

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 577 Session of 2023

INTRODUCED BY MULLINS, GALLAGHER, SIEGEL, SAPPEY, MADDEN, SCHLOSSBERG, VENKAT, SANCHEZ, DELLOSO, SOLOMON, WARREN, STURLA, HILL-EVANS, D. WILLIAMS, PARKER, DEASY, FREEMAN, NEILSON, CIRESI, CONKLIN, N. NELSON, E. NELSON, SHUSTERMAN, KHAN, DONAHUE, RABB, BOROWSKI, PISCIOTTANO, GILLEN, FRANKEL, KENYATTA, CURRY, PIELLI, BRENNAN, ISAACSON, WEBSTER, GUZMAN, INNAMORATO AND TAKAC, MARCH 20, 2023

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 23, 2023

AN ACT

1 Establishing the Keystone Saves Program, the Keystone Saves
2 Program Fund, the Keystone Saves Administrative Fund and the
3 Keystone Saves Program Advisory Board; and providing for
4 powers and duties of the Treasury Department, for investment
5 and fiduciary responsibilities and for program
6 implementation.

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

11 CHAPTER 1

12 PRELIMINARY PROVISIONS

13 Section 101. Short title.

14 This act shall be known and may be cited as the Keystone
15 Saves Program Act.

16 Section 102. Legislative intent (Reserved).

17 Section 103. Definitions.

18 The following words and phrases when used in this act shall
19 have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Administrative fund." The Keystone Saves Administrative
22 Fund established under section 303.

23 "Board." The Keystone Saves Program Advisory Board
24 established under section 501.

25 "Covered employee." As follows:

26 (1) An individual who:

27 (i) is employed by a covered employer;

28 (ii) has gross wages or other compensation that are
29 allocable to the Commonwealth in a calendar year; and

30 (iii) is at least 18 years of age.

1 (2) The term does not include any of the following:

2 (i) An employee covered under 45 U.S.C. § 151 et
3 seq. (Railway Labor Act).

4 (ii) An employee on whose behalf an employer makes
5 contributions to a multi-employer pension trust fund.

6 (iii) An employee of the Federal Government.

7 (iv) An employee of this Commonwealth or any other
8 state.

9 (v) An employee of a political subdivision,
10 municipal corporation or school district in this
11 Commonwealth or any other state.

12 "Covered employer." As follows:

13 (1) A person engaged in a business, industry,
14 profession, trade or other enterprise in this Commonwealth
15 that employs individuals, whether for profit or not for
16 profit.

17 (2) The term does not include any of the following:

18 (i) An employer that has four or fewer employees:

19 (A) as of July 1 or later of a current calendar
20 year, for at least six months of that calendar year;
21 and

22 (B) for at least six consecutive months of the
23 preceding calendar year.

24 (ii) An employer that has been in business at all
25 times for less than 15 consecutive months.

26 (iii) An employer that maintains or contributes to a
27 specified tax-favored retirement plan for the employer's
28 employees or has done so effective in form and operation
29 at any time within the current or three preceding
30 calendar years. If an employer does not maintain a

1 specified tax-favored retirement plan for a portion of a
2 calendar year ending on or after the effective date of
3 this definition and adopts a specified tax-favored
4 retirement plan for the remainder of the calendar year,
5 the employer is not included in this term for the
6 remainder of the calendar year.

7 "Department." The Treasury Department of the Commonwealth.

8 "ERISA." 29 U.S.C. § 1001 et seq. (The Employee Retirement
9 Income Security Act of 1974).

10 "Internal Revenue Code." 26 U.S.C. § 1 et seq. (The Internal
11 Revenue Code of 1986).

12 "IRA." An individual retirement account or individual
13 retirement annuity, including a traditional IRA or a Roth IRA,
14 under one of the following sections of the Internal Revenue
15 Code:

16 (1) 26 U.S.C. § 408(a) or (b) (relating to individual
17 retirement accounts).

18 (2) 26 U.S.C. § 408A (relating to Roth IRAs).

19 "Participant." An individual who is contributing to an IRA
20 under the program or has an IRA account balance under the
21 program.

22 "Participating employer." Includes a covered employer or a
23 noncovered employer that voluntarily participates in the
24 program.

25 "Payroll service." A third party that provides payroll
26 system activities to other persons, generally pursuant to a
27 contractual or similar arrangement, for compensation.

28 "Payroll system." A system that uses software to
29 automatically process payroll, including calculating total wage
30 earnings, withholding and remitting of deductions, filing

1 payroll taxes, and delivering payment of net wages to employees.

2 "Person." A corporation, partnership, limited liability
3 company, business trust, other association, estate, trust,
4 foundation or natural person, including natural persons doing
5 business as sole proprietors.

6 "Program." The Keystone Saves Program established under
7 section 301.

8 "Program fund." The Keystone Saves Program Fund established
9 under section 302.

10 "Qualified payroll deposit retirement savings arrangement" or
11 "qualified arrangement." An arrangement facilitated by a
12 participating employer that allows employees to contribute to an
13 IRA by processing employer payroll deductions and contributing
14 the deductions to the program in accordance with section 1102.

15 "Quarter." Any of the following periods:

16 (1) January 1 to March 31 of each year.

17 (2) April 1 to June 30 of each year.

18 (3) July 1 to September 30 of each year.

19 (4) October 1 to December 31 of each year.

20 "Roth IRA." A Roth individual retirement account or
21 individual retirement annuity under section 408A of the Internal
22 Revenue Code.

23 "Specified tax-favored retirement plan." A retirement plan
24 that is tax-qualified under or intended to satisfy the
25 requirements of section 401(a) or (k), 403(a) or (b) or 408(k)
26 or (p) of the Internal Revenue Code.

27 "Total fees and expenses." All fees, costs and expenses of
28 operating the program, including, but not limited to, any of the
29 following:

30 (1) Initial planning and organizational costs.

- 1 (2) Administrative expenses.
- 2 (3) Investment expenses.
- 3 (4) Investment advice expenses.
- 4 (5) Accounting costs, actuarial costs, legal costs,
- 5 marketing expenses, education expenses, trading costs,
- 6 insurance annuitization costs and other costs reasonably
- 7 related to the program.

8 "Traditional IRA." A traditional individual retirement
9 account or traditional individual retirement annuity under
10 section 408(a) or (b) of the Internal Revenue Code.

11 CHAPTER 3

12 KEYSTONE SAVES PROGRAM

13 Section 301. Establishment of program.

14 There is established a retirement savings program in the form
15 of an automatic enrollment payroll deduction IRA, known as the
16 Keystone Saves Program, within the department. The program shall
17 be administered by the department for the purposes of promoting
18 greater retirement savings for covered employees in a
19 convenient, low-cost and portable manner.

20 Section 302. Keystone Saves Program Fund.

21 (a) Establishment.--The Keystone Saves Program Fund is
22 established as a separate fund in the State Treasury. The
23 following shall apply:

24 (1) The program fund shall be used for the exclusive
25 benefit of participants and the payment of program expenses.

26 (2) The construction of a participant's program account
27 as self-settled shall not cause the program account to be
28 treated as other than a trust.

29 (3) The program fund shall include the individual
30 retirement accounts of participants, which shall be accounted

1 for as individual accounts.

2 (4) Money in the program fund shall include money
3 received from participants through participating employers.

4 (5) Investment earnings and interest that are
5 attributable to money in the program fund shall be deposited
6 in the program fund and credited appropriately to individual
7 accounts.

8 (b) Amounts on deposit.--Except as provided under section
9 304(c), the following shall apply:

10 (1) The money deposited into the program fund, or any
11 earnings thereof, does not constitute property of the
12 Commonwealth.

13 (2) Money deposited into the program fund may not be
14 commingled with Commonwealth funds.

15 (3) The Commonwealth shall have no claim to or against,
16 or interest in, the money deposited into the program fund.

17 (c) Exemption from securities laws.--The program fund shall
18 be construed to be an agency or instrumentality of the
19 Commonwealth and shall be exempt from any statute regulating
20 securities, including the act of December 5, 1972 (P.L.1280,
21 No.284), known as the Pennsylvania Securities Act of 1972.
22 Section 303. Keystone Saves Administrative Fund.

23 (a) Establishment.--The Keystone Saves Administrative Fund
24 is established as a separate trust fund in the State Treasury.
25 Money in the administrative fund shall be segregated from the
26 program fund and accounted for separately from the program fund.

27 (b) Use of money.--The department shall use money in the
28 administrative fund to pay for all administrative and operating
29 costs, fees and expenses incurred solely in performing the
30 duties of the department under this act.

1 (c) Sources of money.--The administrative fund shall receive
2 deposits from the individual account assessments under section
3 304(c) and funds designated for administrative purposes from the
4 Federal Government, the Commonwealth or a local government
5 entity or in the form of gifts, donations or grants made by any
6 other person, firm, partnership or corporation for deposit into
7 the administrative fund.

8 (d) Earnings and interest.--Investment earnings and interest
9 that are attributable to money in the administrative fund shall
10 be deposited into the administrative fund.

11 (e) Appropriation.--All money in the administrative fund is
12 appropriated to the department on a continuing basis to carry
13 out the provisions of this act.

14 Section 304. Administration and funding.

15 (a) Duties of department.--Subject to the provisions of this
16 act, the department shall implement and administer the program.

17 (b) Operating and administrative costs.--

18 (1) The department shall, through the Governor, annually
19 submit to the General Assembly a budget covering the total
20 fees and expenses for the program. Upon approval by the
21 General Assembly in an appropriation bill, total fees and
22 expenses as incurred by the program and the department shall
23 be paid from the fees, charges and investment earnings of the
24 administrative fund or from other available money.

25 (2) Beginning five years after participants are enrolled
26 in the program and upon approval by the General Assembly in
27 an appropriation bill, total fees and expenses as incurred by
28 the program shall be paid from the fees, charges, investment
29 earnings and interest of the administrative fund or from
30 other available money.

1 (c) Program costs.--All fees, costs and expenses of
2 administering and operating the program and investing the assets
3 of the program fund shall be incurred by the participants and
4 paid from assessments against the balances of the individual
5 program accounts as established by the State Treasurer and
6 deposited in the administrative fund. All fees, costs and
7 expenses of administering and operating the program shall be
8 paid by the Commonwealth through annual appropriations from the
9 administrative fund. The assessment for an individual program
10 account shall not exceed an amount equivalent to 75 basis points
11 per year calculated on the individual program account balance as
12 of the date of each assessment, which shall be calculated pro
13 rata. The assessment limitation under this subsection shall not
14 apply during the five-year period commencing with the enrollment
15 of participants in the program and during the repayment period
16 under subsection (d) of an appropriation provided during the
17 five-year period.

18 (d) Repayment of appropriation.--The department shall over
19 time repay to the General Fund money appropriated covering the
20 total costs, fees and expenses for the program. The repayment
21 shall be made from the fees, charges, investment earnings and
22 interest of the administrative fund or from any other available
23 money.

24 CHAPTER 5

25 KEYSTONE SAVES PROGRAM ADVISORY BOARD

26 Section 501. Establishment of board.

27 The Keystone Saves Program Advisory Board is established
28 within the department.

29 Section 502. Composition of board.

30 (a) Members.--The board shall consist of the following

1 members:

2 (1) The Governor, or a designee.

3 (2) The State Treasurer, or a designee.

4 (3) Four members, one each appointed by the President
5 pro tempore of the Senate, the Speaker of the House of
6 Representatives, the Minority Leader of the Senate and the
7 Minority Leader of the House of Representatives. The four
8 appointed members must have knowledge, skill and expertise in
9 financial planning and saving for retirement.

10 (b) Chairperson.--The State Treasurer, or a designee, shall
11 serve as chairperson of the board.

12 Section 503. Terms of board members.

13 (a) Term generally.--Each appointed board member shall serve
14 a term of four years.

15 (b) Vacancy.--A vacancy on the board shall be filled for the
16 unexpired term of an appointed member of the board in the same
17 manner as the original appointment.

18 Section 504. Meetings of board.

19 (a) Organizational meeting.--The State Treasurer, or the
20 designee under section 502(a)(2), shall call the organizational
21 meeting of the board.

22 (b) Subsequent meetings.--Meetings of the board shall be
23 held at the call of the chairperson, but no less frequent than
24 once every quarter.

25 (c) Employees.--The department shall have the power and its
26 duty shall be to provide the board with experts, stenographers
27 and assistants as necessary to carry out the work of the board.
28 In addition, the board may enlist voluntary assistance as
29 available from citizens, research organizations and other
30 agencies.

1 Section 505. Duties of board.

2 (a) Mandatory duties.--The board shall:

3 (1) Consider, study and review the work of the program.

4 (2) Advise the department upon request.

5 (3) Make recommendations on the board's own initiative
6 for the improvement of the program.

7 (b) Discretionary duties.--The board may make interim
8 reports as the board deems advisable.

9 Section 506. Limitations on board members.

10 A board member may not:

11 (1) Directly or indirectly have an interest in the
12 making of an investment under the program or in gains or
13 profits accruing from an investment under the program.

14 (2) Borrow program-related money or deposits or use
15 program-related money or deposits in any manner, for the
16 board member or as an agent or partner of another person.

17 (3) Become an endorser, surety or obligor on an
18 investment made under the program.

19 CHAPTER 7

20 DEPARTMENT POWERS AND DUTIES

21 Section 701. Powers and duties of department.

22 The department shall have the following duties:

23 (1) Administer the program and the funds.

24 (2) Enter into individual retirement account contracts
25 with individuals for the establishment of retirement savings
26 accounts.

27 (3) Contract for goods and services and employing
28 personnel, including contracts with private consultants,
29 actuaries, investment advisors and managers, record keepers,
30 legal counsel, auditors and such others as the department

1 determines necessary for the rendering of professional,
2 managerial and technical assistance and advice. In awarding
3 contracts for goods and services under this paragraph, the
4 department may consider, where relevant, the following
5 regarding an applicant:

6 (i) Staffing capabilities and capacity.

7 (ii) Experience and performance in supplying similar
8 goods and services to governmental or private-sector
9 programs.

10 (iii) Reputation for preserving the confidentiality
11 and integrity of sensitive information.

12 (iv) Length of time in the current or comparable
13 lines of business.

14 (v) Financial strength and record of
15 creditworthiness.

16 (vi) Other factors as the department may deem
17 material to evaluating the suitability of the applicant
18 for any of the categories of contracts and personnel
19 described in this paragraph.

20 (4) Solicit and accept gifts, grants, loans and other
21 aid from any person, government entity, corporation or other
22 entity and participate in any Federal, State or local
23 government program that results in additional money being
24 available for establishment and implementation of the
25 program.

26 (5) Collect administrative fees and charges in
27 connection with any transaction, including continued
28 participation in the program.

29 (6) Contract for insurance, letters of credit and
30 collateral agreements.

1 (7) Solicit answers from appropriate Federal agencies
2 regarding the application of security laws or other Federal
3 laws to the program.

4 (8) Promulgate rules and regulations and develop
5 policies and procedures that the department deems necessary
6 or advisable for the implementation of this act and the
7 administration and operation of the program.

8 (9) Notwithstanding any other provision of this act,
9 cause the program to be designed, established and operated in
10 a manner that:

11 (i) accords with best practices for retirement
12 saving vehicles;

13 (ii) is effective, efficient and low-cost;

14 (iii) encourages participation, saving, sound
15 investment practices and appropriate selection of default
16 investments;

17 (iv) maximizes simplicity and ease of administration
18 for employers, minimizes financial costs for employers,
19 and minimizes interactions between covered employees and
20 covered employers;

21 (v) minimizes or eliminates costs for employers and
22 employees;

23 (vi) promotes portability of benefits;

24 (vii) complies with all applicable sections of the
25 Internal Revenue Code and regulations thereunder,
26 including ensuring that the program satisfies all
27 criteria for favorable Federal tax treatment and
28 complies, to the extent necessary, with any other
29 applicable Federal or State law;

30 (viii) ensures that accounts of participants meet

1 the requirements for an IRA under the Internal Revenue
2 Code; and

3 (ix) avoids preemption of the program by ERISA or
4 other Federal law.

5 (10) Adopt, and periodically review, a written
6 investment policy to ensure, among other considerations, that
7 investment risks are prudent and properly managed and are
8 appropriate in comparison to applicable performance
9 benchmarks and standards.

10 (11) Develop and disseminate educational information to
11 educate participating employers, covered employees,
12 participants and others about the program, including all of
13 the following information:

14 (i) The benefits of planning and saving for
15 retirement.

16 (ii) Savings strategies that may be appropriate,
17 including information describing the potential value of
18 continuing income streams during retirement that might be
19 derived from current account balances and products
20 relating to generating such income.

21 (iii) The challenges of decumulating funds and
22 managing spending during retirement.

23 (12) In addition to the materials described under
24 paragraph (11), develop and deliver to each covered employee
25 whose name is provided to it by the covered employer an
26 information packet that provides details about the program
27 and the choices available to the covered employee regarding
28 participation in the program.

29 (13) Promulgate rules to allow employers who are not
30 covered employers to voluntarily participate in the program,

1 as modified for the noncovered employers as may be necessary
2 and in a manner that does not cause any portion of the
3 program to be considered a plan regulated by ERISA. An
4 employer that maintains or contributes to a specified tax-
5 favored retirement plan for the employer's employees or has
6 done so effective in form and operation at any time within
7 the current or three preceding calendar years shall not be
8 eligible to participate in the program.

9 (14) Promulgate rules to allow independent contractors,
10 self-employed individuals and other workers who are not
11 covered employees to voluntarily participate in the program,
12 modified for the individuals as may be necessary.

13 (15) Make and enter into contracts, agreements or other
14 arrangements to collaborate or cooperate with other State and
15 local government agencies and governmental entities of other
16 states that maintain retirement savings programs compatible
17 with the program regarding the sharing of investment and
18 administrative functions, including prudent collective,
19 common or pooled investments with funds of other states'
20 programs, in order to achieve economies of scale and other
21 efficiencies designed to minimize costs for the program.

22 (16) Request from the Department of Labor and Industry
23 and other State agencies information necessary for the
24 department to implement this act, and share such data,
25 pursuant to appropriate safeguards, with any of the entities
26 or individuals retained under paragraph (3) as necessary for
27 implementation of this act.

28 (17) Exercise any other powers reasonably necessary for
29 the effectuation of the purposes, objectives and provisions
30 of this act pertaining to the program.

1 CHAPTER 9

2 INVESTMENT AND FIDUCIARY RESPONSIBILITIES

3 Section 901. Fiduciary duties.

4 The department, and investment managers engaged by the
5 department, shall be in a fiduciary relationship with
6 participants and shall discharge their duties under this act
7 solely in the interest of participants:

8 (1) for the exclusive purposes of providing benefits to
9 participants and defraying reasonable expenses of
10 administering the program; and

11 (2) by exercising that degree of judgment, skill and
12 care under the circumstances then prevailing that persons of
13 prudence, discretion and intelligence who are familiar with
14 the matters exercise in the management of their own affairs,
15 not in regard to speculation but in regard to the pursuit of
16 reasonable income and preservation of capital.

17 Section 902. Investment policies.

18 (a) Policies.--The department shall develop and adopt
19 investment policies that define the investment objectives of the
20 program consistent with the objectives of the program.

21 (b) Options.--The investment policies shall guide the
22 department in identifying and making investment options
23 available to participants that are intended to provide, in
24 addition to other appropriate options, an economical income
25 replacement balanced with an appropriate level of risk in an
26 IRA-based environment consistent with the investment objectives
27 of the program. The investment options may encompass a range of
28 risk and return opportunities and allow for a rate of return
29 commensurate with an appropriate level of risk consistent with
30 the investment objectives of the program.

1 (c) Recommendations.--The investment policies shall include
2 recommendations regarding the desirability of limiting
3 investment choices under the program to a reasonable number in
4 the interest of simplicity and in consideration of the extensive
5 investment choices available to participants if the participants
6 roll over to an IRA existing outside of the program. The
7 recommendations shall conform to the program objectives of
8 minimizing participant fees and administration and investment
9 expenses and maximizing participation.

10 Section 903. Additional investment options.

11 (a) Options.--As part of or in addition to investment
12 options under section 902(b), the department shall, at a
13 minimum, establish the following investment options for the
14 program:

15 (1) Life-cycle fund with a target date based upon the
16 age of the participant.

17 (2) Equity index fund.

18 (3) Bond index fund.

19 (4) Capital preservation fund.

20 (b) Distribution options.--The department may establish
21 other investment options as the department deems necessary or
22 desirable in accordance with the investment policies developed
23 under section 902(a). The department shall evaluate whether to
24 offer one or more distribution options for the program to
25 provide for a source of fixed retirement income that includes
26 spousal protection for all or a portion of a participant's
27 retirement.

28 (c) Default option.--The department shall select a default
29 investment option for participants who do not elect an
30 investment option. From time to time, the department may change

1 the default option for future participants.

2 Section 904. Investment managers.

3 (a) Engagement.--The department shall have the sole and
4 exclusive discretion to engage investment managers.

5 (b) Fees and charges.--An investment manager's fees and
6 charges shall not exceed 60 basis points of program fund assets
7 under management.

8 (c) Compliance.--An investment manager shall comply with
9 applicable Federal and State laws and regulations, rules,
10 policies and guidelines promulgated by the department regarding
11 the program and the investment of money in a fund, including,
12 but not limited to, investment policies.

13 (d) Oversight.--An investment manager shall provide reports
14 to and appear before department personnel as the department
15 deems necessary for the department to oversee the investment
16 manager's performance and the performance of the fund.

17 (e) Performance reviews.--The department shall periodically
18 conduct a performance review of each investment manager,
19 including a review of fees and customer service. A copy of each
20 performance review shall be made available on the department's
21 publicly accessible Internet website.

22 CHAPTER 11

23 PROGRAM IMPLEMENTATION

24 Section 1101. Commencement of program activities.

25 No later than 24 months from the effective date of this
26 section, the department shall begin implementation of the
27 program and allow a participating employer to register with the
28 department and certify that the participating employer has
29 facilitated a qualified arrangement. The department may delay
30 the start of implementation, including the deadlines specified

1 in section 1106(b), for up to one year if the department
2 determines that a delay would be in the best interests of the
3 program.

4 Section 1102. Registration and certification of qualified
5 payroll deposit retirement savings arrangements.

6 (a) General rule.--No later than the deadlines established
7 under section 1106(b), a participating employer shall facilitate
8 a qualified arrangement and register with the department,
9 certifying that the participating employer has facilitated a
10 qualified payroll deposit retirement savings arrangement.

11 (b) Arrangement requirements.--A participating employer's
12 qualified arrangement shall include the following components and
13 features:

14 (1) Offer a covered employee the opportunity to
15 participate in the program.

16 ~~(2) In compliance with procedures established by the~~ <--
17 ~~department, the qualified arrangement shall:~~

18 (2) IN COMPLIANCE WITH PROCEDURES ESTABLISHED BY THE <--
19 DEPARTMENT, THE DEPARTMENT SHALL:

20 (I) MAKE AVAILABLE TO A COVERED EMPLOYEE INFORMATION
21 REGARDING THE PROGRAM PROVIDED BY THE DEPARTMENT.

22 (II) MANAGE AND FACILITATE ALL OPT-IN AND OPT-OUT
23 PAPERWORK WITH EMPLOYEES.

24 (III) AT LEAST ONCE EACH CALENDAR YEAR, PROVIDE AN
25 OPEN ENROLLMENT PERIOD OF NOT LESS THAN TWO WEEKS OR A
26 LONGER TIME PERIOD AS MAY BE PRESCRIBED BY THE
27 DEPARTMENT, DURING WHICH A COVERED EMPLOYEE WHO
28 PREVIOUSLY OPTED OUT OF THE PROGRAM OR WHO TERMINATED
29 PRIOR PARTICIPATION IN THE PROGRAM MAY ENROLL OR RE-
30 ENROLL IN THE PROGRAM.

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

4 (I) MAKING AVAILABLE TO A COVERED EMPLOYEE
5 INFORMATION REGARDING THE PROGRAM PROVIDED BY THE
6 DEPARTMENT.

7 (II) MANAGING AND FACILITATING OPT-IN AND OPT-OUT
8 PAPERWORK WITH EMPLOYEES.

9 (III) FACILITATING AN OPEN ENROLLMENT PERIOD
10 PROVIDED UNDER PARAGRAPH (2) (III).

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

13 (i) Provide the department with the name of the
14 covered employee and other information as may be required
15 by the department.

16 ~~(ii) Make available to a covered employee~~ <--
17 ~~information regarding the program provided by the~~
18 ~~department.~~

19 ~~(iii)~~ (II) Automatically enroll a covered employee <--
20 in the payroll deposit retirement savings arrangement,
21 unless the covered employee opts out of the program.

22 ~~(iv)~~ (III) Regularly take deductions from a <--
23 participant's gross wages and remit the deductions to the
24 participant's program account.

25 ~~(3)~~ (5) Allow a participant to select the rate of <--
26 deduction from the participant's gross wages for the program,
27 subject to the annual contribution limit permitted by the
28 Internal Revenue Code. For a participant who does not
29 identify a deduction rate, the department shall establish a
30 default contribution equal to 4% of gross wages, or another

1 default percentage as the department may prescribe for the
2 program, subject to the annual contribution limit permitted
3 by the Internal Revenue Code.

4 ~~(4) Automatically~~ (6) ALLOW A PARTICIPANT TO increase <--
5 the deduction rate by ~~an amount equal to 1% of gross wages~~ <--
6 ~~each year, or such other annual increase as the department~~
7 ~~may prescribe for the program~~ ANY AMOUNT EACH YEAR, to a <--
8 maximum of 10% of gross wages or the annual contribution
9 limit permitted by the Internal Revenue Code, whichever is
10 greater.

11 ~~(5)~~ (7) Allow a participant to completely opt out of <--
12 deductions, increase or decrease the deduction rate, freeze
13 automatic annual deduction rate increases or increase the
14 deduction rate, subject to the annual contribution limit
15 permitted by the Internal Revenue Code.

16 ~~(6)~~ (8) Allow a participant to select one or more <--
17 investment options from the investment options offered by the
18 department through the program. A participant may change the
19 selected investment option or options at any time, subject to
20 the program rules. For a participant who does not select any
21 investment option, the deductions from the participant's
22 gross wages will be invested in a default option established
23 by the department for the program.

24 ~~(7)~~ (9) Allow a participant to terminate participation <--
25 in the program at any time in accordance with Internal
26 Revenue Code requirements.

27 ~~(8)~~ ~~At least once each calendar year, provide an open~~ <--
28 ~~enrollment period of not less than two weeks, or such longer~~
29 ~~time period as may be prescribed by the department, during~~
30 ~~which a covered employee who previously opted out of the~~

1 ~~program or who terminated prior participation in the program~~
2 ~~may enroll or re-enroll in the program.~~

3 ~~(9)~~ (10) Allow a participant to roll over the program <--
4 account balance into specified tax-favored retirement plans
5 or traditional IRAs.

6 ~~(10)~~ (11) Prohibit a participating employer from making <--
7 contributions to the program.

8 ~~(11)~~ (12) Prohibit a participating employer from taking <--
9 any actions that constitute an explicit or direct endorsement
10 or promotion of the arrangement or the program.

11 Section 1103. Participating employer plans.

12 Nothing in this act shall prohibit a participating employer
13 from replacing a qualified arrangement with a specified tax-
14 favored retirement plan.

15 Section 1104. Roth IRAs and traditional IRAs.

16 (a) Roth IRAs.--Subject to the requirements for a Roth IRA
17 under the Internal Revenue Code, participant contributions,
18 including contributions from a participant who does not select
19 an investment option, shall be made to a Roth IRA.

20 (b) Alternative structures for emergency savings.--The
21 department may offer an alternative investment option for a
22 participant to select that facilitates access, in the event of
23 emergency, to the participant's contributions comparable to that
24 allowed by a Roth IRA.

25 (c) Traditional IRAs.--The department may make a traditional
26 IRA available for a participant who selects the participant's
27 investment options.

28 Section 1105. Implementation of qualified arrangements.

29 The department shall establish procedures regarding the
30 facilitation of a qualified arrangement by a participating

1 employer.

2 Section 1106. Registration and certification.

3 (a) Procedures.--The department shall establish procedures
4 for a participating employer to register in the program and
5 provide the registration information to the department. A
6 participating employer shall certify to the department
7 implementation of a qualified arrangement at the time of
8 registration.

9 (b) Registration deadlines.--Unless otherwise specified by
10 the department, the registration deadlines for a covered
11 employer to register as a participating employer shall be as
12 follows, so long as nothing in this subsection shall prevent the
13 department from implementing a limited pilot program earlier
14 than any time periods described below to enable volunteer-
15 covered employers to register with the department and certify
16 having facilitated the implementation of qualified arrangements:

17 (1) A covered employer employing 100 or more employees
18 shall register no later than 24 months after the effective
19 date of this subsection.

20 (2) A covered employer employing at least 20 but no more
21 than 99 employees shall register no later than 30 months
22 after the effective date of this subsection.

23 (3) A covered employer employing at least 10 but no more
24 than 19 employees shall register no later than 36 months
25 after the effective date of this subsection.

26 (4) A covered employer employing at least 5 but no more
27 than 9 employees shall register no later than 48 months after
28 the effective date of this subsection.

29 (5) Notwithstanding any of the preceding registration
30 deadlines of this subsection, covered employers that pay

1 their employees through a payroll system or payroll service
2 shall register no later than 24 months after the effective
3 date of this subsection. A covered employer shall not be
4 subject to a penalty for not participating in the program.

5 Section 1107. Payroll deductions.

6 (a) Payroll deduction deposits.--The department shall
7 establish procedures for payroll deduction deposits, including
8 time periods within which a participating employer must notify
9 the department of the hiring of a new covered employee, must
10 enroll the new covered employee in the program and must begin
11 taking deductions from the participant's gross wages for the
12 program.

13 (b) Retirement savings.--The department shall establish
14 procedures for the remittance by a participating employer of
15 payroll deductions through a qualified arrangement.

16 (c) Deductions held in trust.--All deductions collected by a
17 person from a covered employee in accordance with or under color
18 of this act that have not been properly returned by the person
19 to the covered employee shall constitute a trust fund for the
20 covered employee until contributed to the covered employee's
21 program account. The trust shall be enforceable by the covered
22 employee or the Commonwealth against the person, the person's
23 representatives and any person, other than the covered employee,
24 who knowingly or unknowingly receives any part of the fund
25 without consideration.

26 Section 1108. Withdrawals, rollovers and transfers.

27 The department shall establish procedures relating to a
28 participant's ability to make withdrawals, arrange for rollovers
29 of funds, make direct transfers from program IRAs and otherwise
30 facilitate portability of program account balances.

1 Section 1109. Distribution of funds from program.

2 (a) Procedures.--The department shall establish procedures
3 governing the distribution of funds from the program, including
4 distributions as may be permitted or required by the program or
5 any applicable provisions of Federal or State law, with the
6 following objectives:

7 (1) Maximizing financial security in retirement.

8 (2) Assisting a participant with the challenges of the
9 decumulation of savings.

10 (b) Consideration.--The department shall consider the
11 benefits, feasibility and cost-effectiveness of the following
12 when establishing the procedures under subsection (a):

13 (1) Designating a lifetime income investment product for
14 the program to provide a participant and the participant's
15 spouse with a source of retirement income for life, and, if
16 determined by the department to be prudent, to provide
17 benefits, where available, to other designated beneficiaries.

18 (2) Establishing distribution procedures for
19 participants that encourage participants to elect, in
20 combination with the designation of a lifetime income
21 investment product, that at least 50% of a participant's
22 program account balance on the date the participant attains
23 the normal retirement age be invested in the lifetime income
24 investment product.

25 Section 1110. Outreach and information.

26 The department shall develop, periodically update and
27 distribute educational content to all of the following:

28 (1) A participating employer, as follows:

29 (i) General information about the requirements and
30 procedures of the program.

1 (ii) Information describing the opportunity to and
2 benefits of a participating employer sponsoring a
3 specified tax-favored retirement plan that would exempt
4 the participating employer from the requirements of the
5 program.

6 (iii) Explanatory materials to be made available to
7 a covered employee regarding the program and the choices
8 available to the covered employee. The explanatory
9 materials shall include all required disclosures relating
10 to participating in an IRA and instructions for how to
11 enroll in the program.

12 (2) A covered employee, as follows:

13 (i) Information explaining the advantages of early
14 savings activity that benefits from compound interest.

15 (ii) Descriptions of investment options offered by
16 the program.

17 (iii) Strategies for increasing long-term financial
18 security for an individual and a family unit.

19 (3) A participant, as follows:

20 (i) Information that will assist a participant in
21 the prudent decumulation of savings during retirement.

22 (ii) Descriptions of asset distribution products
23 that may provide predictable and fixed income for a
24 period of time, including for all or a portion of the
25 retirements of the participant and the participant's
26 spouse.

27 Section 1111. Contributions, interest and investment earnings.

28 (a) Ownership.--A participant shall be the owner of the
29 contributions, interest and investment earnings in the
30 associated program account. The Commonwealth or the

1 participating employer may not have any proprietary interest in
2 the contributions, interest or investment earnings.

3 (b) Prohibited uses.--The department shall ensure that no
4 assets of the program are used for purposes other than the
5 following:

6 (1) Paying benefits to a participant.

7 (2) Paying the cost of administering the program.

8 (3) Making investments for the benefit of a participant
9 and the program.

10 (c) Prohibited transfers.--The General Assembly may not
11 transfer contributions in an IRA under the program, or the
12 interest or investment earnings of any associated program
13 accounts, to the General Fund or another Commonwealth fund or
14 otherwise encumber or use the contributions, interest or
15 investment earnings for a purpose other than the ones specified
16 under this section.

17 (d) Procedures.--The department shall establish procedures
18 to allocate interest, investment earnings and investment losses
19 to the program account of a participant. A participant's
20 retirement savings benefit under the program shall be an amount
21 equal to the balance in the participant's account on the date
22 the retirement savings benefit becomes payable.

23 Section 1112. Duties and liability of Commonwealth.

24 (a) Excess amounts.--The Commonwealth shall have no duty or
25 liability to a person for the payment of any amount in excess of
26 the amount of a participant's retirement savings benefit and the
27 amount shall be made available to the participant or beneficiary
28 in accordance with the requirements of the program and the
29 Internal Revenue Code.

30 (b) Losses or deficiencies.--A Commonwealth agency,

1 commission or board or any officer, employee or member of a
2 Commonwealth agency, commission or board shall not be liable for
3 the loss or deficiency resulting from particular investments
4 selected under this act, except for liability that arises out of
5 a breach of fiduciary duty under section 901 as determined by a
6 competent court of law.

7 Section 1113. Protection from liability for employers.

8 (a) Liability.--A participating employer or another employer
9 shall not be liable for any of the following:

10 (1) An employee's decision to participate in or opt out
11 of the program.

12 (2) The investment decision of a participant or the
13 department.

14 (3) The administration, investment, investment returns
15 or investment performance of the program, including any
16 interest rate or other rate of return on any contribution or
17 account balance.

18 (4) The design of the program or benefits paid to a
19 participant.

20 (5) An individual's awareness of or compliance with the
21 conditions and other provisions of Federal and State tax laws
22 that determine whether the individual is eligible to make
23 tax-favored contributions to IRAs, including the amount of
24 the contributions and the time frame and manner of the
25 contributions.

26 (6) A loss, a failure to realize any gain or any other
27 adverse consequences, including adverse tax consequences or a
28 loss of favorable tax treatment, public assistance or other
29 benefits incurred by an individual resulting from
30 participating in the program.

1 (b) Fiduciaries.--A participating employer or another
2 employer shall not be a fiduciary in relation to the program or
3 any other arrangement under the program.

4 Section 1114. Risk management.

5 (a) Program.--The department shall annually prepare and
6 adopt a written risk management and oversight program as a part
7 of the investment policies of the department developed under
8 section 902. The risk management and oversight program shall be
9 designed to:

10 (1) ensure that an effective risk management system is
11 in place to monitor the risk levels of the program and
12 program fund portfolio;

13 (2) ensure that the risks taken are prudent and properly
14 managed;

15 (3) provide an integrated process for overall risk
16 management; and

17 (4) assess investment returns and risks to determine if
18 the risks taken are adequately compensated compared to
19 applicable performance benchmarks and standards.

20 (b) Insurance.--In preparing the risk management and
21 oversight program under subsection (a), the department shall
22 evaluate whether to obtain insurance against any and all losses
23 in connection with the property, assets or activities of the
24 program.

25 Section 1115. Audit and reports.

26 (a) Reports to Governor and General Assembly.--The
27 department shall annually submit the following reports to the
28 Governor and the General Assembly:

29 (1) An audited financial report, prepared by the Auditor
30 General in accordance with generally accepted accounting

1 principles, of the program by July 1 of each calendar year
2 for the prior calendar year.

3 (2) A report prepared by the department, which shall
4 include, but not be limited to, the following:

5 (i) A summary of the benefits provided by the
6 program, including the number of participants and
7 participating employers in the program.

8 (ii) The percentage and amount of funds in the
9 program's investment options and rates of return, net of
10 fees.

11 (iii) Any other information that is relevant to make
12 a full, fair and effective disclosure of the operations
13 of the program and the program fund.

14 (b) Reports to participating employers.--In addition to
15 other statements or reports required by Federal or State law, at
16 least annually, the department shall provide a report to each
17 participating employer that contains a list of the names of each
18 participant employed by the participating employer and the
19 amounts of deductions taken by the participating employer and
20 contributed to the program on behalf of each participant during
21 the reporting period.

22 (c) Reports to participants.--In addition to other
23 statements or reports required by Federal or State law, the
24 department shall provide the following to each participant:

25 (1) At least annually, a report of contributions and
26 investment income allocated and withdrawals from and balances
27 in the participant's account for the reporting period,
28 including, but not limited to, the participant's rate of
29 contribution and any change in the rate of contribution
30 during the preceding calendar year or as required under

1 section ~~1102(b)(4)~~ 1102(B)(6).

<--

2 (2) At least quarterly, all of the following:

3 (i) The account balance in a participant's program
4 account, including the value of the participant's
5 investment in each investment option selected by the
6 participant.

7 (ii) The investment options available to a
8 participant and the process by which a participant may
9 select from the investment options for the participant's
10 contributions to the program.

11 (iii) The amount of fees charged to a participant
12 program account and a description of the services to
13 which each charge relates.

14 (iv) An estimate of the amount of income the
15 participant's program account could reasonably be
16 expected to generate over the course of the participant's
17 retirement, based upon reasonable assumptions.

18 (d) Additional information.--The department may include any
19 other information in the reports under subsection (c) regarding
20 the program as the department may determine appropriate and
21 useful.

22 Section 1116. Confidentiality of information.

23 Notwithstanding any other provision of law, account
24 information under the program relating to a participant,
25 including, but not limited to, the participant's name, address,
26 telephone number, email address, personal identification
27 information, investments, contributions and earnings, shall be
28 confidential and shall be maintained by the department and the
29 department's agents as confidential, except in any of the
30 following circumstances:

1 (1) It is necessary to administer the program in a
2 manner consistent with this act or Federal or State tax laws.

3 (2) The participant who provides the information or is
4 the subject of the information expressly agrees in writing to
5 the disclosure of the information.

6 (3) The information is demanded pursuant to a subpoena,
7 court order or other legal obligation.

8 Section 1117. Temporary regulations.

9 (a) Promulgation.--In order to facilitate the prompt
10 implementation of this act, the department may promulgate
11 temporary regulations that shall expire not later than two years
12 after publication of the temporary regulations in the
13 Pennsylvania Bulletin. The promulgated temporary regulations
14 shall not be subject to any of the following:

15 (1) Section 612 of the act of April 9, 1929 (P.L.177,
16 No.175), known as The Administrative Code of 1929.

17 (2) Sections 201, 202, 203, 204 and 205 of the act of
18 July 31, 1968 (P.L.769, No.240), referred to as the
19 Commonwealth Documents Law.

20 (3) Sections 204(b) and 301(10) of the act of October
21 15, 1980 (P.L.950, No.164), known as the Commonwealth
22 Attorneys Act.

23 (4) The act of June 25, 1982 (P.L.633, No.181), known as
24 the Regulatory Review Act.

25 (b) Expiration.--The authority of the department to
26 promulgate temporary regulations under subsection (a) shall
27 expire two years after the effective date of this section.

28 CHAPTER 13

29 (Reserved)

30 CHAPTER 15

MISCELLANEOUS PROVISIONS

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Section 1501. Regulations.

The department shall promulgate regulations and adopt policies or guidelines as necessary to implement this act.

Section 1502. Provision of information.

The Department of Labor and Industry and other State agencies shall coordinate, cooperate and share data and information with the department to facilitate implementation of this act.

Section 1503. Notice of program implementation.

(a) Publication.--Upon the implementation of the program in accordance with this act, the department shall submit a notice to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(b) Internet posting.--The department shall post a notice of the date of implementation of the program on the department's publicly accessible Internet website. The notice shall include a statement that in lieu of enrolling employees in the program employers may sponsor an alternative arrangement, including, but not limited to, a defined benefit plan, 401(k) plan, simplified employee pension (SEP) plan, savings incentive match plan for employees (SIMPLE) or automatic payroll deduction IRA offered through a private provider.

Section 1504. Effective date.

This act shall take effect immediately.