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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 862 Session of  
2020

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INTRODUCED BY HAYWOOD, BROWNE, FARNESE, FONTANA, HUGHES, MUTH,  
GORDNER, BLAKE, SCHWANK, KILLION, BREWSTER, K. WARD, J. WARD,  
BAKER, COSTA, YUDICHAK, ARGALL, AUMENT AND BARTOLOTTA,  
MARCH 10, 2020

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REFERRED TO FINANCE, MARCH 10, 2020

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AN ACT

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

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6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 CHAPTER 1

9 PRELIMINARY PROVISIONS

10 Section 101. Short title.

11 This act shall be known and may be cited as the Keystone  
12 Saves Program Act.

13 Section 102. Legislative intent (Reserved).

14 Section 103. Definitions.

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

18 "Administrative fund." The Keystone Saves Program  
19 Administrative Fund established under section 303.

20 "Board." The Keystone Saves Program Advisory Board  
21 established under section 501.

22 "Calendar quarter." Any of the following periods:

- 23 (1) January 1 to March 31 of each year.  
24 (2) April 1 to June 30 of each year.  
25 (3) July 1 to September 30 of each year.  
26 (4) October 1 to December 31 of each year.

27 "Covered employee." As follows:

- 28 (1) An individual who:  
29 (i) is employed by a participating employer;  
30 (ii) has wages or other compensation that are

1 allocable to the Commonwealth; and

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

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

4 (i) An employee covered under the Railway Labor Act  
5 (Public Law 69-257, 44 Stat. 577).

6 (ii) An employee on whose behalf an employer makes  
7 contributions to a multiemployer pension trust fund.

8 (iii) An employee of the Federal Government.

9 (iv) An employee of this Commonwealth or any other  
10 state.

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

14 "Covered employer." As follows:

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

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

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

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

24 (B) for at least six months of the preceding  
25 calendar year.

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

28 (iii) An employer that maintains or contributes to a  
29 specified tax-favored retirement plan for the employer's  
30 employees or has done so effective in form and operation

1 at any time within the current or two preceding calendar  
2 years. If an employer does not maintain a specified tax-  
3 favored retirement plan for a portion of a calendar year  
4 ending on or after the effective date of this definition  
5 and adopts a specified tax-favored retirement plan for  
6 the remainder of the calendar year, the employer is not  
7 included in this term for the remainder of the calendar  
8 year.

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

10 "ERISA." The Employee Retirement Income Security Act of 1974  
11 (Public Law 93-406, 88 Stat. 829).

12 "Fund." The Keystone Saves Program Fund established under  
13 section 302.

14 "Internal Revenue Code." The Internal Revenue Code of 1986  
15 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

16 "IRA." An individual retirement account or individual  
17 retirement annuity, including a traditional IRA or a Roth IRA,  
18 under one of the following sections of the Internal Revenue  
19 Code:

20 (1) Section 408(a) or (b).

21 (2) Section 408A.

22 "Participant." An individual who is contributing to an IRA  
23 under the program or has an IRA account balance under the  
24 program.

25 "Participating employer." An employer that participates in  
26 the program, including a covered employer and a noncovered  
27 employer that voluntarily participates in the program.

28 "Program." The Keystone Saves Program established under  
29 section 301.

30 "Qualified payroll deposit retirement savings arrangement" or

1 "Qualified arrangement." An arrangement by which an employer  
2 allows employees to contribute to an IRA by processing payroll  
3 deductions and contributing the deductions to the program in  
4 accordance with section 1102.

5 "Roth IRA." A Roth individual retirement account or  
6 individual retirement annuity under section 408A of the Internal  
7 Revenue Code.

8 "Specified tax-favored retirement plan." A retirement plan  
9 that is tax-qualified under or satisfies the requirements of  
10 section 401(a) or (k), 403(a) or (b) or 408(k) or (p) of the  
11 Internal Revenue Code.

12 "Total fees and expenses." All fees, costs and expenses of  
13 operating the program, including, but not limited to, any of the  
14 following:

- 15 (1) Initial planning and organizational costs.
- 16 (2) Administrative expenses.
- 17 (3) Investment expenses.
- 18 (4) Investment advice expenses.
- 19 (5) Accounting costs, actuarial costs, legal costs,  
20 marketing expenses, education expenses, trading costs,  
21 insurance annuitization costs and other costs reasonably  
22 related to the program.

23 "Traditional IRA." A traditional individual retirement  
24 account or traditional individual retirement annuity under  
25 section 408(a) or (b) of the Internal Revenue Code.

## 26 CHAPTER 3

### 27 KEYSTONE SAVES PROGRAM

28 Section 301. Establishment of program.

29 There is established a retirement savings program in the form  
30 of an automatic enrollment payroll deduction IRA, known as the

1 Keystone Saves Program, within the department. The program shall  
2 be administered by the department for the purposes of promoting  
3 greater retirement savings for covered employees in a  
4 convenient, low-cost and portable manner.

5 Section 302. Keystone Saves Program Fund.

6 (a) Establishment.--The Keystone Saves Program Fund is  
7 established as a special fund in the State Treasury. The  
8 following shall apply:

9 (1) The fund shall be used for the exclusive benefit of  
10 participants.

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

14 (3) The fund shall include the individual retirement  
15 accounts of participants, which shall be accounted for as  
16 individual accounts.

17 (4) Money in the fund shall include money received from  
18 participants through participating employers and any gifts,  
19 donations or grants made to the Commonwealth for deposit in  
20 the fund.

21 (5) Investment earnings and interest that are  
22 attributable to money in the fund shall be deposited in the  
23 fund and credited appropriately to individual accounts.

24 (b) Amounts on deposit.--

25 (1) The money deposited in the fund does not constitute  
26 property of the Commonwealth.

27 (2) The fund shall be construed to be an agency or  
28 instrumentality of the Commonwealth.

29 (3) Money deposited in the fund may not be commingled  
30 with Commonwealth funds.

1           (4) The Commonwealth shall have no claim to or against,  
2           or interest in, the money deposited in the fund.

3 Section 303. Keystone Saves Program Administrative Fund.

4           (a) Establishment.--The Keystone Saves Program  
5 Administrative Fund is established as a separate trust fund in  
6 the State Treasury.

7           (b) Use of money.--The department shall use money in the  
8 administrative fund to pay for start-up and ongoing  
9 administrative expenses incurred in performing the duties of the  
10 department under this act.

11          (c) Sources of money.--The administrative fund may receive  
12 money designated for administrative purposes from the Federal  
13 Government, the Commonwealth or a local government entity or in  
14 the form of gifts, donations or grants made by any other person,  
15 firm, partnership or corporation for deposit in the  
16 administrative fund.

17          (d) Earnings and interest.--Investment earnings and interest  
18 that are attributable to money in the administrative fund shall  
19 be deposited into the administrative fund.

20 Section 304. Administration and funding.

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

23          (b) Administrative costs.--

24            (1) The department shall, through the Governor, annually  
25 submit to the General Assembly a budget covering the total  
26 fees and expenses for the program.

27            (2) Beginning three years after participants are  
28 enrolled in the program and upon approval by the General  
29 Assembly in an appropriation bill, total fees and expenses as  
30 incurred by the program shall be paid from the fees, charges



1 and investment earnings of the fund or from other available  
2 money.

3 (c) Program costs.--Total fees and expenses, inclusive of  
4 investment management fees, shall not exceed 75 basis points of  
5 fund assets under management, except that this limit shall not  
6 apply during a three-year start-up period commencing with the  
7 enrollment of participants in the program.

8 (d) Repayment of appropriation.--The department shall repay  
9 to the General Fund money appropriated covering the total fees  
10 and expenses for the program for the first three years of the  
11 program after participants are enrolled in the program. The  
12 repayment shall be made from the fees, charges, investment  
13 earnings and interest of the fund within 10 years of the  
14 effective date of this section.

15 CHAPTER 5

16 KEYSTONE SAVES PROGRAM ADVISORY BOARD

17 Section 501. Establishment of board.

18 The Keystone Saves Program Advisory Board is established  
19 within the department.

20 Section 502. Composition of board.

21 (a) Members.--The board shall consist of the following  
22 members:

23 (1) The State Treasurer or a designee.

24 (2) The following individuals appointed by the State  
25 Treasurer:

26 (i) A participant.

27 (ii) An individual who has a favorable reputation  
28 for advancing the interests of those individuals who are  
29 approaching, or who have already achieved, retirement.

30 (iii) An individual who has a favorable reputation

1 for skill, knowledge and experience in the field of  
2 retirement saving products and investments.

3 (3) The following individuals appointed by the Governor:

4 (i) An individual who has a favorable reputation for  
5 skill, knowledge and experience in the field of  
6 retirement saving.

7 (ii) An individual who has a favorable reputation  
8 for skill, knowledge and experience in the interests of  
9 employees in retirement planning and saving.

10 (iii) An individual who has a favorable reputation  
11 for skill, knowledge and experience relating to the  
12 interests of small businesses and employers in retirement  
13 saving.

14 (4) The following individuals appointed by the President  
15 pro tempore of the Senate:

16 (i) Upon the recommendation of the Majority Leader  
17 of the Senate, an individual who has a favorable  
18 reputation for skill, knowledge and experience in the  
19 field of retirement saving.

20 (ii) Upon the recommendation of the Minority Leader  
21 of the Senate, an individual who has a favorable  
22 reputation for skill, knowledge and experience in the  
23 field of retirement saving.

24 (5) The following individuals appointed by the Speaker  
25 of the House of Representatives:

26 (i) Upon the recommendation of the Majority Leader  
27 of the House of Representatives, an individual who has a  
28 favorable reputation for skill, knowledge and experience  
29 in the field of retirement saving.

30 (ii) Upon the recommendation of the Minority Leader

1 of the House of Representatives, an individual who has a  
2 favorable reputation for skill, knowledge and experience  
3 in the field of retirement saving.

4 (b) Chairperson.--The State Treasurer or designee under  
5 subsection (a)(1) shall serve as the chairperson of the board.  
6 Section 503. Terms of board members.

7 (a) Term generally.--Each board member appointed by the  
8 State Treasurer, the President pro tempore of the Senate, the  
9 Speaker of the House of Representatives and the Governor shall  
10 serve a term of four years.

11 (b) Vacancy.--A vacancy on the board shall be filled for the  
12 unexpired term of an appointed member of the board in the same  
13 manner as the original appointment. The State Treasurer's  
14 appointees under section 502(a)(2) shall be appointed 12 months  
15 after initial implementation of the program and their seats  
16 shall be vacant until their appointment.

17 Section 504. Meetings of board.

18 (a) Organizational meeting.--The State Treasurer or the  
19 designee under section 502(a)(1) shall call the organizational  
20 meeting of the board.

21 (b) Subsequent meetings.--Meetings of the board shall be  
22 held at least quarterly or at the call of the chairperson.

23 Section 505. Duties of board.

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

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

26 (2) Advise the department upon request.

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

29 (4) Report annually to the Governor and to the General  
30 Assembly.

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

3 Section 506. Limitations on board members.

4 A board member may not:

5 (1) Directly or indirectly have an interest in the  
6 making of an investment under the program or in gains or  
7 profits accruing from an investment under the program.

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

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

13 CHAPTER 7

14 DEPARTMENT POWERS AND DUTIES

15 Section 701. Powers and duties of department.

16 The department shall have the following duties:

17 (1) Administer the program and the fund.

18 (2) Enter into individual retirement account contracts  
19 with individuals for the establishment of retirement savings  
20 accounts.

21 (3) Contract for goods and services and employ  
22 personnel, including contracts with private consultants,  
23 actuaries, investment advisors and managers, record keepers,  
24 legal counsel and auditors for the rendering of professional,  
25 managerial and technical assistance and advice. In awarding  
26 contracts for goods and services under this paragraph, the  
27 department shall consider, where relevant, the following  
28 regarding an applicant:

29 (i) Staffing capabilities and capacity.

30 (ii) Experience and performance in supplying similar

1 goods and services to governmental or private-sector  
2 programs.

3 (iii) Reputation for preserving the confidentiality  
4 and integrity of sensitive information.

5 (iv) Length of time in the current, or comparable,  
6 lines of business.

7 (v) Financial strength and strong record of  
8 creditworthiness.

9 (vi) Other factors as the department may deem  
10 material to evaluating the suitability of the applicant  
11 for any of the categories of contracts and personnel  
12 described in this paragraph.

13 (4) Solicit and accept gifts, grants, loans and other  
14 aid from any person, government entity, corporation or other  
15 entity and participate in any Federal, State or local  
16 government program that results in additional money being  
17 available for establishment and implementation of the  
18 program.

19 (5) Collect administrative fees and charges in  
20 connection with any transaction, including continued  
21 participation in the program.

22 (6) Contract for insurance, letters of credit and  
23 collateral agreements.

24 (7) Solicit answers from appropriate Federal agencies  
25 regarding the application of security laws or other Federal  
26 laws to the program.

27 (8) Promulgate rules and regulations and develop  
28 policies and procedures that the department deems necessary  
29 or advisable for the implementation of this act and the  
30 administration and operation of the program.

1           (9) Cause the program to be designed, established and  
2 operated in a manner that:

3           (i) accords with best practices for retirement  
4 saving vehicles;

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

6           (iii) encourages participation, saving, sound  
7 investment practices and appropriate selection of default  
8 investments;

9           (iv) maximizes simplicity and ease of administration  
10 for employers;

11           (v) minimizes or eliminates costs for employers and  
12 employees;

13           (vi) promotes portability of benefits;

14           (vii) complies with all applicable sections of the  
15 Internal Revenue Code and regulations thereunder,  
16 including ensuring that the program satisfies all  
17 criteria for favorable Federal tax treatment and  
18 complies, to the extent necessary, with any other  
19 applicable Federal or State law;

20           (viii) ensures that accounts of participants meet  
21 the requirements for an IRA under the Internal Revenue  
22 Code; and

23           (ix) avoids preemption of the program by ERISA or  
24 other Federal law.

25           (10) Develop and disseminate educational information to  
26 educate participating employers, covered employees,  
27 participants and others about the program, including all of  
28 the following information:

29           (i) The benefits of planning and saving for  
30 retirement.

1           (ii) How to decide on the level of participation in  
2 the program and savings strategies that may be  
3 appropriate, including information describing income  
4 streams that might be derived from current account  
5 balances and products relating to generating such income.

6           (11) Ensure that all contributions to IRAs under the  
7 program may be used only to:

8           (i) pay benefits to participants under the program;

9           (ii) pay the cost of administering the program; and

10          (iii) make investments for the benefit of the

11 program and the participants. The General Assembly may

12 not transfer contributions to an IRA under the program to

13 the General Fund or another Commonwealth fund or

14 otherwise encumber or use the contributions for a purpose

15 other than one specified under this section.

16          (12) Promulgate rules to allow eligible employers who  
17 are not participating employers to voluntarily participate in  
18 the program, as modified for such employers as may be  
19 necessary.

20          (13) 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 such individuals as may be necessary.

24          (14) 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 (15) Exercise any other powers reasonably necessary for  
4 the effectuation of the purposes, objectives and provisions  
5 of this act pertaining to this program.

## 6 CHAPTER 9

### 7 INVESTMENT AND FIDUCIARY RESPONSIBILITIES

#### 8 Section 901. Fiduciary duties.

9 Department personnel and investment managers engaged by the  
10 department shall be in a fiduciary relationship with  
11 participants and shall discharge their duties with respect to  
12 the program solely in the interest of participants:

13 (1) for the exclusive purposes of providing benefits to  
14 participants and defraying reasonable expenses of  
15 administering the program; and

16 (2) by exercising that degree of judgment, skill and  
17 care under the circumstances then prevailing that persons of  
18 prudence, discretion and intelligence who are familiar with  
19 the matters exercised in the management of their own affairs,  
20 not in regard to speculation but in regard to the pursuit of  
21 reasonable income and preservation of capital.

#### 22 Section 902. Investment policies.

23 (a) Policies.--The department shall develop and implement  
24 investment policies that define the program's investment  
25 objectives consistent with the objectives of the program.

26 (b) Options.--The investment policies shall guide the  
27 department in identifying and making investment options  
28 available to participants that are intended to provide an  
29 economical income replacement balanced with an appropriate level  
30 of risk in an IRA-based environment consistent with the



1 program's investment objectives. The investment options may  
2 encompass a range of risk and return opportunities and allow for  
3 a rate of return commensurate with an appropriate level of risk  
4 consistent with the program's investment objectives.

5 (c) Recommendations.--The investment policies shall include  
6 recommendations regarding the desirability of limiting  
7 investment choices under the program to a reasonable number in  
8 the interest of simplicity and in consideration of the extensive  
9 investment choices available to participants if the participants  
10 roll over to an IRA existing outside of the program. The  
11 recommendations shall conform to the program objectives of  
12 minimizing participant fees and administration and investment  
13 expenses and maximizing participation, including identifying  
14 products that may be particularly relevant for independent  
15 contractors, self-employed individuals and other workers who are  
16 not covered employees.

17 Section 903. Additional investment options.

18 (a) Options.--In addition to the investment options under  
19 section 902(b), the department shall establish the following  
20 investment options for the program:

21 (1) A life-cycle fund with a target date based upon the  
22 age of the participant.

23 (2) An equity index fund.

24 (3) A bond index fund.

25 (4) A capital preservation fund.

26 (b) Distribution options.--The department may establish  
27 other investment options as the department deems necessary or  
28 desirable in accordance with the investment policies developed  
29 under section 902(a). The department shall evaluate whether to  
30 offer one or more distribution options for the program to

1 provide for a source of fixed retirement income that includes  
2 spousal protection for all or a portion of a participant's  
3 retirement.

4 (c) Default option.--The department shall select a default  
5 investment option for participants who do not elect an  
6 investment option. From time to time, the department may change  
7 the default option for future participants.

8 Section 904. Investment managers.

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

11 (b) Fees and charges.--An investment manager's fees and  
12 charges shall not exceed 60 basis points of fund assets under  
13 management.

14 (c) Compliance.--An investment manager shall comply with  
15 applicable Federal and State laws and regulations, rules,  
16 policies and guidelines promulgated by the department regarding  
17 the program and the investment of money in the fund, including,  
18 but not limited to, investment policies.

19 (d) Oversight.--An investment manager shall provide reports  
20 to and appear before department personnel as the department  
21 deems necessary for the department to oversee the investment  
22 manager's performance and the performance of the fund.

23 (e) Performance reviews.--The department shall periodically  
24 conduct a performance review of each investment manager,  
25 including a review of fees and customer service. A copy of each  
26 performance review shall be made available on the department's  
27 publicly accessible Internet website.

28 CHAPTER 11

29 PROGRAM IMPLEMENTATION

30 Section 1101. Commencement of program activities.

1 No later than 24 months from the effective date of this  
2 section, the department shall implement the program and allow a  
3 participating employer to register with the department and the  
4 Department of Labor and Industry and certify that the  
5 participating employer has established a qualified arrangement.  
6 Nothing in this section shall be construed to prevent the  
7 department from prescribing a reasonably phased schedule for  
8 registration and certification that extends later than 24 months  
9 from the effective date of this section or authorizes different  
10 categories of participating employers to comply with the  
11 registration and certification requirements by different  
12 deadlines.

13 Section 1102. Qualified payroll deposit retirement savings  
14 arrangements.

15 (a) Registration and certification.--No later than six  
16 months after the date the program is implemented under section  
17 1101, a participating employer shall register with the  
18 department and certify that the participating employer has  
19 established a qualified arrangement.

20 (b) Compliance.--A participating employer shall comply with  
21 all of the following requirements to establish a qualified  
22 arrangement:

23 (1) The participating employer shall offer a covered  
24 employee the opportunity to participate in the program.

25 (2) In compliance with procedures established by the  
26 department, the participating employer shall:

27 (i) Provide the department with the name and other  
28 required information regarding a covered employee.

29 (ii) Provide a covered employee with department-  
30 provided information regarding the program.

1 (iii) Automatically enroll a covered employee in the  
2 payroll deposit retirement savings arrangement, unless  
3 the covered employee opts out of the program.

4 (iv) Regularly take deductions from a participant's  
5 wages and contribute the deduction to the participant's  
6 program account.

7 (3) The participating employer shall allow a participant  
8 to select the rate of deduction from the participant's wages  
9 for the program, subject to the annual contribution limit  
10 permitted by the Internal Revenue Code. For a participant who  
11 fails to select a deduction rate, the participating employer  
12 shall deduct a default contribution equal to 4% of wages, or  
13 another default percentage as the department may prescribe  
14 for the program, subject to the annual contribution limit  
15 permitted by the Internal Revenue Code.

16 (4) The participating employer shall automatically  
17 increase the deduction rate by an amount equal to 1% of gross  
18 wages each year, or such other annual increase as the  
19 department may prescribe for the program, on the anniversary  
20 of the covered employee's enrollment in the program, to a  
21 maximum of 8% of wages or the annual contribution limit  
22 permitted by the Internal Revenue Code, whichever is greater.

23 (5) The participating employer shall allow a participant  
24 to completely opt out of deductions, increase or decrease the  
25 deduction rate, freeze automatic annual deduction rate  
26 increases or increase the deduction rate, subject to the  
27 annual contribution limit permitted by the Internal Revenue  
28 Code.

29 (6) The participating employer shall allow a participant  
30 to select one or more investment options from the investment

1 options offered by the department through the program. A  
2 participant may change the selected investment option or  
3 options at any time, subject to the program rules. For a  
4 participant who does not select any investment option, the  
5 deductions from the participant's wages will be invested in a  
6 default option established by the department for the program.

7 (7) The participating employer shall allow a participant  
8 to terminate participation in the program at any time in  
9 accordance with Internal Revenue Code requirements.

10 (8) At least once each calendar year, the participating  
11 employer shall provide an open enrollment period of not less  
12 than two weeks during which a covered employee who previously  
13 opted out of the program or who terminated prior  
14 participation in the program may enroll in the program.

15 (9) The participating employer shall allow a participant  
16 to roll over the program account balance into specified tax-  
17 favored retirement plans or traditional IRAs.

18 (10) The participating employer may not make  
19 contributions to the program.

20 (11) The participating employer may not take any actions  
21 that constitute an endorsement or promotion of the  
22 arrangement or the program.

23 Section 1103. Participating employer plans.

24 Nothing in this act shall prohibit a participating employer  
25 from replacing a qualified arrangement with a specified tax-  
26 favored retirement plan.

27 Section 1104. Roth IRAs and traditional IRAs.

28 (a) Roth IRAs.--Except as provided under subsection (b),  
29 participant contributions, including contributions from a  
30 participant who does not select an investment option, shall be

1 made to a Roth IRA.

2 (b) Traditional IRAs.--The department may make a traditional  
3 IRA available for a participant who selects the participant's  
4 investment options.

5 Section 1105. Implementation of qualified arrangements.

6 The department shall establish procedures regarding the  
7 implementation of a qualified arrangement by a participating  
8 employer.

9 Section 1106. Registration and certification.

10 (a) Procedures.--The department shall establish procedures  
11 for a participating employer to register in the program and  
12 provide such registration information to the department. A  
13 participating employer shall certify to the department  
14 implementation of qualified arrangements.

15 (b) Registration deadlines.--Unless otherwise specified by  
16 the department, the registration deadlines for a covered  
17 employer to register as a participating employer shall be as  
18 follows:

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

22 (2) A covered employer employing at least 50 but no more  
23 than 99 employees shall register no later than 30 months  
24 after the effective date of this subsection.

25 (3) A covered employer employing at least 20 but no more  
26 than 49 employees shall register no later than 36 months  
27 after the effective date of this subsection.

28 (4) A covered employer employing at least 10 but no more  
29 than 19 employees shall register no later than 42 months  
30 after the effective date of this subsection.

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

4 Section 1107. Payroll deductions.

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

11          (b) Retirement savings.--The department shall establish  
12          procedures for the payment by a participating employer of  
13          payroll deductions through a payroll deposit retirement savings  
14          arrangement.

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

25 Section 1108. Withdrawals, rollovers and transfers.

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

30 Section 1109. Distribution of funds from program.

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

- 6 (1) Maximizing financial security in retirement.
- 7 (2) Protecting spousal rights.
- 8 (3) 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 all of the  
12 following 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.
- 16 (2) Requiring, in combination with the designation of a  
17 lifetime income investment product, that at least 50% of a  
18 participant's program account balance on the date the  
19 participant attains the normal retirement age be invested in  
20 the lifetime income investment product.

21 Section 1110. Outreach and information.

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

- 24 (1) A participating employer, as follows:
  - 25 (i) General information about the requirements and  
26 procedures of the program.
  - 27 (ii) Information describing the opportunity to and  
28 benefits of a participating employer sponsoring a  
29 specified tax-favored retirement plan that would exempt  
30 the participating employer from the requirements of the



1 program.

2 (iii) Explanatory materials for distribution to a  
3 covered employee regarding the program and the choices  
4 available to the covered employee. The explanatory  
5 materials shall include all required disclosures relating  
6 to participating in an IRA and instructions for how to  
7 enroll in the program.

8 (2) A covered employee, as follows:

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

11 (ii) Descriptions of investment options offered by  
12 the program.

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

15 (3) A participant, as follows:

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

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

23 Section 1111. Contributions, interest and investment earnings.

24 (a) Ownership.--A participant shall be the owner of the  
25 contributions, interest and investment earnings in the  
26 associated program account. The Commonwealth or the  
27 participating employer may not have any proprietary interest in  
28 the contributions, interest or investment earnings.

29 (b) Prohibited transfers.--The department shall ensure that  
30 no assets of the program are transferred to the General Fund or

1 any other fund of the Commonwealth or otherwise encumbered or  
2 used for purposes other than any of the following:

3 (1) Paying benefits to a participant.

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

5 (3) Making investments for the benefit of a participant  
6 and the program.

7 (c) Procedures.--The department shall establish procedures  
8 to allocate interest, investment earnings and investment losses  
9 to the program account of a participant. A participant's  
10 retirement savings benefit under the program shall be an amount  
11 equal to the balance in the participant's account on the date  
12 the retirement savings benefit becomes payable.

13 Section 1112. Duties and liability of Commonwealth.

14 (a) Excess amounts.--The Commonwealth shall have no duty or  
15 liability to a person for the payment of any amount in excess of  
16 the amount of a participant's retirement savings benefit and the  
17 amount shall be made available to the participant or beneficiary  
18 in accordance with the requirements of the Internal Revenue  
19 Code.

20 (b) Losses or deficiencies.--A Commonwealth agency,  
21 commission or board or any officer, employee or member of a  
22 Commonwealth agency, commission or board shall not be liable for  
23 the loss or deficiency resulting from particular investments  
24 selected under this act, except for liability that arises out of  
25 a breach of fiduciary duty under section 901.

26 Section 1113. Protection from liability for employers.

27 (a) Liability.--A participating employer or other employer  
28 shall not be liable for any of the following:

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

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

3 (3) The administration, investment, investment returns,  
4 or investment performance of the program, including any  
5 interest rate or other rate of return on any contribution or  
6 account balance.

7 (4) The design of the program or benefits paid to a  
8 participant.

9 (5) An individual's awareness of or compliance with the  
10 conditions and other provisions of Federal and State tax laws  
11 that determine whether the individual is eligible to make  
12 tax-favored contributions to IRAs, including the amount of  
13 the contributions and the time frame and manner of the  
14 contributions.

15 (6) A loss, a failure to realize any gain or any other  
16 adverse consequences, including adverse tax consequences or a  
17 loss of favorable tax treatment, public assistance or other  
18 benefits incurred by an individual resulting from  
19 participating in the program.

20 (b) Fiduciaries.--A participating employer or other employer  
21 shall not be a fiduciary in relation to the program or any other  
22 arrangement under the program.

23 Section 1114. Risk management.

24 (a) Program.--The department shall annually prepare and  
25 adopt a written risk management and oversight program as a part  
26 of the department's investment policies developed under section  
27 902. The risk management and oversight program shall be designed  
28 to:

29 (1) ensure that an effective risk management system is  
30 in place to monitor the risk levels of the program and fund

1 portfolio;

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

4 (3) provide an integrated process for overall risk  
5 management; and

6 (4) assess investment returns and risks to determine if  
7 the risks taken are adequately compensated compared to  
8 applicable performance benchmarks and standards.

9 (b) Insurance.--In preparing the risk management and  
10 oversight program, the department shall evaluate whether to  
11 obtain insurance against any and all losses in connection with  
12 the property, assets or activities of the program.

13 Section 1115. Audit and reports.

14 (a) Reports to Governor and General Assembly.--The  
15 department shall submit annually the following reports to the  
16 Governor and the General Assembly:

17 (1) An audited financial report, prepared by the Auditor  
18 General in accordance with generally accepted accounting  
19 principles, of the program by July 1 of each calendar year  
20 for the prior calendar year.

21 (2) A report prepared by the department, which shall  
22 include, but is not limited to, all of the following:

23 (i) A summary of the benefits provided by the  
24 program, including the number of participants and  
25 participating employers in the program.

26 (ii) The percentage and amount of funds in the  
27 program's investment options and rates of return, net of  
28 fees.

29 (iii) Any other information that is relevant to make  
30 a full, fair and effective disclosure of the operations

1 of the program and the fund.

2 (b) Reports to participating employers.--In addition to  
3 other statements or reports required by Federal or State law, at  
4 least annually, the department shall provide a report to a  
5 participating employer that contains a list of the names of each  
6 participant employed by the participating employer and the  
7 amounts of deductions taken by the participating employer and  
8 contributed to the program on behalf of each participant during  
9 the reporting period.

10 (c) Reports to participants.--In addition to other  
11 statements or reports required by Federal or State law, the  
12 department shall provide all of the following to a participant:

13 (1) At least annually, a report of contributions and  
14 investment income allocated and withdrawals from and balances  
15 in the participant's account for the reporting period,  
16 including, but not limited to, the participant's rate of  
17 contribution and any change in the rate of contribution  
18 during the preceding calendar year or as required under  
19 section 1102(b)(4).

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

21 (i) The account balance in a participant's program  
22 account, including the value of the participant's  
23 investment in each investment option selected by the  
24 participant.

25 (ii) The investment options available to a  
26 participant and the process by which a participant may  
27 select from the investment options for the participant's  
28 contributions to the program.

29 (iii) The amount of fees charged to a participant  
30 program account and a description of the services to

1           which each charge relates.

2           (iv) An estimate of the amount of income the  
3           participant's program account could reasonably be  
4           expected to generate over the course of the participant's  
5           retirement, based upon reasonable assumptions.

6           (d) Additional information.--The department may include any  
7           other information in the reports under subsection (c) regarding  
8           the program as the department may determine appropriate and  
9           useful.

10          Section 1116. Confidentiality of information.

11          Notwithstanding any other provision of law, account  
12          information under the program relating to a participant,  
13          including, but not limited to, the participant's name, address,  
14          telephone number, e-mail address, personal identification  
15          information, investments, contributions and earnings, shall be  
16          confidential and shall be maintained by the department and the  
17          department's agents as confidential, except in any of the  
18          following circumstances:

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

21               (2) The participant who provides the information or is  
22               the subject of the information expressly agrees in writing to  
23               the disclosure of the information.

24          Section 1117. Temporary regulations.

25          (a) Promulgation.--In order to facilitate the prompt  
26          implementation of this act, the department and the Department of  
27          Labor and Industry may promulgate temporary regulations that  
28          shall expire not later than two years after the publication of  
29          the temporary regulations in the Pennsylvania Bulletin. The  
30          promulgated temporary regulations shall not be subject to any of

1 the following:

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

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

7 (3) Sections 204(b) and 301(10) of the act of October  
8 15, 1980 (P.L.950, No.164), known as the Commonwealth  
9 Attorneys Act.

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

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

15 CHAPTER 13

16 (Reserved)

17 CHAPTER 15

18 MISCELLANEOUS PROVISIONS

19 Section 1501. Regulations.

20 The department shall promulgate regulations and adopt  
21 policies or guidelines as necessary to implement this act. The  
22 Department of Labor and Industry and other State agencies shall  
23 coordinate, cooperate and share data and information with the  
24 department as necessary to implement this act.

25 Section 1502. Notice of program implementation.

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

30 (b) Internet posting.--The department shall post a notice of

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

9 Section 1503. Effective date.

10 This act shall take effect immediately.