.--THE STATE TREASURER, OR THE

1 DESIGNEE UNDER SECTION 322-A(A) (2), SHALL CALL THE  
2 ORGANIZATIONAL MEETING OF THE BOARD.

3 (B) SUBSEQUENT MEETINGS.--MEETINGS OF THE BOARD SHALL BE  
4 HELD AT THE CALL OF THE CHAIRPERSON, BUT NO LESS FREQUENT THAN  
5 ONCE EVERY QUARTER.

6 (C) EMPLOYEES.--THE DEPARTMENT SHALL HAVE THE POWER AND ITS  
7 DUTY SHALL BE TO PROVIDE THE BOARD WITH EXPERTS, STENOGRAPHERS  
8 AND ASSISTANTS AS NECESSARY TO CARRY OUT THE WORK OF THE BOARD.  
9 IN ADDITION, THE BOARD MAY ENLIST VOLUNTARY ASSISTANCE AS  
10 AVAILABLE FROM CITIZENS, RESEARCH ORGANIZATIONS AND OTHER  
11 AGENCIES.

12 SECTION 325-A. DUTIES OF BOARD.

13 (A) MANDATORY DUTIES.--THE BOARD SHALL:

14 (1) CONSIDER, STUDY AND REVIEW THE WORK OF THE PROGRAM.

15 (2) ADVISE THE DEPARTMENT UPON REQUEST.

16 (3) MAKE RECOMMENDATIONS ON THE BOARD'S OWN INITIATIVE  
17 FOR THE IMPROVEMENT OF THE PROGRAM.

18 (B) DISCRETIONARY DUTIES.--THE BOARD MAY MAKE INTERIM  
19 REPORTS AS THE BOARD DEEMS ADVISABLE.

20 SECTION 326-A. LIMITATIONS ON BOARD MEMBERS.

21 A BOARD MEMBER MAY NOT:

22 (1) DIRECTLY OR INDIRECTLY HAVE AN INTEREST IN THE  
23 MAKING OF AN INVESTMENT UNDER THE PROGRAM OR IN GAINS OR  
24 PROFITS ACCRUING FROM AN INVESTMENT UNDER THE PROGRAM.

25 (2) BORROW PROGRAM-RELATED MONEY OR DEPOSITS OR USE  
26 PROGRAM-RELATED MONEY OR DEPOSITS IN ANY MANNER, FOR THE  
27 BOARD MEMBER OR AS AN AGENT OR PARTNER OF ANOTHER PERSON.

28 (3) BECOME AN ENDORSER, SURETY OR OBLIGOR ON AN  
29 INVESTMENT MADE UNDER THE PROGRAM.

30 SUBARTICLE D

1 DEPARTMENT POWERS AND DUTIES

2 SECTION 331-A. POWERS AND DUTIES OF DEPARTMENT.

3 THE DEPARTMENT SHALL HAVE THE FOLLOWING DUTIES:

4 (1) ADMINISTER THE PROGRAM AND THE FUNDS.

5 (2) ENTER INTO INDIVIDUAL RETIREMENT ACCOUNT CONTRACTS  
6 WITH INDIVIDUALS FOR THE ESTABLISHMENT OF RETIREMENT SAVINGS  
7 ACCOUNTS.

8 (3) CONTRACT FOR GOODS AND SERVICES AND EMPLOYING  
9 PERSONNEL, INCLUDING CONTRACTS WITH PRIVATE CONSULTANTS,  
10 ACTUARIES, INVESTMENT ADVISORS AND MANAGERS, RECORD KEEPERS,  
11 LEGAL COUNSEL, AUDITORS AND SUCH OTHERS AS THE DEPARTMENT  
12 DETERMINES NECESSARY FOR THE RENDERING OF PROFESSIONAL,  
13 MANAGERIAL AND TECHNICAL ASSISTANCE AND ADVICE. IN AWARDING  
14 CONTRACTS FOR GOODS AND SERVICES UNDER THIS PARAGRAPH, THE  
15 DEPARTMENT MAY CONSIDER, WHERE RELEVANT, THE FOLLOWING  
16 REGARDING AN APPLICANT:

17 (I) STAFFING CAPABILITIES AND CAPACITY.

18 (II) EXPERIENCE AND PERFORMANCE IN SUPPLYING SIMILAR  
19 GOODS AND SERVICES TO GOVERNMENTAL OR PRIVATE-SECTOR  
20 PROGRAMS.

21 (III) REPUTATION FOR PRESERVING THE CONFIDENTIALITY  
22 AND INTEGRITY OF SENSITIVE INFORMATION.

23 (IV) LENGTH OF TIME IN THE CURRENT OR COMPARABLE  
24 LINES OF BUSINESS.

25 (V) FINANCIAL STRENGTH AND RECORD OF  
26 CREDITWORTHINESS.

27 (VI) OTHER FACTORS AS THE DEPARTMENT MAY DEEM  
28 MATERIAL TO EVALUATING THE SUITABILITY OF THE APPLICANT  
29 FOR ANY OF THE CATEGORIES OF CONTRACTS AND PERSONNEL  
30 DESCRIBED IN THIS PARAGRAPH.

1           (4) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS AND OTHER  
2 AID FROM ANY PERSON, GOVERNMENT ENTITY, CORPORATION OR OTHER  
3 ENTITY AND PARTICIPATE IN ANY FEDERAL, STATE OR LOCAL  
4 GOVERNMENT PROGRAM THAT RESULTS IN ADDITIONAL MONEY BEING  
5 AVAILABLE FOR ESTABLISHMENT AND IMPLEMENTATION OF THE  
6 PROGRAM.

7           (5) COLLECT ADMINISTRATIVE FEES AND CHARGES IN  
8 CONNECTION WITH ANY TRANSACTION, INCLUDING CONTINUED  
9 PARTICIPATION IN THE PROGRAM.

10          (6) CONTRACT FOR INSURANCE, LETTERS OF CREDIT AND  
11 COLLATERAL AGREEMENTS.

12          (7) SOLICIT ANSWERS FROM APPROPRIATE FEDERAL AGENCIES  
13 REGARDING THE APPLICATION OF SECURITY LAWS OR OTHER FEDERAL  
14 LAWS TO THE PROGRAM.

15          (8) PROMULGATE RULES AND REGULATIONS AND DEVELOP  
16 POLICIES AND PROCEDURES THAT THE DEPARTMENT DEEMS NECESSARY  
17 OR ADVISABLE FOR THE IMPLEMENTATION OF THIS ARTICLE AND THE  
18 ADMINISTRATION AND OPERATION OF THE PROGRAM.

19          (9) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,  
20 CAUSE THE PROGRAM TO BE DESIGNED, ESTABLISHED AND OPERATED IN  
21 A MANNER THAT:

22            (I) ACCORDS WITH BEST PRACTICES FOR RETIREMENT  
23 SAVING VEHICLES;

24            (II) IS EFFECTIVE, EFFICIENT AND LOW-COST;

25            (III) ENCOURAGES PARTICIPATION, SAVING, SOUND  
26 INVESTMENT PRACTICES AND APPROPRIATE SELECTION OF DEFAULT  
27 INVESTMENTS;

28            (IV) MAXIMIZES SIMPLICITY AND EASE OF ADMINISTRATION  
29 FOR EMPLOYERS, MINIMIZES FINANCIAL COSTS FOR EMPLOYERS,  
30 AND MINIMIZES INTERACTIONS BETWEEN COVERED EMPLOYEES AND

1 COVERED EMPLOYERS;

2 (V) MINIMIZES OR ELIMINATES COSTS FOR EMPLOYERS AND  
3 EMPLOYEES;

4 (VI) PROMOTES PORTABILITY OF BENEFITS;

5 (VII) COMPLIES WITH ALL APPLICABLE SECTIONS OF THE  
6 INTERNAL REVENUE CODE AND REGULATIONS THEREUNDER,  
7 INCLUDING ENSURING THAT THE PROGRAM SATISFIES ALL  
8 CRITERIA FOR FAVORABLE FEDERAL TAX TREATMENT AND  
9 COMPLIES, TO THE EXTENT NECESSARY, WITH ANY OTHER  
10 APPLICABLE FEDERAL OR STATE LAW;

11 (VIII) ENSURES THAT ACCOUNTS OF PARTICIPANTS MEET  
12 THE REQUIREMENTS FOR AN IRA UNDER THE INTERNAL REVENUE  
13 CODE; AND

14 (IX) AVOIDS PREEMPTION OF THE PROGRAM BY ERISA OR  
15 OTHER FEDERAL LAW.

16 (10) ADOPT, AND PERIODICALLY REVIEW, A WRITTEN  
17 INVESTMENT POLICY TO ENSURE, AMONG OTHER CONSIDERATIONS, THAT  
18 INVESTMENT RISKS ARE PRUDENT AND PROPERLY MANAGED AND ARE  
19 APPROPRIATE IN COMPARISON TO APPLICABLE PERFORMANCE  
20 BENCHMARKS AND STANDARDS.

21 (11) DEVELOP AND DISSEMINATE EDUCATIONAL INFORMATION TO  
22 EDUCATE PARTICIPATING EMPLOYERS, COVERED EMPLOYEES,  
23 PARTICIPANTS AND OTHERS ABOUT THE PROGRAM, INCLUDING ALL OF  
24 THE FOLLOWING INFORMATION:

25 (I) THE BENEFITS OF PLANNING AND SAVING FOR  
26 RETIREMENT.

27 (II) SAVINGS STRATEGIES THAT MAY BE APPROPRIATE,  
28 INCLUDING INFORMATION DESCRIBING THE POTENTIAL VALUE OF  
29 CONTINUING INCOME STREAMS DURING RETIREMENT THAT MIGHT BE  
30 DERIVED FROM CURRENT ACCOUNT BALANCES AND PRODUCTS

1 RELATING TO GENERATING SUCH INCOME.

2 (III) THE CHALLENGES OF DECUMULATING FUNDS AND  
3 MANAGING SPENDING DURING RETIREMENT.

4 (12) IN ADDITION TO THE MATERIALS DESCRIBED UNDER  
5 PARAGRAPH (11), DEVELOP AND DELIVER TO EACH COVERED EMPLOYEE  
6 WHOSE NAME IS PROVIDED TO IT BY THE COVERED EMPLOYER AN  
7 INFORMATION PACKET THAT PROVIDES DETAILS ABOUT THE PROGRAM  
8 AND THE CHOICES AVAILABLE TO THE COVERED EMPLOYEE REGARDING  
9 PARTICIPATION IN THE PROGRAM.

10 (13) PROMULGATE RULES TO ALLOW EMPLOYERS WHO ARE NOT  
11 COVERED EMPLOYERS TO VOLUNTARILY PARTICIPATE IN THE PROGRAM,  
12 AS MODIFIED FOR THE NONCOVERED EMPLOYERS AS MAY BE NECESSARY  
13 AND IN A MANNER THAT DOES NOT CAUSE ANY PORTION OF THE  
14 PROGRAM TO BE CONSIDERED A PLAN REGULATED BY ERISA. AN  
15 EMPLOYER THAT MAINTAINS OR CONTRIBUTES TO A SPECIFIED TAX-  
16 FAVORED RETIREMENT PLAN FOR THE EMPLOYER'S EMPLOYEES OR HAS  
17 DONE SO EFFECTIVE IN FORM AND OPERATION AT ANY TIME WITHIN  
18 THE CURRENT OR THREE PRECEDING CALENDAR YEARS SHALL NOT BE  
19 ELIGIBLE TO PARTICIPATE IN THE PROGRAM.

20 (14) PROMULGATE RULES TO ALLOW INDEPENDENT CONTRACTORS,  
21 SELF-EMPLOYED INDIVIDUALS AND OTHER WORKERS WHO ARE NOT  
22 COVERED EMPLOYEES TO VOLUNTARILY PARTICIPATE IN THE PROGRAM,  
23 MODIFIED FOR THE INDIVIDUALS AS MAY BE NECESSARY.

24 (15) MAKE AND ENTER INTO CONTRACTS, AGREEMENTS OR OTHER  
25 ARRANGEMENTS TO COLLABORATE OR COOPERATE WITH OTHER STATE AND  
26 LOCAL GOVERNMENT AGENCIES AND GOVERNMENTAL ENTITIES OF OTHER  
27 STATES THAT MAINTAIN RETIREMENT SAVINGS PROGRAMS COMPATIBLE  
28 WITH THE PROGRAM REGARDING THE SHARING OF INVESTMENT AND  
29 ADMINISTRATIVE FUNCTIONS, INCLUDING PRUDENT COLLECTIVE,  
30 COMMON OR POOLED INVESTMENTS WITH FUNDS OF OTHER STATES'

1 PROGRAMS, IN ORDER TO ACHIEVE ECONOMIES OF SCALE AND OTHER  
2 EFFICIENCIES DESIGNED TO MINIMIZE COSTS FOR THE PROGRAM.

3 (16) REQUEST FROM THE DEPARTMENT OF LABOR AND INDUSTRY  
4 AND OTHER STATE AGENCIES INFORMATION NECESSARY FOR THE  
5 DEPARTMENT TO IMPLEMENT THIS ARTICLE, AND SHARE SUCH DATA,  
6 PURSUANT TO APPROPRIATE SAFEGUARDS, WITH ANY OF THE ENTITIES  
7 OR INDIVIDUALS RETAINED UNDER PARAGRAPH (3) AS NECESSARY FOR  
8 IMPLEMENTATION OF THIS ARTICLE.

9 (17) EXERCISE ANY OTHER POWERS REASONABLY NECESSARY FOR  
10 THE EFFECTUATION OF THE PURPOSES, OBJECTIVES AND PROVISIONS  
11 OF THIS ARTICLE PERTAINING TO THE PROGRAM.

12 SUBARTICLE E

13 INVESTMENT AND FIDUCIARY RESPONSIBILITIES

14 SECTION 341-A. FIDUCIARY DUTIES.

15 THE DEPARTMENT, AND INVESTMENT MANAGERS ENGAGED BY THE  
16 DEPARTMENT, SHALL BE IN A FIDUCIARY RELATIONSHIP WITH  
17 PARTICIPANTS AND SHALL DISCHARGE THEIR DUTIES UNDER THIS ARTICLE  
18 SOLELY IN THE INTEREST OF PARTICIPANTS:

19 (1) FOR THE EXCLUSIVE PURPOSES OF PROVIDING BENEFITS TO  
20 PARTICIPANTS AND DEFRAYING REASONABLE EXPENSES OF  
21 ADMINISTERING THE PROGRAM; AND

22 (2) BY EXERCISING THAT DEGREE OF JUDGMENT, SKILL AND  
23 CARE UNDER THE CIRCUMSTANCES THEN PREVAILING THAT PERSONS OF  
24 PRUDENCE, DISCRETION AND INTELLIGENCE WHO ARE FAMILIAR WITH  
25 THE MATTERS EXERCISE IN THE MANAGEMENT OF THEIR OWN AFFAIRS,  
26 NOT IN REGARD TO SPECULATION BUT IN REGARD TO THE PURSUIT OF  
27 REASONABLE INCOME AND PRESERVATION OF CAPITAL.

28 SECTION 342-A. INVESTMENT POLICIES.

29 (A) POLICIES.--THE DEPARTMENT SHALL DEVELOP AND ADOPT  
30 INVESTMENT POLICIES THAT DEFINE THE INVESTMENT OBJECTIVES OF THE



1 PROGRAM CONSISTENT WITH THE OBJECTIVES OF THE PROGRAM.

2 (B) OPTIONS.--THE INVESTMENT POLICIES SHALL GUIDE THE  
3 DEPARTMENT IN IDENTIFYING AND MAKING INVESTMENT OPTIONS  
4 AVAILABLE TO PARTICIPANTS THAT ARE INTENDED TO PROVIDE, IN  
5 ADDITION TO OTHER APPROPRIATE OPTIONS, AN ECONOMICAL INCOME  
6 REPLACEMENT BALANCED WITH AN APPROPRIATE LEVEL OF RISK IN AN  
7 IRA-BASED ENVIRONMENT CONSISTENT WITH THE INVESTMENT OBJECTIVES  
8 OF THE PROGRAM. THE INVESTMENT OPTIONS MAY ENCOMPASS A RANGE OF  
9 RISK AND RETURN OPPORTUNITIES AND ALLOW FOR A RATE OF RETURN  
10 COMMENSURATE WITH AN APPROPRIATE LEVEL OF RISK CONSISTENT WITH  
11 THE INVESTMENT OBJECTIVES OF THE PROGRAM.

12 (C) RECOMMENDATIONS.--THE INVESTMENT POLICIES SHALL INCLUDE  
13 RECOMMENDATIONS REGARDING THE DESIRABILITY OF LIMITING  
14 INVESTMENT CHOICES UNDER THE PROGRAM TO A REASONABLE NUMBER IN  
15 THE INTEREST OF SIMPLICITY AND IN CONSIDERATION OF THE EXTENSIVE  
16 INVESTMENT CHOICES AVAILABLE TO PARTICIPANTS IF THE PARTICIPANTS  
17 ROLL OVER TO AN IRA EXISTING OUTSIDE OF THE PROGRAM. THE  
18 RECOMMENDATIONS SHALL CONFORM TO THE PROGRAM OBJECTIVES OF  
19 MINIMIZING PARTICIPANT FEES AND ADMINISTRATION AND INVESTMENT  
20 EXPENSES AND MAXIMIZING PARTICIPATION.

21 SECTION 343-A. ADDITIONAL INVESTMENT OPTIONS.

22 (A) OPTIONS.--AS PART OF OR IN ADDITION TO INVESTMENT  
23 OPTIONS UNDER SECTION 342-A(B), THE DEPARTMENT SHALL, AT A  
24 MINIMUM, ESTABLISH THE FOLLOWING INVESTMENT OPTIONS FOR THE  
25 PROGRAM:

26 (1) LIFE-CYCLE FUND WITH A TARGET DATE BASED UPON THE  
27 AGE OF THE PARTICIPANT.

28 (2) EQUITY INDEX FUND.

29 (3) BOND INDEX FUND.

30 (4) CAPITAL PRESERVATION FUND.

1 (B) DISTRIBUTION OPTIONS.--THE DEPARTMENT MAY ESTABLISH  
2 OTHER INVESTMENT OPTIONS AS THE DEPARTMENT DEEMS NECESSARY OR  
3 DESIRABLE IN ACCORDANCE WITH THE INVESTMENT POLICIES DEVELOPED  
4 UNDER SECTION 342-A(A). THE DEPARTMENT SHALL EVALUATE WHETHER TO  
5 OFFER ONE OR MORE DISTRIBUTION OPTIONS FOR THE PROGRAM TO  
6 PROVIDE FOR A SOURCE OF FIXED RETIREMENT INCOME THAT INCLUDES  
7 SPOUSAL PROTECTION FOR ALL OR A PORTION OF A PARTICIPANT'S  
8 RETIREMENT.

9 (C) DEFAULT OPTION.--THE DEPARTMENT SHALL SELECT A DEFAULT  
10 INVESTMENT OPTION FOR PARTICIPANTS WHO DO NOT ELECT AN  
11 INVESTMENT OPTION. FROM TIME TO TIME, THE DEPARTMENT MAY CHANGE  
12 THE DEFAULT OPTION FOR FUTURE PARTICIPANTS.

13 SECTION 344-A. INVESTMENT MANAGERS.

14 (A) ENGAGEMENT.--THE DEPARTMENT SHALL HAVE THE SOLE AND  
15 EXCLUSIVE DISCRETION TO ENGAGE INVESTMENT MANAGERS.

16 (B) FEES AND CHARGES.--AN INVESTMENT MANAGER'S FEES AND  
17 CHARGES SHALL NOT EXCEED 60 BASIS POINTS OF PROGRAM FUND ASSETS  
18 UNDER MANAGEMENT.

19 (C) COMPLIANCE.--AN INVESTMENT MANAGER SHALL COMPLY WITH  
20 APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS, RULES,  
21 POLICIES AND GUIDELINES PROMULGATED BY THE DEPARTMENT REGARDING  
22 THE PROGRAM AND THE INVESTMENT OF MONEY IN A FUND, INCLUDING,  
23 BUT NOT LIMITED TO, INVESTMENT POLICIES.

24 (D) OVERSIGHT.--AN INVESTMENT MANAGER SHALL PROVIDE REPORTS  
25 TO AND APPEAR BEFORE DEPARTMENT PERSONNEL AS THE DEPARTMENT  
26 DEEMS NECESSARY FOR THE DEPARTMENT TO OVERSEE THE INVESTMENT  
27 MANAGER'S PERFORMANCE AND THE PERFORMANCE OF THE FUND.

28 (E) PERFORMANCE REVIEWS.--THE DEPARTMENT SHALL PERIODICALLY  
29 CONDUCT A PERFORMANCE REVIEW OF EACH INVESTMENT MANAGER,  
30 INCLUDING A REVIEW OF FEES AND CUSTOMER SERVICE. A COPY OF EACH

1 PERFORMANCE REVIEW SHALL BE MADE AVAILABLE ON THE DEPARTMENT'S  
2 PUBLICLY ACCESSIBLE INTERNET WEBSITE.

3 SUBARTICLE F

4 PROGRAM IMPLEMENTATION

5 SECTION 351-A. COMMENCEMENT OF PROGRAM ACTIVITIES.

6 NO LATER THAN 24 MONTHS FROM THE EFFECTIVE DATE OF THIS  
7 SECTION, THE DEPARTMENT SHALL BEGIN IMPLEMENTATION OF THE  
8 PROGRAM AND ALLOW A PARTICIPATING EMPLOYER TO REGISTER WITH THE  
9 DEPARTMENT AND CERTIFY THAT THE PARTICIPATING EMPLOYER HAS  
10 FACILITATED A QUALIFIED ARRANGEMENT. THE DEPARTMENT MAY DELAY  
11 THE START OF IMPLEMENTATION, INCLUDING THE DEADLINES SPECIFIED  
12 IN SECTION 356-A(B), FOR UP TO ONE YEAR IF THE DEPARTMENT  
13 DETERMINES THAT A DELAY WOULD BE IN THE BEST INTERESTS OF THE  
14 PROGRAM.

15 SECTION 352-A. REGISTRATION AND CERTIFICATION OF QUALIFIED  
16 PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENTS.

17 (A) GENERAL RULE.--NO LATER THAN THE DEADLINES ESTABLISHED  
18 UNDER SECTION 356-A(B), A PARTICIPATING EMPLOYER SHALL  
19 FACILITATE A QUALIFIED ARRANGEMENT AND REGISTER WITH THE  
20 DEPARTMENT, CERTIFYING THAT THE PARTICIPATING EMPLOYER HAS  
21 FACILITATED A QUALIFIED PAYROLL DEPOSIT RETIREMENT SAVINGS  
22 ARRANGEMENT.

23 (B) ARRANGEMENT REQUIREMENTS.--A PARTICIPATING EMPLOYER'S  
24 QUALIFIED ARRANGEMENT SHALL INCLUDE THE FOLLOWING COMPONENTS AND  
25 FEATURES:

26 (1) OFFER A COVERED EMPLOYEE THE OPPORTUNITY TO  
27 PARTICIPATE IN THE PROGRAM.

28 (2) IN COMPLIANCE WITH PROCEDURES ESTABLISHED BY THE  
29 DEPARTMENT, THE DEPARTMENT SHALL:

30 (I) MAKE AVAILABLE TO A COVERED EMPLOYEE INFORMATION

1 REGARDING THE PROGRAM PROVIDED BY THE DEPARTMENT.

2 (II) MANAGE AND FACILITATE ALL OPT-IN AND OPT-OUT  
3 PAPERWORK WITH EMPLOYEES.

4 (III) AT LEAST ONCE EACH CALENDAR YEAR, PROVIDE AN  
5 OPEN ENROLLMENT PERIOD OF NOT LESS THAN TWO WEEKS OR A  
6 LONGER TIME PERIOD AS MAY BE PRESCRIBED BY THE  
7 DEPARTMENT, DURING WHICH A COVERED EMPLOYEE WHO  
8 PREVIOUSLY OPTED OUT OF THE PROGRAM OR WHO TERMINATED  
9 PRIOR PARTICIPATION IN THE PROGRAM MAY ENROLL OR RE-  
10 ENROLL IN THE PROGRAM.

11 (3) IN COMPLIANCE WITH THE PROCEDURES ESTABLISHED BY THE  
12 DEPARTMENT, THE COVERED EMPLOYER SHALL NOT BE RESPONSIBLE  
13 FOR:

14 (I) MAKING AVAILABLE TO A COVERED EMPLOYEE  
15 INFORMATION REGARDING THE PROGRAM PROVIDED BY THE  
16 DEPARTMENT.

17 (II) MANAGING AND FACILITATING OPT-IN AND OPT-OUT  
18 PAPERWORK WITH EMPLOYEES.

19 (III) FACILITATING AN OPEN ENROLLMENT PERIOD  
20 PROVIDED UNDER PARAGRAPH (2) (III).

21 (4) IN COMPLIANCE WITH THE PROCEDURES ESTABLISHED BY THE  
22 DEPARTMENT, THE QUALIFIED ARRANGEMENT SHALL:

23 (I) PROVIDE THE DEPARTMENT WITH THE NAME OF THE  
24 COVERED EMPLOYEE AND OTHER INFORMATION AS MAY BE REQUIRED  
25 BY THE DEPARTMENT.

26 (II) AUTOMATICALLY ENROLL A COVERED EMPLOYEE IN THE  
27 PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT, UNLESS  
28 THE COVERED EMPLOYEE OPTS OUT OF THE PROGRAM.

29 (III) REGULARLY TAKE DEDUCTIONS FROM A PARTICIPANT'S  
30 GROSS WAGES AND REMIT THE DEDUCTIONS TO THE PARTICIPANT'S

1           PROGRAM ACCOUNT.

2           (5) ALLOW A PARTICIPANT TO SELECT THE RATE OF DEDUCTION  
3 FROM THE PARTICIPANT'S GROSS WAGES FOR THE PROGRAM, SUBJECT  
4 TO THE ANNUAL CONTRIBUTION LIMIT PERMITTED BY THE INTERNAL  
5 REVENUE CODE. FOR A PARTICIPANT WHO DOES NOT IDENTIFY A  
6 DEDUCTION RATE, THE DEPARTMENT SHALL ESTABLISH A DEFAULT  
7 CONTRIBUTION EQUAL TO 4% OF GROSS WAGES, OR ANOTHER DEFAULT  
8 PERCENTAGE AS THE DEPARTMENT MAY PRESCRIBE FOR THE PROGRAM,  
9 SUBJECT TO THE ANNUAL CONTRIBUTION LIMIT PERMITTED BY THE  
10 INTERNAL REVENUE CODE.

11           (6) ALLOW A PARTICIPANT TO INCREASE THE DEDUCTION RATE  
12 BY ANY AMOUNT EACH YEAR, TO A MAXIMUM OF 10% OF GROSS WAGES  
13 OR THE ANNUAL CONTRIBUTION LIMIT PERMITTED BY THE INTERNAL  
14 REVENUE CODE, WHICHEVER IS GREATER.

15           (7) ALLOW A PARTICIPANT TO COMPLETELY OPT OUT OF  
16 DEDUCTIONS, INCREASE OR DECREASE THE DEDUCTION RATE, FREEZE  
17 AUTOMATIC ANNUAL DEDUCTION RATE INCREASES OR INCREASE THE  
18 DEDUCTION RATE, SUBJECT TO THE ANNUAL CONTRIBUTION LIMIT  
19 PERMITTED BY THE INTERNAL REVENUE CODE.

20           (8) ALLOW A PARTICIPANT TO SELECT ONE OR MORE INVESTMENT  
21 OPTIONS FROM THE INVESTMENT OPTIONS OFFERED BY THE DEPARTMENT  
22 THROUGH THE PROGRAM. A PARTICIPANT MAY CHANGE THE SELECTED  
23 INVESTMENT OPTION OR OPTIONS AT ANY TIME, SUBJECT TO THE  
24 PROGRAM RULES. FOR A PARTICIPANT WHO DOES NOT SELECT ANY  
25 INVESTMENT OPTION, THE DEDUCTIONS FROM THE PARTICIPANT'S  
26 GROSS WAGES WILL BE INVESTED IN A DEFAULT OPTION ESTABLISHED  
27 BY THE DEPARTMENT FOR THE PROGRAM.

28           (9) ALLOW A PARTICIPANT TO TERMINATE PARTICIPATION IN  
29 THE PROGRAM AT ANY TIME IN ACCORDANCE WITH INTERNAL REVENUE  
30 CODE REQUIREMENTS.

1           (10) ALLOW A PARTICIPANT TO ROLL OVER THE PROGRAM  
2           ACCOUNT BALANCE INTO SPECIFIED TAX-FAVORED RETIREMENT PLANS  
3           OR TRADITIONAL IRAS.

4           (11) PROHIBIT A PARTICIPATING EMPLOYER FROM MAKING  
5           CONTRIBUTIONS TO THE PROGRAM.

6           (12) PROHIBIT A PARTICIPATING EMPLOYER FROM TAKING ANY  
7           ACTIONS THAT CONSTITUTE AN EXPLICIT OR DIRECT ENDORSEMENT OR  
8           PROMOTION OF THE ARRANGEMENT OR THE PROGRAM.

9           SECTION 353-A. PARTICIPATING EMPLOYER PLANS.

10          NOTHING IN THIS ARTICLE SHALL PROHIBIT A PARTICIPATING  
11          EMPLOYER FROM REPLACING A QUALIFIED ARRANGEMENT WITH A SPECIFIED  
12          TAX-FAVORED RETIREMENT PLAN.

13          SECTION 354-A. ROTH IRAS AND TRADITIONAL IRAS.

14          (A) ROTH IRAS.--SUBJECT TO THE REQUIREMENTS FOR A ROTH IRA  
15          UNDER THE INTERNAL REVENUE CODE, PARTICIPANT CONTRIBUTIONS,  
16          INCLUDING CONTRIBUTIONS FROM A PARTICIPANT WHO DOES NOT SELECT  
17          AN INVESTMENT OPTION, SHALL BE MADE TO A ROTH IRA.

18          (B) ALTERNATIVE STRUCTURES FOR EMERGENCY SAVINGS.--THE  
19          DEPARTMENT MAY OFFER AN ALTERNATIVE INVESTMENT OPTION FOR A  
20          PARTICIPANT TO SELECT THAT FACILITATES ACCESS, IN THE EVENT OF  
21          EMERGENCY, TO THE PARTICIPANT'S CONTRIBUTIONS COMPARABLE TO THAT  
22          ALLOWED BY A ROTH IRA.

23          (C) TRADITIONAL IRAS.--THE DEPARTMENT MAY MAKE A TRADITIONAL  
24          IRA AVAILABLE FOR A PARTICIPANT WHO SELECTS THE PARTICIPANT'S  
25          INVESTMENT OPTIONS.

26          SECTION 355-A. IMPLEMENTATION OF QUALIFIED ARRANGEMENTS.

27          THE DEPARTMENT SHALL ESTABLISH PROCEDURES REGARDING THE  
28          FACILITATION OF A QUALIFIED ARRANGEMENT BY A PARTICIPATING  
29          EMPLOYER.

30          SECTION 356-A. REGISTRATION AND CERTIFICATION.

1 (A) PROCEDURES.--THE DEPARTMENT SHALL ESTABLISH PROCEDURES  
2 FOR A PARTICIPATING EMPLOYER TO REGISTER IN THE PROGRAM AND  
3 PROVIDE THE REGISTRATION INFORMATION TO THE DEPARTMENT. A  
4 PARTICIPATING EMPLOYER SHALL CERTIFY TO THE DEPARTMENT  
5 IMPLEMENTATION OF A QUALIFIED ARRANGEMENT AT THE TIME OF  
6 REGISTRATION.

7 (B) REGISTRATION DEADLINES.--UNLESS OTHERWISE SPECIFIED BY  
8 THE DEPARTMENT, THE REGISTRATION DEADLINES FOR A COVERED  
9 EMPLOYER TO REGISTER AS A PARTICIPATING EMPLOYER SHALL BE AS  
10 FOLLOWS, SO LONG AS NOTHING IN THIS SUBSECTION SHALL PREVENT THE  
11 DEPARTMENT FROM IMPLEMENTING A LIMITED PILOT PROGRAM EARLIER  
12 THAN ANY TIME PERIODS DESCRIBED BELOW TO ENABLE VOLUNTEER-  
13 COVERED EMPLOYERS TO REGISTER WITH THE DEPARTMENT AND CERTIFY  
14 HAVING FACILITATED THE IMPLEMENTATION OF QUALIFIED ARRANGEMENTS:

15 (1) A COVERED EMPLOYER EMPLOYING 100 OR MORE EMPLOYEES  
16 SHALL REGISTER NO LATER THAN 24 MONTHS AFTER THE EFFECTIVE  
17 DATE OF THIS SUBSECTION.

18 (2) A COVERED EMPLOYER EMPLOYING AT LEAST 20 BUT NO MORE  
19 THAN 99 EMPLOYEES SHALL REGISTER NO LATER THAN 30 MONTHS  
20 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION.

21 (3) A COVERED EMPLOYER EMPLOYING AT LEAST 10 BUT NO MORE  
22 THAN 19 EMPLOYEES SHALL REGISTER NO LATER THAN 36 MONTHS  
23 AFTER THE EFFECTIVE DATE OF THIS SUBSECTION.

24 (4) A COVERED EMPLOYER EMPLOYING AT LEAST 5 BUT NO MORE  
25 THAN 9 EMPLOYEES SHALL REGISTER NO LATER THAN 48 MONTHS AFTER  
26 THE EFFECTIVE DATE OF THIS SUBSECTION.

27 (5) NOTWITHSTANDING ANY OF THE PRECEDING REGISTRATION  
28 DEADLINES OF THIS SUBSECTION, COVERED EMPLOYERS THAT PAY  
29 THEIR EMPLOYEES THROUGH A PAYROLL SYSTEM OR PAYROLL SERVICE  
30 SHALL REGISTER NO LATER THAN 24 MONTHS AFTER THE EFFECTIVE

1 DATE OF THIS SUBSECTION. A COVERED EMPLOYER SHALL NOT BE  
2 SUBJECT TO A PENALTY FOR NOT PARTICIPATING IN THE PROGRAM.  
3 SECTION 357-A. PAYROLL DEDUCTIONS.

4 (A) PAYROLL DEDUCTION DEPOSITS.--THE DEPARTMENT SHALL  
5 ESTABLISH PROCEDURES FOR PAYROLL DEDUCTION DEPOSITS, INCLUDING  
6 TIME PERIODS WITHIN WHICH A PARTICIPATING EMPLOYER MUST NOTIFY  
7 THE DEPARTMENT OF THE HIRING OF A NEW COVERED EMPLOYEE, MUST  
8 ENROLL THE NEW COVERED EMPLOYEE IN THE PROGRAM AND MUST BEGIN  
9 TAKING DEDUCTIONS FROM THE PARTICIPANT'S GROSS WAGES FOR THE  
10 PROGRAM.

11 (B) RETIREMENT SAVINGS.--THE DEPARTMENT SHALL ESTABLISH  
12 PROCEDURES FOR THE REMITTANCE BY A PARTICIPATING EMPLOYER OF  
13 PAYROLL DEDUCTIONS THROUGH A QUALIFIED ARRANGEMENT.

14 (C) DEDUCTIONS HELD IN TRUST.--ALL DEDUCTIONS COLLECTED BY A  
15 PERSON FROM A COVERED EMPLOYEE IN ACCORDANCE WITH OR UNDER COLOR  
16 OF THIS ARTICLE THAT HAVE NOT BEEN PROPERLY RETURNED BY THE  
17 PERSON TO THE COVERED EMPLOYEE SHALL CONSTITUTE A TRUST FUND FOR  
18 THE COVERED EMPLOYEE UNTIL CONTRIBUTED TO THE COVERED EMPLOYEE'S  
19 PROGRAM ACCOUNT. THE TRUST SHALL BE ENFORCEABLE BY THE COVERED  
20 EMPLOYEE OR THE COMMONWEALTH AGAINST THE PERSON, THE PERSON'S  
21 REPRESENTATIVES AND ANY PERSON, OTHER THAN THE COVERED EMPLOYEE,  
22 WHO KNOWINGLY OR UNKNOWINGLY RECEIVES ANY PART OF THE FUND  
23 WITHOUT CONSIDERATION.

24 SECTION 358-A. WITHDRAWALS, ROLLOVERS AND TRANSFERS.

25 THE DEPARTMENT SHALL ESTABLISH PROCEDURES RELATING TO A  
26 PARTICIPANT'S ABILITY TO MAKE WITHDRAWALS, ARRANGE FOR ROLLOVERS  
27 OF FUNDS, MAKE DIRECT TRANSFERS FROM PROGRAM IRAS AND OTHERWISE  
28 FACILITATE PORTABILITY OF PROGRAM ACCOUNT BALANCES.

29 SECTION 359-A. DISTRIBUTION OF FUNDS FROM PROGRAM.

30 (A) PROCEDURES.--THE DEPARTMENT SHALL ESTABLISH PROCEDURES



1 GOVERNING THE DISTRIBUTION OF FUNDS FROM THE PROGRAM, INCLUDING  
2 DISTRIBUTIONS AS MAY BE PERMITTED OR REQUIRED BY THE PROGRAM OR  
3 ANY APPLICABLE PROVISIONS OF FEDERAL OR STATE LAW, WITH THE  
4 FOLLOWING OBJECTIVES:

5 (1) MAXIMIZING FINANCIAL SECURITY IN RETIREMENT.

6 (2) ASSISTING A PARTICIPANT WITH THE CHALLENGES OF THE  
7 DECUMULATION OF SAVINGS.

8 (B) CONSIDERATION.--THE DEPARTMENT SHALL CONSIDER THE  
9 BENEFITS, FEASIBILITY AND COST-EFFECTIVENESS OF THE FOLLOWING  
10 WHEN ESTABLISHING THE PROCEDURES UNDER SUBSECTION (A):

11 (1) DESIGNATING A LIFETIME INCOME INVESTMENT PRODUCT FOR  
12 THE PROGRAM TO PROVIDE A PARTICIPANT AND THE PARTICIPANT'S  
13 SPOUSE WITH A SOURCE OF RETIREMENT INCOME FOR LIFE, AND, IF  
14 DETERMINED BY THE DEPARTMENT TO BE PRUDENT, TO PROVIDE  
15 BENEFITS, WHERE AVAILABLE, TO OTHER DESIGNATED BENEFICIARIES.

16 (2) ESTABLISHING DISTRIBUTION PROCEDURES FOR  
17 PARTICIPANTS THAT ENCOURAGE PARTICIPANTS TO ELECT, IN  
18 COMBINATION WITH THE DESIGNATION OF A LIFETIME INCOME  
19 INVESTMENT PRODUCT, THAT AT LEAST 50% OF A PARTICIPANT'S  
20 PROGRAM ACCOUNT BALANCE ON THE DATE THE PARTICIPANT ATTAINS  
21 THE NORMAL RETIREMENT AGE BE INVESTED IN THE LIFETIME INCOME  
22 INVESTMENT PRODUCT.

23 SECTION 360-A. OUTREACH AND INFORMATION.

24 THE DEPARTMENT SHALL DEVELOP, PERIODICALLY UPDATE AND  
25 DISTRIBUTE EDUCATIONAL CONTENT TO ALL OF THE FOLLOWING:

26 (1) A PARTICIPATING EMPLOYER, AS FOLLOWS:

27 (I) GENERAL INFORMATION ABOUT THE REQUIREMENTS AND  
28 PROCEDURES OF THE PROGRAM.

29 (II) INFORMATION DESCRIBING THE OPPORTUNITY TO AND  
30 BENEFITS OF A PARTICIPATING EMPLOYER SPONSORING A

1 SPECIFIED TAX-FAVORED RETIREMENT PLAN THAT WOULD EXEMPT  
2 THE PARTICIPATING EMPLOYER FROM THE REQUIREMENTS OF THE  
3 PROGRAM.

4 (III) EXPLANATORY MATERIALS TO BE MADE AVAILABLE TO  
5 A COVERED EMPLOYEE REGARDING THE PROGRAM AND THE CHOICES  
6 AVAILABLE TO THE COVERED EMPLOYEE. THE EXPLANATORY  
7 MATERIALS SHALL INCLUDE ALL REQUIRED DISCLOSURES RELATING  
8 TO PARTICIPATING IN AN IRA AND INSTRUCTIONS FOR HOW TO  
9 ENROLL IN THE PROGRAM.

10 (2) A COVERED EMPLOYEE, AS FOLLOWS:

11 (I) INFORMATION EXPLAINING THE ADVANTAGES OF EARLY  
12 SAVINGS ACTIVITY THAT BENEFITS FROM COMPOUND INTEREST.

13 (II) DESCRIPTIONS OF INVESTMENT OPTIONS OFFERED BY  
14 THE PROGRAM.

15 (III) STRATEGIES FOR INCREASING LONG-TERM FINANCIAL  
16 SECURITY FOR AN INDIVIDUAL AND A FAMILY UNIT.

17 (3) A PARTICIPANT, AS FOLLOWS:

18 (I) INFORMATION THAT WILL ASSIST A PARTICIPANT IN  
19 THE PRUDENT DECUMULATION OF SAVINGS DURING RETIREMENT.

20 (II) DESCRIPTIONS OF ASSET DISTRIBUTION PRODUCTS  
21 THAT MAY PROVIDE PREDICTABLE AND FIXED INCOME FOR A  
22 PERIOD OF TIME, INCLUDING FOR ALL OR A PORTION OF THE  
23 RETIREMENTS OF THE PARTICIPANT AND THE PARTICIPANT'S  
24 SPOUSE.

25 SECTION 361-A. CONTRIBUTIONS, INTEREST AND INVESTMENT EARNINGS.

26 (A) OWNERSHIP.--A PARTICIPANT SHALL BE THE OWNER OF THE  
27 CONTRIBUTIONS, INTEREST AND INVESTMENT EARNINGS IN THE  
28 ASSOCIATED PROGRAM ACCOUNT. THE COMMONWEALTH OR THE  
29 PARTICIPATING EMPLOYER MAY NOT HAVE ANY PROPRIETARY INTEREST IN  
30 THE CONTRIBUTIONS, INTEREST OR INVESTMENT EARNINGS.

1 (B) PROHIBITED USES.--THE DEPARTMENT SHALL ENSURE THAT NO  
2 ASSETS OF THE PROGRAM ARE USED FOR PURPOSES OTHER THAN THE  
3 FOLLOWING:

4 (1) PAYING BENEFITS TO A PARTICIPANT.

5 (2) PAYING THE COST OF ADMINISTERING THE PROGRAM.

6 (3) MAKING INVESTMENTS FOR THE BENEFIT OF A PARTICIPANT  
7 AND THE PROGRAM.

8 (C) PROHIBITED TRANSFERS.--THE GENERAL ASSEMBLY MAY NOT  
9 TRANSFER CONTRIBUTIONS IN AN IRA UNDER THE PROGRAM, OR THE  
10 INTEREST OR INVESTMENT EARNINGS OF ANY ASSOCIATED PROGRAM  
11 ACCOUNTS, TO THE GENERAL FUND OR ANOTHER COMMONWEALTH FUND OR  
12 OTHERWISE ENCUMBER OR USE THE CONTRIBUTIONS, INTEREST OR  
13 INVESTMENT EARNINGS FOR A PURPOSE OTHER THAN THE ONES SPECIFIED  
14 UNDER THIS SECTION.

15 (D) PROCEDURES.--THE DEPARTMENT SHALL ESTABLISH PROCEDURES  
16 TO ALLOCATE INTEREST, INVESTMENT EARNINGS AND INVESTMENT LOSSES  
17 TO THE PROGRAM ACCOUNT OF A PARTICIPANT. A PARTICIPANT'S  
18 RETIREMENT SAVINGS BENEFIT UNDER THE PROGRAM SHALL BE AN AMOUNT  
19 EQUAL TO THE BALANCE IN THE PARTICIPANT'S ACCOUNT ON THE DATE  
20 THE RETIREMENT SAVINGS BENEFIT BECOMES PAYABLE.

21 SECTION 362-A. DUTIES AND LIABILITY OF COMMONWEALTH.

22 (A) EXCESS AMOUNTS.--THE COMMONWEALTH SHALL HAVE NO DUTY OR  
23 LIABILITY TO A PERSON FOR THE PAYMENT OF ANY AMOUNT IN EXCESS OF  
24 THE AMOUNT OF A PARTICIPANT'S RETIREMENT SAVINGS BENEFIT AND THE  
25 AMOUNT SHALL BE MADE AVAILABLE TO THE PARTICIPANT OR BENEFICIARY  
26 IN ACCORDANCE WITH THE REQUIREMENTS OF THE PROGRAM AND THE  
27 INTERNAL REVENUE CODE.

28 (B) LOSSES OR DEFICIENCIES.--A COMMONWEALTH AGENCY,  
29 COMMISSION OR BOARD OR ANY OFFICER, EMPLOYEE OR MEMBER OF A  
30 COMMONWEALTH AGENCY, COMMISSION OR BOARD SHALL NOT BE LIABLE FOR

1 THE LOSS OR DEFICIENCY RESULTING FROM PARTICULAR INVESTMENTS  
2 SELECTED UNDER THIS ARTICLE, EXCEPT FOR LIABILITY THAT ARISES  
3 OUT OF A BREACH OF FIDUCIARY DUTY UNDER SECTION 341-A AS  
4 DETERMINED BY A COMPETENT COURT OF LAW.

5 SECTION 363-A. PROTECTION FROM LIABILITY FOR EMPLOYERS.

6 (A) LIABILITY.--A PARTICIPATING EMPLOYER OR ANOTHER EMPLOYER  
7 SHALL NOT BE LIABLE FOR ANY OF THE FOLLOWING:

8 (1) AN EMPLOYEE'S DECISION TO PARTICIPATE IN OR OPT OUT  
9 OF THE PROGRAM.

10 (2) THE INVESTMENT DECISION OF A PARTICIPANT OR THE  
11 DEPARTMENT.

12 (3) THE ADMINISTRATION, INVESTMENT, INVESTMENT RETURNS  
13 OR INVESTMENT PERFORMANCE OF THE PROGRAM, INCLUDING ANY  
14 INTEREST RATE OR OTHER RATE OF RETURN ON ANY CONTRIBUTION OR  
15 ACCOUNT BALANCE.

16 (4) THE DESIGN OF THE PROGRAM OR BENEFITS PAID TO A  
17 PARTICIPANT.

18 (5) AN INDIVIDUAL'S AWARENESS OF OR COMPLIANCE WITH THE  
19 CONDITIONS AND OTHER PROVISIONS OF FEDERAL AND STATE TAX LAWS  
20 THAT DETERMINE WHETHER THE INDIVIDUAL IS ELIGIBLE TO MAKE  
21 TAX-FAVORED CONTRIBUTIONS TO IRAS, INCLUDING THE AMOUNT OF  
22 THE CONTRIBUTIONS AND THE TIME FRAME AND MANNER OF THE  
23 CONTRIBUTIONS.

24 (6) A LOSS, A FAILURE TO REALIZE ANY GAIN OR ANY OTHER  
25 ADVERSE CONSEQUENCES, INCLUDING ADVERSE TAX CONSEQUENCES OR A  
26 LOSS OF FAVORABLE TAX TREATMENT, PUBLIC ASSISTANCE OR OTHER  
27 BENEFITS INCURRED BY AN INDIVIDUAL RESULTING FROM  
28 PARTICIPATING IN THE PROGRAM.

29 (B) FIDUCIARIES.--A PARTICIPATING EMPLOYER OR ANOTHER  
30 EMPLOYER SHALL NOT BE A FIDUCIARY IN RELATION TO THE PROGRAM OR

1 ANY OTHER ARRANGEMENT UNDER THE PROGRAM.

2 SECTION 364-A. RISK MANAGEMENT.

3 (A) PROGRAM.--THE DEPARTMENT SHALL ANNUALLY PREPARE AND  
4 ADOPT A WRITTEN RISK MANAGEMENT AND OVERSIGHT PROGRAM AS A PART  
5 OF THE INVESTMENT POLICIES OF THE DEPARTMENT DEVELOPED UNDER  
6 SECTION 342-A. THE RISK MANAGEMENT AND OVERSIGHT PROGRAM SHALL  
7 BE DESIGNED TO:

8 (1) ENSURE THAT AN EFFECTIVE RISK MANAGEMENT SYSTEM IS  
9 IN PLACE TO MONITOR THE RISK LEVELS OF THE PROGRAM AND  
10 PROGRAM FUND PORTFOLIO;

11 (2) ENSURE THAT THE RISKS TAKEN ARE PRUDENT AND PROPERLY  
12 MANAGED;

13 (3) PROVIDE AN INTEGRATED PROCESS FOR OVERALL RISK  
14 MANAGEMENT; AND

15 (4) ASSESS INVESTMENT RETURNS AND RISKS TO DETERMINE IF  
16 THE RISKS TAKEN ARE ADEQUATELY COMPENSATED COMPARED TO  
17 APPLICABLE PERFORMANCE BENCHMARKS AND STANDARDS.

18 (B) INSURANCE.--IN PREPARING THE RISK MANAGEMENT AND  
19 OVERSIGHT PROGRAM UNDER SUBSECTION (A), THE DEPARTMENT SHALL  
20 EVALUATE WHETHER TO OBTAIN INSURANCE AGAINST ANY AND ALL LOSSES  
21 IN CONNECTION WITH THE PROPERTY, ASSETS OR ACTIVITIES OF THE  
22 PROGRAM.

23 SECTION 365-A. AUDIT AND REPORTS.

24 (A) REPORTS TO GOVERNOR AND GENERAL ASSEMBLY.--THE  
25 DEPARTMENT SHALL ANNUALLY SUBMIT THE FOLLOWING REPORTS TO THE  
26 GOVERNOR AND THE GENERAL ASSEMBLY:

27 (1) AN AUDITED FINANCIAL REPORT, PREPARED BY THE AUDITOR  
28 GENERAL IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING  
29 PRINCIPLES, OF THE PROGRAM BY JULY 1 OF EACH CALENDAR YEAR  
30 FOR THE PRIOR CALENDAR YEAR.

1           (2) A REPORT PREPARED BY THE DEPARTMENT, WHICH SHALL  
2 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

3           (I) A SUMMARY OF THE BENEFITS PROVIDED BY THE  
4 PROGRAM, INCLUDING THE NUMBER OF PARTICIPANTS AND  
5 PARTICIPATING EMPLOYERS IN THE PROGRAM.

6           (II) THE PERCENTAGE AND AMOUNT OF FUNDS IN THE  
7 PROGRAM'S INVESTMENT OPTIONS AND RATES OF RETURN, NET OF  
8 FEES.

9           (III) ANY OTHER INFORMATION THAT IS RELEVANT TO MAKE  
10 A FULL, FAIR AND EFFECTIVE DISCLOSURE OF THE OPERATIONS  
11 OF THE PROGRAM AND THE PROGRAM FUND.

12       (B) REPORTS TO PARTICIPATING EMPLOYERS.--IN ADDITION TO  
13 OTHER STATEMENTS OR REPORTS REQUIRED BY FEDERAL OR STATE LAW, AT  
14 LEAST ANNUALLY, THE DEPARTMENT SHALL PROVIDE A REPORT TO EACH  
15 PARTICIPATING EMPLOYER THAT CONTAINS A LIST OF THE NAMES OF EACH  
16 PARTICIPANT EMPLOYED BY THE PARTICIPATING EMPLOYER AND THE  
17 AMOUNTS OF DEDUCTIONS TAKEN BY THE PARTICIPATING EMPLOYER AND  
18 CONTRIBUTED TO THE PROGRAM ON BEHALF OF EACH PARTICIPANT DURING  
19 THE REPORTING PERIOD.

20       (C) REPORTS TO PARTICIPANTS.--IN ADDITION TO OTHER  
21 STATEMENTS OR REPORTS REQUIRED BY FEDERAL OR STATE LAW, THE  
22 DEPARTMENT SHALL PROVIDE THE FOLLOWING TO EACH PARTICIPANT:

23           (1) AT LEAST ANNUALLY, A REPORT OF CONTRIBUTIONS AND  
24 INVESTMENT INCOME ALLOCATED AND WITHDRAWALS FROM AND BALANCES  
25 IN THE PARTICIPANT'S ACCOUNT FOR THE REPORTING PERIOD,  
26 INCLUDING, BUT NOT LIMITED TO, THE PARTICIPANT'S RATE OF  
27 CONTRIBUTION AND ANY CHANGE IN THE RATE OF CONTRIBUTION  
28 DURING THE PRECEDING CALENDAR YEAR OR AS REQUIRED UNDER  
29 SECTION 352-A(B) (6) .

30           (2) AT LEAST QUARTERLY, ALL OF THE FOLLOWING:

1           (I) THE ACCOUNT BALANCE IN A PARTICIPANT'S PROGRAM  
2           ACCOUNT, INCLUDING THE VALUE OF THE PARTICIPANT'S  
3           INVESTMENT IN EACH INVESTMENT OPTION SELECTED BY THE  
4           PARTICIPANT.

5           (II) THE INVESTMENT OPTIONS AVAILABLE TO A  
6           PARTICIPANT AND THE PROCESS BY WHICH A PARTICIPANT MAY  
7           SELECT FROM THE INVESTMENT OPTIONS FOR THE PARTICIPANT'S  
8           CONTRIBUTIONS TO THE PROGRAM.

9           (III) THE AMOUNT OF FEES CHARGED TO A PARTICIPANT  
10           PROGRAM ACCOUNT AND A DESCRIPTION OF THE SERVICES TO  
11           WHICH EACH CHARGE RELATES.

12           (IV) AN ESTIMATE OF THE AMOUNT OF INCOME THE  
13           PARTICIPANT'S PROGRAM ACCOUNT COULD REASONABLY BE  
14           EXPECTED TO GENERATE OVER THE COURSE OF THE PARTICIPANT'S  
15           RETIREMENT, BASED UPON REASONABLE ASSUMPTIONS.

16           (D) ADDITIONAL INFORMATION.--THE DEPARTMENT MAY INCLUDE ANY  
17           OTHER INFORMATION IN THE REPORTS UNDER SUBSECTION (C) REGARDING  
18           THE PROGRAM AS THE DEPARTMENT MAY DETERMINE APPROPRIATE AND  
19           USEFUL.

20           SECTION 366-A. CONFIDENTIALITY OF INFORMATION.

21           NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ACCOUNT  
22           INFORMATION UNDER THE PROGRAM RELATING TO A PARTICIPANT,  
23           INCLUDING, BUT NOT LIMITED TO, THE PARTICIPANT'S NAME, ADDRESS,  
24           TELEPHONE NUMBER, EMAIL ADDRESS, PERSONAL IDENTIFICATION  
25           INFORMATION, INVESTMENTS, CONTRIBUTIONS AND EARNINGS, SHALL BE  
26           CONFIDENTIAL AND SHALL BE MAINTAINED BY THE DEPARTMENT AND THE  
27           DEPARTMENT'S AGENTS AS CONFIDENTIAL, EXCEPT IN ANY OF THE  
28           FOLLOWING CIRCUMSTANCES:

29           (1) IT IS NECESSARY TO ADMINISTER THE PROGRAM IN A  
30           MANNER CONSISTENT WITH THIS ARTICLE OR FEDERAL OR STATE TAX

1 LAWS.

2 (2) THE PARTICIPANT WHO PROVIDES THE INFORMATION OR IS  
3 THE SUBJECT OF THE INFORMATION EXPRESSLY AGREES IN WRITING TO  
4 THE DISCLOSURE OF THE INFORMATION.

5 (3) THE INFORMATION IS DEMANDED PURSUANT TO A SUBPOENA,  
6 COURT ORDER OR OTHER LEGAL OBLIGATION.

7 SECTION 367-A. TEMPORARY REGULATIONS.

8 (A) PROMULGATION.--IN ORDER TO FACILITATE THE PROMPT  
9 IMPLEMENTATION OF THIS ARTICLE, THE DEPARTMENT MAY PROMULGATE  
10 TEMPORARY REGULATIONS THAT SHALL EXPIRE NOT LATER THAN TWO YEARS  
11 AFTER PUBLICATION OF THE TEMPORARY REGULATIONS IN THE  
12 PENNSYLVANIA BULLETIN. THE PROMULGATED TEMPORARY REGULATIONS  
13 SHALL NOT BE SUBJECT TO ANY OF THE FOLLOWING:

14 (1) SECTION 612 OF THE ACT OF APRIL 9, 1929 (P.L.177,  
15 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

16 (2) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT OF  
17 JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE  
18 COMMONWEALTH DOCUMENTS LAW.

19 (3) SECTIONS 204(B) AND 301(10) OF THE ACT OF OCTOBER  
20 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH  
21 ATTORNEYS ACT.

22 (4) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS  
23 THE REGULATORY REVIEW ACT.

24 (B) EXPIRATION.--THE AUTHORITY OF THE DEPARTMENT TO  
25 PROMULGATE TEMPORARY REGULATIONS UNDER SUBSECTION (A) SHALL  
26 EXPIRE TWO YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

27 SUBARTICLE G

28 (RESERVED)

29 SUBARTICLE H

30 MISCELLANEOUS PROVISIONS



1 SECTION 381-A. REGULATIONS.

2 THE DEPARTMENT SHALL PROMULGATE REGULATIONS AND ADOPT  
3 POLICIES OR GUIDELINES AS NECESSARY TO IMPLEMENT THIS ARTICLE.

4 SECTION 382-A. PROVISION OF INFORMATION.

5 THE DEPARTMENT OF LABOR AND INDUSTRY AND OTHER STATE AGENCIES  
6 SHALL COORDINATE, COOPERATE AND SHARE DATA AND INFORMATION WITH  
7 THE DEPARTMENT TO FACILITATE IMPLEMENTATION OF THIS ARTICLE.

8 SECTION 383-A. NOTICE OF PROGRAM IMPLEMENTATION.

9 (A) PUBLICATION.--UPON THE IMPLEMENTATION OF THE PROGRAM IN  
10 ACCORDANCE WITH THIS ARTICLE, THE DEPARTMENT SHALL SUBMIT A  
11 NOTICE TO THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN  
12 THE NEXT AVAILABLE ISSUE OF THE PENNSYLVANIA BULLETIN.

13 (B) INTERNET POSTING.--THE DEPARTMENT SHALL POST A NOTICE OF  
14 THE DATE OF IMPLEMENTATION OF THE PROGRAM ON THE DEPARTMENT'S  
15 PUBLICLY ACCESSIBLE INTERNET WEBSITE. THE NOTICE SHALL INCLUDE A  
16 STATEMENT THAT IN LIEU OF ENROLLING EMPLOYEES IN THE PROGRAM  
17 EMPLOYERS MAY SPONSOR AN ALTERNATIVE ARRANGEMENT, INCLUDING, BUT  
18 NOT LIMITED TO, A DEFINED BENEFIT PLAN, 401(K) PLAN, SIMPLIFIED  
19 EMPLOYEE PENSION (SEP) PLAN, SAVINGS INCENTIVE MATCH PLAN FOR  
20 EMPLOYEES (SIMPLE) OR AUTOMATIC PAYROLL DEDUCTION IRA OFFERED  
21 THROUGH A PRIVATE PROVIDER.

22 Section 2 3. This act shall take effect immediately.

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