

[Third Reprint]

**ASSEMBLY, No. 4275**

**STATE OF NEW JERSEY**  
**216th LEGISLATURE**

INTRODUCED MARCH 9, 2015

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**SYNOPSIS**

“New Jersey Small Business Retirement Marketplace Act.”

**CURRENT VERSION OF TEXT**

As amended on January 11, 2016 by the General Assembly pursuant to the Governor's recommendations.

1 AN ACT <sup>3</sup>[concerning individual retirement savings for certain  
2 workers] establishing a retirement savings marketplace<sup>3</sup> and  
3 supplementing Title 43 of the Revised Statutes.  
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6 *of New Jersey:*  
7

8 <sup>3</sup>[1. This act shall be known and may be cited as the “New  
9 Jersey Secure Choice Savings Program Act.”]<sup>3</sup>  
10

11 <sup>3</sup>1. This act shall be known and may be cited as the “New Jersey  
12 Small Business Retirement Marketplace Act.”<sup>3</sup>  
13

14 <sup>3</sup>2. The Legislature finds and declares that:

15 a. it is appropriate to create a New Jersey Small Business  
16 Retirement Marketplace because there is a retirement savings gap in  
17 this State, one in six Americans retire in poverty, and employees  
18 who are unable to effectively build their retirement savings risk  
19 living on low incomes in their elderly years and are more likely to  
20 become dependent on State services;

21 b. small businesses, which employ half of New Jersey’s private  
22 workforce, often choose not to offer retirement plans to employees  
23 due to concerns about the cost, administrative burden, and potential  
24 liability that they believe would be placed on their businesses;

25 c. the federal government has attempted to address the savings  
26 gap by establishing the myRA program, a safe, affordable, and  
27 accessible retirement vehicle designed to remove barriers to  
28 retirement savings;

29 d. the New Jersey Small Business Retirement Marketplace will  
30 remove the barriers to entry into the retirement market for small  
31 businesses by educating small employers on plan availability and  
32 promoting, without mandating participation, qualified, low cost,  
33 low burden retirement savings vehicles and myRA; the marketplace  
34 furtheres greater retirement plan access for the residents of New  
35 Jersey while ensuring that individuals participating in these  
36 retirement plans will have all the protections offered by federal law;

37 e. the New Jersey Small Business Retirement Marketplace  
38 should not place any financial burden upon taxpayers in the State  
39 and it should not be implemented if it is determined that there is any  
40 financial exposure to the State;

41 f. the New Jersey Small Business Retirement Marketplace will  
42 be the best way for New Jersey to close the retirement savings

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly ALA committee amendments adopted June 18, 2015.

<sup>2</sup>Assembly AAP committee amendments adopted November 9, 2015.

<sup>3</sup>Assembly amendments adopted in accordance with Governor’s recommendations January 11, 2016.

1 access gap, protect the fiscal stability of the State and its citizens  
2 well into the future, become a national leader in retirement and  
3 investor promotion and protection, and educate and promote  
4 retirement saving among employees and small employers;

5 g. according to a recent AARP poll, 86 percent of New Jersey  
6 residents age 35 and older say they hope to retire one day, but 65  
7 percent are anxious about saving enough money so they could  
8 afford it, and AARP estimates that roughly 1.7 million private  
9 sector workers in New Jersey do not have access to a retirement  
10 savings plan through their employer, and the National Institute of  
11 Retirement Security describes this as a growing consumer crisis,  
12 because the typical family has saved only \$2,500 for their  
13 retirement;

14 h. AARP has been instrumental in leading a national initiative  
15 called Work and Save to deal with retirement insecurity by  
16 promoting state run retirement programs, including the Washington  
17 Small Business Retirement Marketplace, signed into law in May  
18 2015, designed to provide thousands of small business employees  
19 access to retirement plans by creating a voluntary public-private  
20 partnership marketplace that will educate small business employers  
21 on existing private sector retirement plan vendors;

22 i. the Washington marketplace was the result of public and  
23 private organizations coming together to find the most effective and  
24 efficient way to close the retirement savings access gap, and the  
25 following organizations have endorsed the Washington  
26 marketplace: AARP, Securities Industry and Financial Markets  
27 Association, the American Council of Life Insurers, Washington  
28 Bankers Association, and various employer groups; and

29 j. by following this model, the New Jersey Small Business  
30 Retirement Marketplace will provide a market-based approach so  
31 that small businesses can offer a simple and inexpensive way to  
32 offer private savings to their employees, which will result in  
33 workers saving more for retirement throughout their lives.<sup>3</sup>

34  
35 <sup>3</sup>3. As used in this act:

36 “Approved plans” means retirement plans offered by private  
37 sector financial services firms that meet the requirements of this act  
38 to participate in the marketplace.

39 “Balanced fund” means a mutual fund that has an investment  
40 mandate to balance its portfolio holdings and generally includes a  
41 mix of stocks and bonds in varying proportions according to the  
42 fund’s investment outlook.

43 “Eligible employer” means a person, firm, corporation,  
44 partnership, or sole proprietor, or any other employer that is  
45 actively engaged in business with fewer than 100 qualified  
46 employees at the time of enrollment, and a majority of which  
47 employees are employed in New Jersey.

1 “Enrollee” means any employee who is voluntarily enrolled in an  
2 approved plan offered by an eligible employer through the  
3 marketplace.

4 “myRA” means the myRA retirement program administered by  
5 the United States Department of the Treasury that is available to all  
6 employers and employees with no fees or no minimum contribution  
7 requirements. “myRA” is a Roth IRA option, and investments in  
8 these accounts are backed by the United States Department of the  
9 Treasury.

10 “New Jersey Small Business Retirement Marketplace” or  
11 “marketplace” means the retirement savings program created to  
12 connect eligible employers and their employees with approved  
13 plans to increase retirement savings.

14 “Participating employer” means any eligible employer with  
15 employees enrolled in an approved plan offered through the New  
16 Jersey Small Business Retirement Marketplace who chooses to  
17 participate in the marketplace and offers approved plans to  
18 employees for voluntary enrollment.

19 “Private sector financial services firms” or “financial services  
20 firms” means persons or entities licensed or holding a certificate of  
21 authority or authorized to do business in the State, in good standing  
22 by the Department of Banking and Insurance and the Bureau of  
23 Securities in the Division of Consumer Affairs in the Department of  
24 Law and Public Safety, and meeting all federal laws and regulations  
25 to offer retirement plans.

26 “Qualified employee” means those workers who are defined by  
27 the federal Internal Revenue Service to be eligible to participate in a  
28 specific qualified plan.

29 “Target date or other similar fund” means a mutual fund that  
30 automatically resets the asset mix of stocks, bonds, cash  
31 equivalents, and other investments in its portfolio according to a  
32 selected time frame that is appropriate for a particular investor and  
33 is structured to address a projected retirement date.<sup>3</sup>

34

35 <sup>3</sup>4. There is established the New Jersey Small Business  
36 Retirement Marketplace in the Department of the Treasury.<sup>3</sup>

37

38 <sup>3</sup>5. a. The State Treasurer, or the Treasurer’s designee, shall  
39 design and implement a plan for the operation of the marketplace  
40 pursuant to the provision of this act. Thereafter, the State Treasurer,  
41 or the Treasurer’s designee, shall facilitate the connections between  
42 eligible employers and approved plans included in the marketplace.

43 b. The State Treasurer, or the Treasurer’s designee, shall  
44 consult with the Director of Investment of the Department of the  
45 Treasury, or the director’s designee; the Commissioner of Banking  
46 and Insurance, or the commissioner’s designee; the Commissioner  
47 of Labor and Workforce Development, or the commissioner’s

1 designee; the Chairperson of the State Investment Council, or the  
2 chairperson's designee; the Director of the Division of Pensions and  
3 Benefits, or the director's designee; and the Chief Executive Officer  
4 of the New Jersey Economic Development Authority, or the chief  
5 executive office's designee, in designing and managing the  
6 marketplace.

7 c. The State Treasurer, or the Treasurer's designee, shall  
8 approve private sector financial service firms as defined in section 3  
9 of this act for participation in the marketplace. The State Treasurer,  
10 or the Treasurer's designee, shall ensure that the range of  
11 investment options offered by the financial service firms is  
12 sufficient to meet the needs of investors with various levels of risk  
13 tolerance and various ages.

14 d. The State Treasurer, or the Treasurer's designee, shall  
15 approve a diverse array of private retirement plan options that are  
16 available to employers on a voluntary basis, including life insurance  
17 plans that are designed for retirement purposes, and at least two  
18 types of plans for eligible employer participation, including:

19 (1) a SIMPLE IRA type plan that provides for employer  
20 contributions to participating enrollee accounts; and

21 (2) a payroll deduction individual retirement account type plan  
22 or workplace-based individual retirement accounts open to all  
23 workers in which the employer does not contribute to the  
24 employees' account.

25 e. Prior to approving a plan to be offered on the marketplace,  
26 the State Treasurer, or the Treasurer's designee, shall obtain  
27 certification from the Department of Banking and Insurance and the  
28 Bureau of Securities in the Division of Consumer Affairs in the  
29 Department of Law and Public Safety that the financial services  
30 firm providing the plan is in good standing with the department and  
31 the bureau and shall ensure that the plan meets the requirements of  
32 this act. The State Treasurer, or the Treasurer's designee, may at  
33 any time remove any approved plan from the marketplace that no  
34 longer meets the requirements of this act.

35 f. The financial services firms participating in the marketplace  
36 shall offer a minimum of two product options, including:

37 (1) a target date or other similar fund, with asset allocations and  
38 maturities designed to coincide with the expected date of  
39 retirement; and

40 (2) a balanced fund.

41 The marketplace shall offer myRA in addition to any other  
42 approved plan.

43 g. The marketplace shall not operate unless there are at least  
44 two financial services firms offering approved plans on the  
45 marketplace; however, nothing in this section shall be construed as  
46 to limit the number of financial services firms with approved plans  
47 participating in the marketplace.

1 h. The State Treasurer, or the Treasurer's designee, shall  
2 ensure that approved plans are compliant with any federal law or  
3 regulation regarding Internal Revenue Service approved retirement  
4 plans.

5 i. Approved plans shall include the option for enrollees to roll  
6 pretax contributions into a different individual retirement account or  
7 another eligible retirement plan after ceasing participation in a plan  
8 approved by the marketplace.

9 j. Financial services firms selected by the State Treasurer, or  
10 the Treasurer's designee, to offer approved plans on the  
11 marketplace shall not charge the participating employer an  
12 administrative fee or surcharge and shall not charge enrollees more  
13 than 100 basis points in total annual fees and shall provide  
14 information about their product's historical investment  
15 performance.

16 k. Participation in the marketplace is voluntary for both eligible  
17 employers and qualified employees, and enrollment in any approved  
18 plan offered in the marketplace is not an entitlement.

19 l. The State Treasurer, or the Treasurer's designee, shall  
20 establish protocol to address rollovers for eligible employers that  
21 have workers in other states, and to address whether out-of-state  
22 employees with existing IRAs may roll them into the plans offered  
23 through the marketplace.

24 m. The State Treasurer, or the Treasurer's designee, may  
25 establish a fee system that charges financial services firms that  
26 participate in the marketplace in order to cover the startup and  
27 annual administrative expenses of the State Treasurer, or the  
28 Treasurer's designee, in the performance of its duties under this  
29 act.<sup>3</sup>

30  
31 <sup>3</sup>6. a. The State Treasurer, or the Treasurer's designee, shall  
32 contract with one or more private sector entities to:

33 (1) establish a protocol for reviewing and approving the  
34 qualifications of all financial services firms that meet the  
35 requirements to participate in the marketplace;

36 (2) design and operate an Internet website that includes  
37 information on how eligible employers can voluntarily participate  
38 in the marketplace;

39 (3) develop marketing materials about the marketplace that can  
40 be distributed electronically or posted on both public and private  
41 sector maintained websites;

42 (4) identify and promote existing federal and State tax credits  
43 and benefits for employers and employees that are related to  
44 encouraging retirement savings or participating in retirement plans;  
45 and

46 (5) promote the benefits of retirement savings and other  
47 information that promotes financial literacy.

1       b. The State Treasurer, or the Treasurer’s designee, shall direct  
2 any private sector entity contracted pursuant to subsection a. of this  
3 section to assure that licensed professionals who assist their clients  
4 that are eligible employers or their employees to enroll in a plan  
5 offered through the marketplace will receive routine, market-based  
6 commissions or other compensation for their services.

7       c. The State Treasurer, or the Treasurer’s designee, shall  
8 establish rules to ensure that there are objective criteria in the  
9 protocol established pursuant to subsection a.(1) of this section and  
10 that the protocol does not provide an unfair advantage to the private  
11 sector entity that establishes the protocol.<sup>3</sup>

12  
13       <sup>3</sup>7. In addition to any funds appropriated for the purposes of this  
14 act, the State Treasurer, or the Treasurer’s designee, shall approve  
15 the use of private funding sources, including private foundation  
16 grants, to pay for marketplace expenses. On behalf of the  
17 marketplace, the Department of Treasury shall seek federal and  
18 private grants and is authorized to accept any funds awarded to the  
19 State Treasurer, or the Treasurer’s designee, for use in designing,  
20 implementing, and operating the marketplace.<sup>3</sup>

21  
22       <sup>3</sup>8. The Department of Treasury shall not expose the State as an  
23 employer or through administration of the marketplace to any  
24 liability under the federal “Employee Retirement Income Security  
25 Act of 1974” (29 U.S.C. s.1001 et seq.). The Department of  
26 Treasury is specifically prohibited from offering and operating a  
27 State-sponsored retirement plan for businesses for individuals who  
28 are not employed by the State, or any political subdivision thereof.<sup>3</sup>

29  
30       <sup>3</sup>9. The State Treasurer, or the Treasurer’s designee, shall  
31 approve incentive payments to participating employers that enroll in  
32 the marketplace if there are sufficient funds provided by private  
33 foundations or other private sector entities, or with State funds  
34 specifically appropriated for this purpose.<sup>3</sup>

35  
36       <sup>3</sup>10. The State Treasurer, or the Treasurer’s designee, shall  
37 report biennially to the Legislature on the effectiveness and  
38 efficiency of the marketplace, including levels of enrollment and  
39 the retirement savings levels of participating enrolled that are  
40 obtained in aggregate on a voluntary basis from private sector  
41 financial services firms that participate in the marketplace.<sup>3</sup>

42  
43       <sup>3</sup>11. The State Treasurer, or the Treasurer’s designee, shall  
44 ensure that any individual retirement account products proposed for  
45 inclusion in the marketplace comply with the requirements of  
46 section 5 of this act.<sup>3</sup>

1       <sup>3</sup>12. The Department of Treasury shall promulgate regulations,  
2 pursuant to the “Administrative Procedure Act,” P.L.1968, c.410  
3 (C.52:14B-1 et seq.) necessary to effectuate the purposes of this act.  
4 In promulgating regulations, the State Treasurer, or the Treasurer’s  
5 designee, shall consult with organizations representing eligible  
6 employers, qualified employees, private and nonprofit sector  
7 retirement plan administrators and providers, private sector  
8 financial services firms, and any other individual or entities that the  
9 State Treasurer, or the Treasurer’s designee, determines relevant to  
10 the effective and efficient method for effectuating the purposes of  
11 this act.<sup>3</sup>

12  
13       <sup>3</sup>[2. As used in this act:

14       "Board" means the New Jersey Secure Choice Savings Board  
15 established pursuant to this act.

16       "Department" means the Department of the Treasury.

17       "Employee" means any individual who is 18 years of age or  
18 older, who <sup>2</sup>lives in this State or<sup>2</sup> is employed by an employer <sup>2</sup>in  
19 this State<sup>2</sup>, and whose wages are subject to withholding as provided  
20 in the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq.

21       "Employer" means a person or entity engaged in a business,  
22 industry, profession, trade, or other enterprise in New Jersey,  
23 whether for profit or not for profit, that has at no time during the  
24 previous calendar year employed fewer than 25 employees in the  
25 State, has been in business at least two years, and has not offered a  
26 qualified retirement plan, including, but not limited to, a plan  
27 qualified under section 401(a), section 401(k), section 403(a),  
28 section 403(b), section 408(k), section 408(p), or section 457(b) of  
29 the Internal Revenue Code in the preceding two years. "Employer"  
30 shall not mean the State, its political subdivisions, any office,  
31 department, division, bureau, board, commission or agency of the  
32 State or one of its political subdivisions, or any public body in the  
33 State.

34       "Enrollee" means any employee who is enrolled in the program.

35       "Fund" means the New Jersey Secure Choice Savings Program  
36 Fund established pursuant to this act.

37       "Internal Revenue Code" means the federal Internal Revenue  
38 Code of 1986, 26 U.S.C. s.1 et seq., or any successor law, in effect  
39 for the calendar year.

40       "IRA" means a standard Individual Retirement Account under  
41 section 408, or a Roth Individual Retirement Account under section  
42 408A, of the Internal Revenue Code.

43       "Participating employer" means an employer or small employer  
44 that provides a payroll deposit retirement savings arrangement as  
45 provided under this act for its employees who are enrollees in the  
46 program.



1 "Payroll deposit retirement savings arrangement" means an  
2 arrangement by which a participating employer allows enrollees to  
3 remit payroll deduction contributions to the program.

4 "Program" means the New Jersey Secure Choice Savings  
5 Program established pursuant to this act.

6 "Small employer" means a person or entity engaged in a  
7 business, industry, profession, trade, or other enterprise in New  
8 Jersey, whether for profit or not for profit, that employed less than  
9 25 employees at any one time in the State throughout the previous  
10 calendar year, or has been in business less than two years, or both,  
11 but that notifies the board that it is interested in being a  
12 participating employer.

13 "Wages" means any compensation within the meaning of section  
14 219(f)(1) of the Internal Revenue Code that is received by an  
15 enrollee from a participating employer during the calendar year. **】<sup>3</sup>**

16  
17 **】<sup>3</sup>**3. A retirement savings program in the form of an automatic  
18 enrollment payroll deduction IRA, known as the New Jersey Secure  
19 Choice Savings Program, is hereby established and shall be  
20 administered by the board for the purpose of promoting greater  
21 retirement savings for private sector employees in a convenient, low  
22 cost, and portable manner. **】<sup>3</sup>**

23  
24 **】<sup>3</sup>**4. a. The New Jersey Secure Choice Savings Program Fund is  
25 established as a special fund outside of the General Fund, separate  
26 and apart from all public moneys or funds of this State, with the  
27 board established pursuant to section 6 of this act as its trustee. The  
28 fund shall include the individual retirement accounts of enrollees,  
29 which shall be accounted for as individual accounts. Moneys in the  
30 fund shall consist of moneys received from enrollees and  
31 participating employers pursuant to automatic payroll deductions  
32 and contributions to savings made pursuant this act. The fund shall  
33 be operated in a manner determined by the board, provided that the  
34 fund is operated so that the accounts of enrollees established under  
35 the program meet the requirements for IRAs under the Internal  
36 Revenue Code.

37 b. The amounts deposited in the fund shall not constitute  
38 property of the State and the fund shall not be construed to be a  
39 department, institution, or agency of the State. Amounts on deposit  
40 in the fund shall not be commingled with State funds and the State  
41 shall have no claim to or against, or interest in, such funds. **】<sup>3</sup>**

42  
43 **】<sup>3</sup>**5. The New Jersey Secure Choice Administrative Fund is  
44 created as a nonappropriated separate and apart trust fund in the  
45 General Fund. The board shall use moneys in the administrative  
46 fund to pay for administrative expenses it incurs in the performance  
47 of its duties under this act. The board shall use moneys in the

1 administrative fund to cover startup administrative expenses it  
2 incurs in the performance of its duties under this act. The  
3 administrative fund may receive any grants or other moneys  
4 designated for administrative purposes from the State, or any unit of  
5 federal or local government, or any other person, firm, partnership,  
6 or corporation. Any interest earnings that are attributable to moneys  
7 in the administrative fund shall be deposited into the administrative  
8 fund.】<sup>3</sup>

9  
10 <sup>3</sup>【6. There is established the New Jersey Secure Choice Savings  
11 Board.

12 a. The board shall consist of the following members:

13 (1) the State Treasurer, or the State Treasurer's designee, who  
14 shall serve as chair;

15 (2) the State Comptroller, or the State Comptroller's designee;

16 (3) the Director of the Office of Management and Budget, or the  
17 director's designee;

18 (4) two representatives of the general public with expertise in  
19 retirement savings plan administration or investment, or both, of  
20 which one representative shall be appointed by the Speaker of  
21 General Assembly and one representative appointed by the Senate  
22 President;

23 (5) a representative of participating employers, appointed by the  
24 Governor; and

25 (6) a representative of enrollees, appointed by the Governor.

26 b. Members of the board shall serve without compensation.

27 c. The initial terms of the appointees shall be as follows: the  
28 public representative appointed by the Senate President, for four  
29 years; the public representative appointed by the Speaker of the  
30 General Assembly, for two years; the representative of participating  
31 employers, for three years; and the representative of enrollees for  
32 one year. Thereafter, all of the appointees shall be for terms of four  
33 years.

34 d. A vacancy in the term of an appointed board member shall  
35 be filled for the balance of the unexpired term in the same manner  
36 as the original appointment.

37 e. Each appointment by the Governor shall be subject to the  
38 advice and consent of the Senate. In case of a vacancy during a  
39 recess of the Senate, the Governor shall make a temporary  
40 appointment until the next meeting of the Senate, at which time the  
41 Governor shall appoint a person to fill the office.

42 f. Each board member, prior to assuming office, shall take an  
43 oath that the member will diligently and honestly administer the  
44 affairs of the board and that the member will not knowingly violate  
45 or willingly permit to be violated any of the provisions of law  
46 applicable to the program. The oath shall be certified by the officer  
47 before whom it is taken and immediately filed with the Secretary of  
48 State.】<sup>3</sup>

1       <sup>3</sup>[7. The board, the individual members of the board, the trustee  
2 appointed under subsection b. of section 8 of this act, any other  
3 agents appointed or engaged by the board, and all persons serving  
4 as program staff shall discharge their duties with respect to the  
5 program solely in the interest of the program's enrollees and  
6 beneficiaries as follows:

7       a. By investing with the care, skill, prudence, and diligence  
8 under the prevailing circumstances that a prudent person acting in a  
9 like capacity and familiar with those matters would use in the  
10 conduct of an enterprise of a similar character and with similar  
11 aims; and

12       b. By using any contributions paid by employees and  
13 employers into the fund exclusively for the purpose of paying  
14 benefits to the enrollees of the program, for the cost of  
15 administration of the program, and for investments made for the  
16 benefit of the program.]<sup>3</sup>

17

18       <sup>3</sup>[8. In addition to the other duties and responsibilities provided  
19 in this act, the board shall:

20       a. Design, establish, and operate the program in a manner that:

21       (1) accords with best practices for retirement savings vehicles;

22       (2) maximizes participation, savings, and sound investment  
23 practices;

24       (3) maximizes simplicity, including ease of administration for  
25 participating employers and enrollees;

26       (4) provides an efficient product to enrollees by pooling  
27 investment funds;

28       (5) ensures the portability of benefits; and

29       (6) provides for the deaccumulation of enrollee assets in a  
30 manner that maximizes financial security in retirement;

31       b. Appoint a trustee to the fund in compliance with section 408  
32 of the Internal Revenue Code;

33       c. Explore and establish investment options, subject to section  
34 11 of this act, that offer employees returns on contributions and the  
35 conversion of individual retirement savings account balances to  
36 secure retirement income without incurring debt or liabilities to the  
37 State;

38       d. Establish the process by which interest, investment earnings,  
39 and investment losses are allocated to individual program accounts  
40 on a pro rata basis and are computed at the interest rate on the  
41 balance of an individual's account;

42       e. Make and enter into contracts necessary for the  
43 administration of the program and the fund, including, but not  
44 limited to, retaining and contracting with investment managers,  
45 private financial institutions, other financial and service providers,  
46 consultants, actuaries, counsel, auditors, third-party administrators,  
47 and other professionals as necessary;

- 1 f. Conduct a review of the performance of any investment  
2 vendors not less than once every <sup>2</sup>~~four~~ two<sup>2</sup> years, including, but  
3 not limited to, a review of returns, fees, and customer service, and  
4 post a copy of reviews conducted under this subsection to an  
5 Internet website established and maintained by the board;
- 6 g. Determine the number and duties of staff members needed to  
7 administer the program and employ a staff, including, as needed,  
8 appointing a program administrator, and entering into contracts with  
9 the State Treasurer to make employees of the department available  
10 to administer the program;
- 11 h. Ensure that moneys in the fund <sup>2</sup>~~to~~<sup>2</sup> be held and invested  
12 as pooled investments described in section 11 of this act, with a  
13 view to achieving cost savings through efficiencies and economies  
14 of scale;
- 15 i. Evaluate and establish the process by which an enrollee is  
16 able to contribute a portion of the enrollee's wages to the program  
17 for automatic deposit of those contributions and the process by  
18 which the participating employer provides a payroll deposit  
19 retirement savings arrangement to forward those contributions and  
20 related information to the program, including, but not limited to,  
21 contracting with financial service companies and third-party  
22 administrators with the capability to receive and process employee  
23 information and contributions for payroll deposit retirement savings  
24 arrangements or similar arrangements;
- 25 j. Design and establish the process for enrollment by an  
26 employee pursuant to section 14 of this act, including the process  
27 by which an employee can opt not to participate in the program,  
28 select a contribution level, select an investment option, and  
29 terminate participation in the program;
- 30 k. Evaluate and establish the process by which an individual  
31 may voluntarily enroll in and make contributions to the program;
- 32 l. Accept any grants, appropriations, or other moneys from the  
33 State, any unit of federal, State, or local government, or any other  
34 person, firm, partnership, or corporation solely for deposit into the  
35 fund, whether for investment or administrative purposes;
- 36 m. Evaluate the need for, and procure as needed, insurance  
37 against any and all loss in connection with the property, assets, or  
38 activities of the program, and indemnify as needed each member of  
39 the board from personal loss or liability resulting from a member's  
40 action or inaction as a member of the board;
- 41 n. Make provisions for the payment of administrative costs and  
42 expenses for the creation, management, and operation of the  
43 program, including the costs associated with subsections e., g., i.,  
44 and m. of this section, subsection b. of section 11, subsection a. of  
45 section 18, and subsection m. of section 19 of this act, <sup>2</sup>~~and~~<sup>2</sup> keep  
46 annual administrative fees as low as possible, but in no event <sup>2</sup>~~shall~~  
47 annual administrative fees<sup>2</sup> exceed <sup>2</sup>~~0.75 percent~~ 0.6 percent<sup>2</sup> of

1 the fund's total balance. <sup>2</sup>“Administrative fees” shall include any  
2 investment fees incurred pursuant to this section.<sup>2</sup> Subject to  
3 appropriation, the State may pay administrative costs associated  
4 with the creation and management of the program until sufficient  
5 assets are available in the fund for that purpose. Thereafter, all  
6 administrative costs of the fund, including repayment of any funds  
7 provided by the State, shall be paid only out of moneys on deposit  
8 therein, except that, private funds or federal funding received under  
9 subsection l. of this section in order to implement the program shall  
10 not be repaid unless those funds were offered contingent upon the  
11 promise of repayment;

12 o. Allocate administrative fees to individual retirement  
13 accounts in the program on a pro rata basis;

14 p. Set minimum and maximum contribution levels in  
15 accordance with limits established for IRAs by the Internal Revenue  
16 Code;

17 q. Facilitate education and outreach to employers and  
18 employees;

19 r. Facilitate compliance by the program with all applicable  
20 requirements for the program under the Internal Revenue Code,  
21 including tax qualification requirements or any other applicable law  
22 and accounting requirements;

23 s. Carry out the duties and obligations of the program in an  
24 effective, efficient, and low-cost manner;

25 t. Exercise any and all other powers reasonably necessary for  
26 the effectuation of the purposes, objectives, and provisions of this  
27 act pertaining to the program; and

28 u. Deposit into the New Jersey Secure Choice Administrative  
29 Fund all grants, gifts, donations, fees, and earnings from  
30 investments from the New Jersey Secure Choice Savings Program  
31 Fund that are used to recover administrative costs. All expenses of  
32 the board shall be paid from the New Jersey Secure Choice  
33 Administrative Fund.】<sup>3</sup>  
34

35 <sup>3</sup>【9. The board shall annually prepare and adopt a written  
36 statement of investment policy that includes a risk management and  
37 oversight program. This investment policy shall prohibit the board,  
38 program, and fund from borrowing for investment purposes. The  
39 risk management and oversight program shall be designed to ensure  
40 that an effective risk management system is in place to monitor the  
41 risk levels of the program and fund portfolio, to ensure that the risks  
42 taken are prudent and properly managed, to provide an integrated  
43 process for overall risk management, and to assess investment  
44 returns as well as risk to determine if the risks taken are adequately  
45 compensated compared to applicable performance benchmarks and  
46 standards. The board shall consider the statement of investment

1 policy and any changes in the investment policy at a public  
2 hearing.】<sup>3</sup>

3

4 <sup>3</sup>【10. a. Moneys in the fund shall be invested, or reinvested, as  
5 the case may be, by the department. The department shall comply  
6 with any and all applicable federal and State laws, rules, and  
7 regulations, as well as any and all rules or regulations promulgated  
8 by the board with respect to the program and the investment of the  
9 fund, including, but not limited to, the investment policy.

10 b. The department shall provide reports as the board deems  
11 necessary for the board to oversee the department's performance  
12 and the performance of the fund.】<sup>3</sup>

13

14 <sup>3</sup>【11. a. The board shall establish as an investment option a life-  
15 cycle fund with a target date based upon the age of the enrollee.  
16 This fund shall be the default investment option for enrollees who  
17 fail to elect an investment option unless and until the board  
18 designates by rule or regulation a new investment option as the  
19 default as described in subsection c. of this section.

20 b. The board may also establish any or all of the following  
21 additional investment options:

22 (1) a conservative principal protection fund;

23 (2) a growth fund;

24 (3) a secure return fund whose primary objective is the  
25 preservation of the safety of principal and the provision of a stable  
26 and low-risk rate of return. If the board elects to establish a secure  
27 return fund, the board may procure any insurance, annuity, or other  
28 product to insure the value of enrollees' accounts and guarantee a  
29 rate of return. The cost of this funding mechanism shall be paid out  
30 of the fund. Under no circumstances shall the board, program,  
31 fund, the State, or any participating employer assume any liability  
32 for investment or actuarial risk. The board shall determine whether  
33 to establish such investment options based upon an analysis of their  
34 cost, risk profile, benefit level, feasibility, and ease of  
35 implementation; or

36 (4) an annuity fund.

37 c. If the board elects to establish a secure return fund, the  
38 board shall then determine whether that option shall replace the  
39 target date or life-cycle fund as the default investment option for  
40 enrollees who do not elect an investment option. In making this  
41 determination, the board shall consider the cost, risk profile, benefit  
42 level, and ease of enrollment in the secure return fund. The board  
43 may at any time thereafter replace the default investment option  
44 and, based upon an analysis of these criteria, establish either the  
45 secure return fund or the life-cycle fund as the default for enrollees  
46 who do not elect an investment option.

1 <sup>2</sup>d. Notwithstanding any other provision of this section, the  
2 board shall not offer more than five investment options in any given  
3 calendar year.<sup>2</sup>】<sup>3</sup>

4  
5 <sup>3</sup>【12. Interest, investment earnings, and investment losses  
6 shall be allocated to individual program accounts as established by  
7 the board pursuant to subsection d. of section 8 of this act. An  
8 individual's retirement savings benefit under the program shall be  
9 an amount equal to the balance in the individual's program account  
10 on the date the retirement savings benefit becomes payable. The  
11 State shall have no liability for the payment of any benefit to any  
12 participant in the program.】<sup>3</sup>

13  
14 <sup>3</sup>【13. a. Prior to the opening of the program for enrollment, the  
15 board shall design and disseminate to all employers an employer  
16 information packet and an employee information packet, which  
17 shall include background information on the program, appropriate  
18 disclosures for employees, and, if necessary, information regarding  
19 the vendor Internet website described in subsection <sup>2</sup>【i.】 j.<sup>2</sup> of  
20 section 14 of this act.

21 b. For the first six months following the opening of the  
22 program, the board shall provide a process by which employers may  
23 register for participation in the program.

24 c. The employee information packet designed by the board  
25 shall include a disclosure form. The disclosure form shall explain,  
26 but not be limited to, all of the following:

27 (1) the benefits and risks associated with making contributions  
28 to the program;

29 (2) the mechanics of how to make contributions to the program;

30 (3) how to opt out of the program;

31 (4) how to participate in the program with a level of employee  
32 contributions other than three percent;

33 (5) the process for withdrawal of retirement savings;

34 (6) how to obtain additional information about the program;

35 (7) that employees seeking financial advice should contact  
36 financial advisors, that participating employers are not in a position  
37 to provide financial advice, and that participating employers are not  
38 liable for decisions employees make pursuant to this act;

39 (8) that the program is not an employer-sponsored retirement  
40 plan; and

41 (9) that the program fund is not guaranteed by the State.

42 d. The employee information packet shall also include a form  
43 for an employee to note his or her decision to opt out of  
44 participation in the program or elect to participate with a level of  
45 employee contributions other than three percent.

46 e. Participating employers shall supply the employee  
47 information packet to employees upon implementation of the

1 program. Participating employers shall supply the employee  
2 information packet to new employees at the time of hiring, and new  
3 employees may opt out of participation in the program or elect to  
4 participate with a level of employee contributions other than three  
5 percent at that time.

6  
7 14. Except as otherwise provided in section 21 of this act, the  
8 program shall be implemented, and enrollment of employees shall  
9 begin, within 24 months after the effective date of this act. The  
10 following provisions of this section shall be in force after the board  
11 opens the program for enrollment:

12 a. Each employer shall establish a payroll deposit retirement  
13 savings arrangement to allow each employee to participate in the  
14 program not more than nine months after the board opens the  
15 program for enrollment.

16 b. Employers shall automatically enroll in the program each of  
17 their employees who has not opted out of participation in the  
18 program using the form described in subsection d. of section 13 of  
19 this act and shall provide payroll <sup>2</sup>~~deduction~~ deposit<sup>2</sup> retirement  
20 savings arrangements for their employees and, on behalf of the  
21 employees, deposit these funds into the program. Small employers  
22 may, but are not required to, provide payroll <sup>2</sup>~~deduction~~ deposit<sup>2</sup>  
23 retirement savings arrangements for each employee who elects to  
24 participate in the program.

25 c. Enrollees shall have the ability to select a contribution level  
26 into the fund. This level may be expressed as a percentage of  
27 wages or as a dollar amount up to the deductible amount for the  
28 enrollee's taxable year under section 219(b)(1)(A) of the Internal  
29 Revenue Code. Enrollees may change their contribution level no  
30 more than once every calendar quarter, subject to rules and  
31 regulations promulgated by the board. If an enrollee fails to select a  
32 contribution level using the form described in subsection <sup>2</sup>~~c.~~ d.<sup>2</sup>  
33 of section 13 of this act, then the enrollee shall contribute three  
34 percent of the enrollee's wages to the program, so long as the  
35 contributions do not cause the enrollee's total contributions to IRAs  
36 for the year to exceed the deductible amount for the enrollee's  
37 taxable year under section 219(b)(1)(A) of the Internal Revenue  
38 Code.

39 d. Enrollees may select an investment option from the  
40 permitted investment options listed in section 11 of this act.  
41 Enrollees may change their investment option no more than once  
42 every calendar quarter, subject to the rules and regulations  
43 promulgated by the board. In the event that an enrollee fails to  
44 select an investment option, that enrollee shall be placed in the  
45 investment option selected by the board as the default under  
46 subsection c. of section 11 of this act. If the board has not selected  
47 a default investment option under subsection c. of section 11 of this



1 act, then an enrollee who fails to select an investment option shall  
2 be placed in the life-cycle fund investment option.

3 e. Following initial implementation of the program pursuant to  
4 this section, at least once every year, participating employers shall  
5 designate an open enrollment period during which employees who  
6 previously opted out of the program may enroll in the program.

7 f. <sup>1</sup>(1) For any employee hired by an employer more than six  
8 months after the board opens the program for enrollment, the  
9 employer shall enroll the employee in the program no later than  
10 three months following the date of hire of the employee, unless the  
11 employee opts out of enrollment in the program prior to being  
12 enrolled.

13 (2) Any newly hired employee who has previously been enrolled  
14 in the program shall have the option of making direct contributions  
15 into that employee's existing account, provided that paragraph (1)  
16 of this subsection also applies to the employer of a newly hired  
17 employee who has been previously enrolled in the program.

18 g.<sup>1</sup> An employee who opts out of the program who subsequently  
19 wants to participate through the participating employer's payroll  
20 deposit retirement savings arrangement may only enroll during the  
21 participating employer's designated open enrollment period or if  
22 permitted by the participating employer at an earlier time.

23 <sup>1</sup>**[g.] h.**<sup>1</sup> Employers shall retain the option at all times to set up  
24 any type of employer-sponsored retirement plan, such as a defined  
25 benefit plan or a 401(k), Simplified Employee Pension (SEP) plan,  
26 or Savings Incentive Match Plan for Employees (SIMPLE) plan, or  
27 to offer an automatic enrollment payroll deduction IRA, instead of  
28 having a payroll deposit retirement savings arrangement to allow  
29 employee participation in the program.

30 <sup>1</sup>**[h.] i.**<sup>1</sup> An employee may terminate his or her participation  
31 in the program at any time in a manner prescribed by the board.

32 <sup>1</sup>**[i.] j.**<sup>1</sup> The board may establish and maintain an Internet  
33 website designed to assist employers in identifying private sector  
34 providers of retirement arrangements that can be set up by the  
35 employer rather than allowing employee participation in the  
36 program under this act. The board <sup>1</sup>**[must] shall**<sup>1</sup> provide public  
37 notice of the availability of and the process for inclusion on the  
38 Internet website before it becomes publicly available. <sup>3</sup>

39  
40 <sup>3</sup>**[15.** Employee contributions deducted by the participating  
41 employer through payroll deduction shall be paid by the  
42 participating employer to the fund using one or more payroll  
43 deposit retirement savings arrangements established by the board  
44 under subsection i. of section 8 of this act, either:

45 a. On or before the last day of the month following the month  
46 in which the compensation otherwise would have been payable to  
47 the employee; or

1       b. Before a later deadline prescribed by the board for making  
2 the payments, but not later than the due date for the federal income  
3 tax return deposit of tax required to be deducted and withheld  
4 relating to collection of State income tax at source on wages for the  
5 payroll period to which the payments relate.】<sup>3</sup>

6  
7       <sup>3</sup>【16. a. The State shall have no duty or liability to any party for  
8 the payment of any retirement savings benefits accrued by any  
9 individual under the program. Any financial liability for the  
10 payment of retirement savings benefits in excess of funds available  
11 under the program shall be borne solely by the entities with whom  
12 the board contracts to provide insurance to protect the value of the  
13 program.

14       b. No State entity, board, commission, or agency, or any  
15 officer, employee, or member thereof is liable for any loss or  
16 deficiency resulting from particular investments selected under this  
17 act, except for any liability that arises out of a breach of fiduciary  
18 duty under section 7 of this act.】<sup>3</sup>

19  
20       <sup>3</sup>【17. a. Participating employers shall not have any liability for  
21 an employee's decision to participate in, or opt out of, the program  
22 or for the investment decisions of the board or of any enrollee.

23       b. A participating employer shall not be a fiduciary, or  
24 considered to be a fiduciary, over the program. A participating  
25 employer shall not bear responsibility for the administration,  
26 investment, or investment performance of the program. A  
27 participating employer shall not be liable with regard to investment  
28 returns, program design, and benefits paid to program  
29 participants.】<sup>3</sup>

30  
31       <sup>3</sup>【18. a. The board shall annually submit:

32       (1) an audited financial report, prepared in accordance with  
33 generally accepted accounting principles, on the operations of the  
34 program for each calendar year, to be submitted no later than July 1  
35 of the following year to the Governor, and to the Legislature  
36 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1); and

37       (2) a report prepared by the board, including, but not limited to,  
38 a summary of the benefits provided by the program, the number of  
39 enrollees in the program, the percentage and amounts of investment  
40 options and rates of return, fees paid to any vendors or contractors  
41 for purposes of implementing or operating the program, and other  
42 information that is relevant to make a full, fair, and effective  
43 disclosure of the operations of the program and the fund.

44       The annual audit shall be made by an independent certified  
45 public accountant and shall include, but is not limited to, direct and  
46 indirect costs attributable to the use of outside consultants,

1 independent contractors, and any other persons who are not State  
2 employees for the administration of the program.

3 b. In addition to any other statements or reports required by  
4 law, the board shall provide periodic reports at least annually to  
5 participating employers, reporting the names of each enrollee  
6 employed by the participating employer and the amounts of  
7 contributions made by the participating employer on behalf of each  
8 employee during the reporting period, as well as to enrollees,  
9 reporting contributions and investment income allocated to,  
10 withdrawals from, and balances in their program accounts for the  
11 reporting period. The reports may include any other information  
12 regarding the program as the board determines is appropriate.】<sup>3</sup>

13

14 <sup>3</sup>【19. a. An employer who fails without reasonable cause to  
15 enroll <sup>1</sup>【an】 any<sup>1</sup> employee <sup>1</sup>who has not opted out of participation<sup>1</sup>  
16 in the program within the time prescribed under section 14 of this  
17 act shall be subject to <sup>1</sup>【a penalty equal to】<sup>1</sup>:

18 (1) <sup>1</sup>【\$250 for each employee for each calendar year or portion  
19 of a calendar year during which the employee neither was enrolled  
20 in the program nor had elected out of participation in the program;  
21 or】 for the first calendar year during which at any point a violation  
22 occurs, a written warning by the department;<sup>1</sup>

23 (2) <sup>1</sup>【for each calendar year beginning after the date a penalty  
24 has been assessed with respect to an employee, \$500 for any portion  
25 of that calendar year during which such employee continues to be  
26 unenrolled without electing out of participation in the program】 for  
27 the second calendar year during which at any point a violation  
28 occurs, a fine of \$100;

29 (3) for the third and fourth calendar year during which at any  
30 point a violation occurs, a fine of \$250 for each employee who was  
31 neither enrolled in nor opted out of participation in the program;  
32 and

33 (4) for the fifth and any subsequent calendar year during which  
34 at any point a violation occurs, a fine of \$500 for each employee  
35 who was neither enrolled in nor opted out of participation in the  
36 program<sup>1</sup>.

37 b. An employer who collects employee contributions but fails  
38 to remit any portion of the contributions to the fund shall be subject  
39 to a penalty of \$2,500 for a first offense, and \$5,000 for the second  
40 and each subsequent offense.

41 c. After a determination that an employer is subject to penalty  
42 pursuant to this section, the department shall issue a notice of  
43 proposed penalty to the employer. For purposes of subsection a. of  
44 this section, the notice issued by the department to the employer  
45 shall state the number of employees for which the penalty is  
46 proposed under paragraph <sup>1</sup>【(1)】 (3) or (4)<sup>1</sup> of subsection a. of this  
47 section <sup>1</sup>【, or the number of employees for which the penalty is

1 proposed under paragraph (2) of subsection a. of this section, or  
2 both,<sup>1</sup> and the total amount of penalties proposed. For purposes of  
3 subsection b. of this section, the department shall issue a notice of  
4 proposed penalty to the employer stating the total amount of  
5 penalties proposed under subsection b. of this section. Upon the  
6 expiration of 90 days after the date on which a notice of proposed  
7 penalty was issued, the penalties specified therein shall be deemed  
8 assessed, unless the employer had filed a protest with the  
9 department under subsection d. of this section. If, within 90 days  
10 after the date on which the notice of proposed penalty was issued, a  
11 protest is filed under subsection d. of this section, the penalties  
12 specified in the notice shall be deemed assessed when the decision  
13 of the department with respect to the protest is final.

14 d. A written protest against the proposed penalty shall be filed  
15 with the department in a form prescribed by the department, setting  
16 forth the grounds on which the protest is based. If a protest is filed  
17 within 90 days after the date the notice of proposed penalty is  
18 issued, the department shall reconsider the proposed penalty and  
19 shall grant the employer a hearing. As soon as practicable after a  
20 reconsideration and hearing of the protest filed by the employer, the  
21 department shall issue a notice of decision to the employer, setting  
22 forth the department's findings of fact and the basis of decision.  
23 The decision of the department shall become final.

24 e. As soon as practicable after the penalties specified in a  
25 notice of proposed penalty are deemed assessed, the department  
26 shall give notice to the employer liable for any unpaid portion of the  
27 penalty, stating the amount due and demanding payment. The  
28 department shall provide a payment plan to employers for purposes  
29 of complying with the demand of payment for the penalty.

30 f. An employer who has overpaid a penalty assessed under this  
31 section may file a claim for refund with the department. A claim  
32 shall be in writing in a form prescribed by the department and shall  
33 state the specific grounds upon which it is founded. As soon as  
34 practicable after a claim for refund is filed, the department shall  
35 examine it and either issue a refund or issue a notice of denial. If a  
36 protest is filed, the department shall reconsider the denial and grant  
37 the employer a hearing. As soon as practicable after the  
38 reconsideration and hearing, the department shall issue a notice of  
39 decision to the employer. The notice shall set forth briefly the  
40 department's findings of fact and the basis of decision in each case  
41 decided in whole or in part adversely to the employer. A denial of a  
42 claim for refund shall be final 90 days after the date of issuance of  
43 the notice of the denial, except for those amounts denied as to  
44 which the employer has filed a protest with the department. If a  
45 protest has been timely filed, the decision of the department shall  
46 become final.

47 g. No notice of proposed assessment shall be issued with  
48 respect to a calendar year after June 30 of the fourth subsequent

- 1 calendar year. No claim for refund may be filed more than one year  
2 after the date of payment of the amount to be refunded.
- 3 h. Whenever a notice is required by this section, it shall be  
4 issued by first class mail addressed to the person concerned at the  
5 person's last known address.
- 6 i. All books and records and other papers and documents  
7 relevant to the determination of any penalty due under this section  
8 shall, at all times during business hours of the day, be subject to  
9 inspection by the department or the department's authorized  
10 representatives.
- 11 j. The department shall require employers to report  
12 information relevant to their compliance with this act on their State  
13 income tax return <sup>1</sup>~~and failure~~. Failure<sup>1</sup> to provide the  
14 <sup>1</sup>~~requested~~ compliance<sup>1</sup> information <sup>1</sup>requested<sup>1</sup> shall <sup>1</sup>not<sup>1</sup> cause  
15 the <sup>1</sup>income tax<sup>1</sup> return to be treated as unprocessable <sup>1</sup>for purposes  
16 of the applicable tax law<sup>1</sup>.
- 17 k. For purposes of any provision of State law allowing the  
18 department or any other agency of this State to offset an amount  
19 owed to a taxpayer against a tax liability of that taxpayer or  
20 allowing the department to offset an overpayment of tax against any  
21 liability owed to the State, a penalty assessed under this section  
22 shall be deemed to be a tax liability of the employer and any refund  
23 due to an employer shall be deemed to be an overpayment of tax of  
24 the employer.
- 25 l. Except as provided in this subsection, all information  
26 received by the department from returns filed by an employer or  
27 from any investigation conducted under the provisions of this act  
28 shall be confidential, except for official purposes within the  
29 department or pursuant to official procedures for collection of  
30 penalties assessed under this act. No provision of this subsection  
31 shall be construed as prohibiting the department from publishing or  
32 making available to the public reasonable statistics concerning the  
33 operation of this act wherein the contents of returns are grouped  
34 into aggregates in such a way that the specific information of any  
35 individual employer shall not be disclosed. No provision of this  
36 subsection shall be construed as prohibiting the department from  
37 divulging information to an authorized representative of the  
38 employer or to any person pursuant to a request or authorization  
39 made by the employer or by an authorized representative of the  
40 employer.
- 41 m. The department may charge the board a reasonable fee for its  
42 costs in performing its duties under this section to the extent that  
43 those costs have not been recovered from penalties imposed under  
44 this section.
- 45 n. This section shall become operative nine months after the  
46 board notifies the department that the program has been  
47 implemented. Upon receipt of the notification from the board, the

1 department shall immediately post on its Internet website a notice  
2 stating that this section is operative and the date that it is first  
3 operative. This notice shall include a statement that, rather than  
4 enrolling employees in the program under this act, employers may  
5 sponsor an alternative arrangement, including, but not limited to, a  
6 defined benefit plan, 401(k) plan, a Simplified Employee Pension  
7 (SEP) plan, a Savings Incentive Match Plan for Employees  
8 (SIMPLE) plan, or an automatic payroll deduction IRA offered  
9 through a private provider. The board shall provide a link to the  
10 vendor Internet website described in subsection <sup>1</sup>[i.] <sub>1</sub> of section  
11 14 of this act. <sup>3</sup>]

12  
13 <sup>3</sup>[20. The board, in consultation with the department, shall  
14 adopt, pursuant to the "Administrative Procedure Act," P.L.1968,  
15 c.410 (C.52:14B-1 et seq.), any rules and regulations as may be  
16 necessary for the implementation of this act. <sup>3</sup>]

17  
18 <sup>3</sup>[21. If the board does not obtain adequate funds to implement  
19 the program within the time frame set forth under section 14 of this  
20 act, the board may delay the implementation of the program. <sup>3</sup>]

21  
22 <sup>3</sup>[22. The board shall request in writing an opinion or ruling  
23 from the appropriate entity with jurisdiction over the federal  
24 "Employee Retirement Income Security Act of 1974," 29 U.S.C.  
25 s.1001 et seq. regarding the applicability of that act to the program.  
26 The board shall not implement the program if the IRA arrangements  
27 offered under the program fail to qualify for the favorable federal  
28 income tax treatment ordinarily accorded to IRAs under the Internal  
29 Revenue Code or if it is determined that the program is an employee  
30 benefit plan and State or employer liability is established under the  
31 "Employee Retirement Income Security Act of 1974," 29 U.S.C.  
32 s.1001 et seq. <sup>3</sup>]

33  
34 <sup>3</sup>[23.] 13. <sup>3</sup> This act shall take effect immediately.