

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 199

Senator Kearney

Cosponsor: Senator Brown

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A B I L L

To enact sections 113.51 to 113.78 of the Revised 1
Code to create, if certain conditions are met, the 2
Ohio Secure Choice Retirement Savings Program 3
under which certain private employers must offer 4
employees a payroll deposit retirement savings 5
arrangement, to establish the Ohio Secure Choice 6
Retirement Savings Trust from which retirement 7
benefits are to be paid to Program participants, 8
and to create the Ohio Secure Choice Retirement 9
Savings Investment Board, chaired by the Treasurer 10
of State, to oversee the operation of the Program. 11

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 113.51, 113.52, 113.53, 113.54, 12
113.55, 113.56, 113.57, 113.58, 113.59, 113.60, 113.61, 113.62, 13
113.63, 113.64, 113.65, 113.66, 113.67, 113.68, 113.69, 113.70, 14
113.71, 113.72, 113.73, 113.74, 113.75, 113.76, 113.77, and 113.78 15
of the Revised Code be enacted to read as follows: 16

Sec. 113.51. As used in sections 113.51 to 113.78 of the 17
Revised Code: 18

(A)(1) "Eligible employee" means a person who is employed by 19
an eligible employer. 20

(2) "Eligible employee" does not include: 21

(a) Any employee covered under the "Railway Labor Act," 44 22
Stat. 577, 45 U.S.C. 151, as amended, or any employee engaged in 23
interstate commerce so as not to be subject to the legislative 24
powers of the state, except insofar as application of sections 25
113.51 to 113.77 of the Revised Code is authorized under the 26
United States Constitution or the laws of the United States; 27

(b) Any employee covered by a valid collective bargaining 28
agreement that expressly provides for a multiemployer Taft-Hartley 29
pension plan. 30

(B) "Eligible employer" means a person or entity engaged in a 31
business, industry, profession, trade, or other enterprise in this 32
state, whether for profit or not for profit, excluding any 33
governmental entity, that has twenty or more employees and that 34
satisfies the requirements to establish or participate in a 35
payroll deposit retirement savings arrangement. 36

(C) "IRA" means an individual retirement account or 37
individual retirement annuity under 26 U.S.C. 408(a) or 408(b). 38

(D) "Participating employer" means an eligible employer that 39
provides a payroll deposit retirement savings arrangement for 40
eligible employees under sections 113.51 to 113.77 of the Revised 41
Code. 42

(E) "Payroll deposit retirement savings arrangement" means an 43
arrangement by which an employer allows employees to remit payroll 44
deduction contributions to a retirement savings program. 45

(F) "Stated interest rate" means the rate of interest 46
allocated to participants' program accounts as determined by the 47
Ohio secure choice retirement savings investment board under 48
section 113.59 of the Revised Code. 49

(G) "Vendor" means a registered investment company or life 50

insurance company qualified to do business in this state that 51
provides retirement investment products. "Vendor" also includes a 52
company registered to do business in this state that provides 53
payroll services or recordkeeping services and offers retirement 54
plans or payroll deposit IRA arrangements using products of 55
regulated investment companies and insurance companies qualified 56
to do business in this state. "Vendor" does not include individual 57
registered representatives, brokers, financial planners, or 58
agents. 59

Sec. 113.52. (A) There is hereby established the Ohio secure 60
choice retirement savings program for the purpose of promoting 61
greater retirement savings for Ohio private employees in a 62
convenient, voluntary, low-cost, and portable manner. The program 63
shall be implemented and operated in accordance with sections 64
113.51 to 113.77 of the Revised Code. 65

(B) There is hereby established a retirement savings trust to 66
be known as the Ohio secure choice retirement savings trust, which 67
shall be in the custody of the treasurer of state but shall not be 68
part of the state treasury. All contributions paid by employees 69
and employers into the trust shall be used exclusively for the 70
purposes of paying benefits to the participants of the program, 71
paying the costs of administering the program, and making 72
investments for the benefit of the program. All interest earnings 73
of the trust shall be credited to the trust. 74

Sec. 113.53. (A) There is hereby created the Ohio secure 75
choice retirement savings investment board. The board shall 76
oversee the establishment and operation of the Ohio secure choice 77
retirement savings program. The board shall consist of seven 78
members, as follows: 79

(1) The treasurer of state, who shall serve as chairperson; 80

<u>(2) The director of budget and management, or the director's designee;</u>	81 82
<u>(3) The auditor of state, or the auditor's designee;</u>	83
<u>(4) A member representing small business, appointed by the minority leader of the senate;</u>	84 85
<u>(5) A member representing the public, appointed by the speaker of the house of representatives;</u>	86 87
<u>(6) A member with retirement savings and investment expertise, appointed by the president of the senate;</u>	88 89
<u>(7) A member representing employees, appointed by the minority leader of the house of representatives.</u>	90 91
<u>(B) Initial appointments to the board shall be made not later than ninety days after the effective date of this section. Of the initial appointments made to the board, two shall be for a term ending one year after the date of the appointment, and two shall be for a term ending two years after the date of the appointment. Thereafter, members shall be appointed to terms of four years, with each term of office ending on the same day of the same month as did the term that it succeeded. Vacancies on the board shall be filled in the same manner as the initial appointment.</u>	92 93 94 95 96 97 98 99 100
<u>(C) Members of the board who are appointed shall serve at the pleasure of the appointing authority.</u>	101 102
<u>(D) All members of the board shall serve without compensation. Members of the board shall be reimbursed for necessary travel expenses incurred in connection with their board duties.</u>	103 104 105 106
<u>Sec. 113.54. The Ohio secure choice retirement savings investment board, in the capacity of trustee, shall have the power and authority to do all of the following:</u>	107 108 109

<u>(A) Adopt a seal and amend it from time to time;</u>	110
<u>(B) Employ staff;</u>	111
<u>(C) Enter into contracts necessary for the administration of the Ohio secure choice retirement savings trust, including the investment of funds held in the trust;</u>	112 113 114
<u>(D) Set minimum and maximum investment levels in accordance with contribution limits set for IRAs by the Internal Revenue Code;</u>	115 116 117
<u>(E) Accept any grants, gifts, appropriations, and other money from the federal government, from the state or any political subdivision of the state, and from any other person, firm, partnership, or corporation for deposit in the trust to the credit of the administrative fund or the program fund.</u>	118 119 120 121 122
<u>(F) Retain and contract with private financial institutions, other financial and service providers, consultants, actuaries, counsel, auditors, third-party administrators, and other professionals as necessary;</u>	123 124 125 126
<u>(G) Appoint an administrator of the Ohio secure choice retirement savings program, the costs of which shall be paid out of funds held in the trust and shall not be attributed to the administrative costs of the board in operating the trust, and determine the duties of the program administrator and other staff as necessary and set their compensation;</u>	127 128 129 130 131 132
<u>(H) Procure insurance against any loss in connection with the property, assets, or activities of the trust, and secure private underwriting and reinsurance to manage risk and insure the retirement savings rate of return;</u>	133 134 135 136
<u>(I) Procure insurance indemnifying each member of the board from personal loss or liability resulting from a member's action or inaction as a member of the board;</u>	137 138 139

(J) Collaborate and cooperate with private financial institutions, other financial service providers, and business, financial, trade, membership, and other organizations to the extent necessary or desirable for the effective and efficient design, implementation, and administration of the program and to maximize outreach to eligible employers and eligible employees; 140
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(K) Cause expenses incurred to initiate, implement, maintain, and administer the program to be paid from contributions to, or investment returns or assets of, the program or arrangements established under the program, to the extent permitted under state and federal law; 146
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(L) Facilitate compliance by the program or payroll deposit retirement savings arrangements established under the program with all applicable requirements under the Internal Revenue Code, including tax qualification requirements or any other applicable law and accounting requirements, including providing or arranging for assistance to program sponsors and individuals in complying with applicable law and tax qualification requirements in a cost-effective manner; 151
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(M) Carry out the duties and obligations of the trust pursuant to sections 113.51 to 113.77 of the Revised Code and exercise any and all other powers as may be reasonably necessary for the effectuation of the purposes, objectives, and provisions of those sections pertaining to the trust. 159
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Sec. 113.55. (A) The Ohio secure choice retirement savings investment board shall segregate moneys received by the Ohio secure choice retirement savings trust into two funds, which shall be identified as the program fund and the administrative fund. 164
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(B) Moneys in the program fund may be invested or reinvested by the treasurer of state or may be invested in whole or in part under contract with private money managers, as determined by the 168
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board. 171

(C) With the approval of the board, transfers may be made 172
from the program fund to the administrative fund for the purpose 173
of paying operating costs associated with administering the trust 174
and as required by sections 113.51 to 113.77 of the Revised Code. 175
On an annual basis, expenditures from the administrative fund 176
shall not exceed more than one per cent of the total program fund. 177
All costs of administration of the trust shall be paid out of the 178
administrative fund. Operating costs associated with administering 179
the trust do not include the procurement of private underwriting 180
for the retirement savings' return. 181

Sec. 113.56. (A) The Ohio secure choice retirement savings 182
investment board may establish a segregated account within the 183
program fund to be known as the gain and loss reserve account. The 184
board shall have sole authority over the account, if established. 185
The account may be used to allocate interest at the stated 186
interest rate for program years in which the board determines that 187
the stated interest rate cannot be met from investment earnings. 188

(B) The board shall establish a goal for the balance of the 189
account and shall periodically review the sufficiency of the 190
account based on the recommendations of the board's actuary. 191

(C) The board may allocate excess earnings of the Ohio secure 192
choice retirement savings program with respect to assets 193
attributable to the program to the account. In addition, the board 194
may allocate any liability gains and losses to the account. Based 195
on an actuarial valuation following each program year, the board 196
shall determine annually the amount, if any, that is to be 197
allocated to the account for that program year. In determining 198
whether to allocate excess earnings to the account, the board 199
shall consider all of the following: 200

(1) Whether or not the program has excess earnings; 201

<u>(2) The sufficiency of the account in light of the goal</u>	202
<u>established under division (B) of this section;</u>	203
<u>(3) The amount required for the program's administrative</u>	204
<u>costs;</u>	205
<u>(4) The amount required for making allocations to</u>	206
<u>participants' accounts at the stated interest rate.</u>	207
<u>(D) In determining whether to allocate liability gains and</u>	208
<u>losses to the account, the board shall consider the matters</u>	209
<u>described in divisions (C)(2), (3), and (4) of this section.</u>	210
<u>Sec. 113.57. (A) The Ohio secure choice retirement savings</u>	211
<u>investment board shall annually prepare and adopt a written</u>	212
<u>statement of investment policy that includes a risk management and</u>	213
<u>oversight program. The board shall adopt the investment policy and</u>	214
<u>any changes to the investment policy at a public hearing.</u>	215
<u>(B) The investment policy shall adhere to the following</u>	216
<u>principles:</u>	217
<u>(1) The primary objective of the investment policy is to</u>	218
<u>preserve the safety of principal and provide a stable and low-risk</u>	219
<u>rate of return.</u>	220
<u>(2) The investment policy shall mitigate risk by maintaining</u>	221
<u>a balanced investment portfolio that provides assurance that no</u>	222
<u>single investment or class of investments will have a</u>	223
<u>disproportionate impact on the total portfolio.</u>	224
<u>(C)(1) The board may invest the funds held in the trust only</u>	225
<u>in the following types of investments:</u>	226
<u>(a) Domestic and international equities;</u>	227
<u>(b) Medium-term and long-term debt obligations of domestic</u>	228
<u>corporations;</u>	229
<u>(c) United States government and government-sponsored entity</u>	230

<u>debt obligations;</u>	231
<u>(d) Real estate commingled funds that invest in publicly traded real estate securities;</u>	232
<u>(e) Money market instruments, cash, and money market mutual funds that are registered in the United States and denominated in United States dollars;</u>	234
<u>(f) Investments in existing, rated mutual funds that are registered in the United States and denominated in United States dollars;</u>	237
<u>(g) Insurance agreements;</u>	238
<u>(h) Bank products insured by the federal deposit insurance corporation.</u>	239
<u>(2) Equities shall not exceed fifty per cent of the overall asset allocation of the investment portfolio.</u>	240
<u>(D) The investment policy shall also adhere to all of the following restrictions:</u>	241
<u>(1) Borrowing for investment purposes, or leverage, is prohibited.</u>	242
<u>(2) Instruments known as variable rate demand notes, floaters, inverse floaters, leveraged floaters, and equity-linked securities are not permitted. Investment in any instrument that is commonly considered a derivative instrument, including, but not limited to, options, futures, swaps, caps, floors, and collars, is prohibited.</u>	243
<u>(3) Contracting to sell securities not yet acquired in order to purchase other securities for purposes of speculating on developments or trends in the market is prohibited.</u>	244
<u>Sec. 113.58. (A) The Ohio secure choice retirement savings investment board shall design the risk management and oversight</u>	245
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program required under section 113.57 of the Revised Code to 260
ensure that an effective risk management system is in place to 261
monitor the risk levels of the Ohio secure choice retirement 262
savings program investment portfolio and ensure that the risks 263
taken are prudent and properly managed. The program shall be 264
managed to provide an integrated process for overall risk 265
management on both a consolidated and disaggregated basis, and to 266
monitor investment returns as well as risk to determine if the 267
risks taken are adequately compensated compared to applicable 268
performance benchmarks and standards. 269

(B)(1) The board shall contract with an investment management 270
entity or entities, the costs of which shall be paid out of funds 271
held in the Ohio secure choice retirement savings trust and shall 272
not be attributed to the administrative costs of the board in 273
operating the trust. Not later than thirty days after the close of 274
each month, the board shall place on file for public inspection 275
during business hours a report with respect to investments made 276
for the program and a report of deposits in financial 277
institutions. 278

(2) The investment manager chosen by the board shall report 279
the following information to the board within twenty days 280
following the end of each month: 281

(a) The type of investment, name of the issuer, date of 282
maturity, and the par and dollar amount invested in each security, 283
investment, and money within the program fund; 284

(b) The weighted average maturity of the investments within 285
the program fund; 286

(c) Any amounts in the program fund that are under the 287
management of private money managers; 288

(d) The market value as of the date of the report and the 289

<u>source of this valuation for each security within the program</u>	290
<u>fund;</u>	291
<u>(e) A description of compliance with the statement of</u>	292
<u>investment policy.</u>	293
<u>Sec. 113.59. (A) The Ohio secure choice retirement savings</u>	294
<u>program shall include one or more payroll deposit retirement</u>	295
<u>savings arrangements as determined by the Ohio secure choice</u>	296
<u>retirement savings investment board.</u>	297
<u>(B)(1) Prior to the first day of July of the initial program</u>	298
<u>year, and prior to the beginning of each program year thereafter,</u>	299
<u>the board shall adopt a program amendment in coordination with the</u>	300
<u>investment management entity or entities under contract with the</u>	301
<u>program to set the stated interest rate for the following program</u>	302
<u>year.</u>	303
<u>(2) Interest shall be allocated to program accounts and shall</u>	304
<u>be computed at the stated interest rate on the balance of an</u>	305
<u>individual's account and shall be compounded daily.</u>	306
<u>(C) An individual's retirement savings benefit under the</u>	307
<u>program shall be an amount equal to the balance in the</u>	308
<u>individual's program account on the date the retirement savings</u>	309
<u>benefit becomes payable.</u>	310
<u>Sec. 113.60. In addition to the powers and authority granted</u>	311
<u>to the Ohio secure choice retirement savings investment board</u>	312
<u>pursuant to section 113.54 of the Revised Code, the board shall</u>	313
<u>have the power and authority to do the following:</u>	314
<u>(A) Cause the Ohio secure choice retirement savings program</u>	315
<u>and payroll deposit retirement savings arrangements to be</u>	316
<u>designed, established, and operated in a manner consistent with</u>	317
<u>all of the following:</u>	318

<u>(1) In accordance with best practices for retirement savings</u>	319
<u>vehicles;</u>	320
<u>(2) To maximize participation, saving, and sound investment</u>	321
<u>practices, and appropriate selection of default investments;</u>	322
<u>(3) With simplicity, ease of administration for participating</u>	323
<u>employers, and portability of benefits.</u>	324
<u>(B) Arrange for collective, common, and pooled investment of</u>	325
<u>assets of the program or arrangements, including investments in</u>	326
<u>conjunction with other funds with which those assets are permitted</u>	327
<u>to be collectively invested, with a view to saving costs through</u>	328
<u>efficiencies and economies of scale;</u>	329
<u>(C) Explore and establish investment options that offer</u>	330
<u>employees returns on contributions and the conversion of</u>	331
<u>individual retirement savings account balances to secure</u>	332
<u>retirement income without incurring debt or liabilities to the</u>	333
<u>state;</u>	334
<u>(D) Disseminate educational information concerning saving and</u>	335
<u>planning for retirement;</u>	336
<u>(E) Disseminate information concerning the tax credits</u>	337
<u>available to small business owners for establishing new retirement</u>	338
<u>plans and the federal retirement savings contribution credit</u>	339
<u>available to lower and moderate income households for qualified</u>	340
<u>savings contributions;</u>	341
<u>(F) Submit progress and status reports to participating</u>	342
<u>employers and eligible employees;</u>	343
<u>(G) If necessary, determine the eligibility of an employer,</u>	344
<u>employee, or other individual to participate in the program;</u>	345
<u>(H) Evaluate and establish the process by which an eligible</u>	346
<u>employee of an eligible employer is able to contribute a portion</u>	347
<u>of the employee's salary or wages to the program for automatic</u>	348

deposit of those contributions and the participating employer 349
provides a payroll deposit retirement savings arrangement to 350
forward the employee contribution and related information to the 351
program or its agents. This may include, but is not limited to, 352
financial services companies and third-party administrators with 353
the capability to receive and process employee information and 354
contributions for payroll deposit retirement savings arrangements 355
or other arrangements authorized under sections 113.51 to 113.77 356
of the Revised Code; 357

(I) Design and establish the process for the enrollment of 358
program participants; 359

(J) Allow participating employers to use the program to remit 360
employees' contributions to their individual retirement accounts 361
on their employees' behalf; 362

(K) Allow participating employers to make their own 363
contributions to their employees' individual retirement accounts, 364
provided that the contributions would be permitted under the 365
Internal Revenue Code and would not cause the program to be 366
treated as an employee benefit plan under the "Employee Retirement 367
Income Security Act," 88 Stat. 829, 29 U.S.C. 1001, as amended; 368

(L) Evaluate and establish the process by which an individual 369
or an employee of a nonparticipating employer may enroll in and 370
make contributions to the program. 371

Sec. 113.61. The Ohio secure choice retirement savings 372
investment board shall ensure that an insurance, annuity, or other 373
funding mechanism is in place at all times that protects the value 374
of participants' accounts. The funding mechanism shall protect, 375
indemnify, and hold the state harmless at all times against any 376
and all liability in connection with funding retirement benefits 377
under sections 113.51 to 113.77 of the Revised Code. The costs of 378
the funding mechanism shall be paid out of the funds held in the 379

Ohio secure choice retirement savings trust and shall not be 380
attributed to the administrative costs of the board in operating 381
the trust. 382

Sec. 113.62. (A) A member of the Ohio secure choice 383
retirement savings investment board, an administrator of the Ohio 384
secure choice retirement savings program, and an officer or 385
employee of the program shall not do any of the following: 386

(1) Directly or indirectly have any interest in any 387
investment made for the program or in the gains or profits 388
accruing from any investment made for the program; 389

(2) Borrow any funds or deposits of the Ohio secure choice 390
retirement savings trust, or use those funds or deposits in any 391
manner, for the individual's own purpose or as an agent or partner 392
of others; 393

(3) Become an endorser, surety, or obligor on any investment 394
made for the program. 395

(B) The members of the board, the program administrators, and 396
the officers and employees of the program shall discharge their 397
duties with respect to the trust solely in the interest of the 398
program participants, as follows: 399

(1) For the exclusive purposes of providing benefits to 400
program participants and defraying reasonable expenses of 401
administering the program; 402

(2) By investing with the care, skill, prudence, and 403
diligence under the circumstances then prevailing that a prudent 404
person acting in a like capacity and familiar with those matters 405
would use in the conduct of an enterprise of a like character and 406
with like aims. 407

Sec. 113.63. (A) Prior to opening the Ohio secure choice 408

retirement savings program for enrollment, the Ohio secure choice 409
retirement savings investment board shall design and disseminate 410
to employers an employee information packet. The packet shall 411
provide background information on the program, including, but not 412
be limited to, all of the following: 413

(1) The benefits and risks associated with making 414
contributions to the program; 415

(2) The mechanics of how to make contributions to the 416
program; 417

(3) How to opt out of the program; 418

(4) The process for withdrawal of retirement savings; 419

(5) How to obtain additional information on the program. 420

(B)(1) The employee information packet shall include a 421
disclosure form that clearly articulates the following: 422

(a) That employees seeking financial advice should contact 423
financial advisors, that employers are not in a position to 424
provide financial advice, and that employers are not liable for 425
decisions employees make with respect to the program; 426

(b) That the program is not an employer-sponsored retirement 427
plan; 428

(c) That the Ohio secure choice retirement savings trust is 429
privately insured and is not guaranteed by the state. 430

(2) The disclosure form shall include a signature line for 431
the employee to sign and date acknowledging that the employee has 432
read all of the disclosures and understands their content. 433

(C) The employee information packet shall also include an 434
opt-out form for an eligible employee to declare the employee's 435
decision to opt out of participation in the program. The opt-out 436
notation shall be simple and concise and drafted in a manner that 437

the board deems necessary to appropriately evidence the employee's 438
understanding that the employee is choosing not to automatically 439
deduct earnings to save for retirement. 440

(D)(1) Individuals who are employed as of the date the 441
program commences shall be given the employee information packet 442
as soon as possible after that date. Employees shall review the 443
packet and sign the disclosure form at that time. 444

(2) For employees hired on or after the commencement of the 445
program, the employee information packet shall be supplied at the 446
time of hiring. All new employees shall review the packet and sign 447
the disclosure form at that time. 448

Sec. 113.64. (A) If, prior to opening the Ohio secure choice 449
retirement savings program for enrollment, there is sufficient 450
interest by vendors to participate and provide the necessary 451
funding, the Ohio secure choice retirement savings investment 452
board shall establish both of the following: 453

(1) A retirement investments clearinghouse on the board's 454
internet web site; 455

(2) A vendor registration process through which information 456
about employer-sponsored retirement plans, and payroll deduction 457
IRAs offered by private sector providers, is made available on the 458
clearinghouse for consideration by eligible employers. 459

(B) Vendors that would like to participate in the board's 460
retirement investments clearinghouse and be listed on the board's 461
internet web site as a registered vendor shall provide the board 462
with all of the following: 463

(1) A statement of the vendor's experience in this and any 464
other state in providing employer-sponsored retirement plans and 465
payroll deduction IRAs; 466

(2) A description of the types of retirement investment 467

products offered and their features, the services available to 468
retirement plan participants, and the manner in which product 469
prospectuses or other relevant product information may be 470
accessed; 471

(3) A disclosure of all expenses paid directly or indirectly 472
by retirement plan participants, including, but not limited to, 473
penalties for early withdrawals, declining or fixed withdrawal 474
charges, surrender or deposit charges, management fees, and annual 475
fees, supported by documentation as required for prospectus 476
disclosure by the national association of securities dealers and 477
the securities and exchange commission. Vendors shall be required 478
to provide information regarding the impact of product fees upon a 479
hypothetical investment, as described in section 113.67 of the 480
Revised Code. 481

(4) A discussion of the ability, experience, and commitment 482
of the vendor to provide retirement counseling and education 483
services, including, but not limited to, access to group meetings 484
and individual counseling by various means, including telephone 485
and telecommunications devices for the deaf, internet, and 486
face-to-face consultations by registered representatives; 487

(5) A statement of the financial strength of the vendor by 488
identifying its ratings assigned by nationally recognized rating 489
services that evaluate the financial strength of similar 490
companies; 491

(6) The location of offices and counselors, individual 492
registered representatives, brokers, financial planners, agents, 493
or other methods of distribution, of the vendor that would serve 494
employers and their employees in this state; 495

(7) A description of the ability of the vendor to comply with 496
all applicable provisions of federal and state law governing 497
retirement plans, including minimum distribution requirements and 498

contribution limits; 499

(8) To the extent applicable, a demonstration of the ability 500
of the vendor to offer an appropriate array of accumulation 501
funding options, including, but not limited to, investment options 502
that offer guaranteed returns on contributions and the conversion 503
of retirement savings account balances to secure retirement 504
income, as well as a diversified mix of value, growth, growth and 505
income, hybrid, and index funds or accounts across large, medium, 506
and small capitalization asset classes, both domestic and 507
international; 508

(9) A discussion of the range of administrative and customer 509
services provided, including asset allocation, accounting and 510
administration of benefits for individual participants, 511
recordkeeping for individual participants, asset purchase, 512
control, and safekeeping, execution of a participant's 513
instructions as to asset and contribution allocation, calculation 514
of daily net asset values, direct access for participants to their 515
account information, periodic reporting that is not less than 516
quarterly to participants on their account balances and 517
transactions, and compliance with the standard of care consistent 518
with federal law and applicable to the provision of investment 519
services; 520

(10) Certification by the vendor that the information 521
provided to the board accurately reflects the provisions of the 522
retirement investment products it is registering. 523

(C) The board shall prescribe the format in which vendors are 524
to supply the information and data required under division (B) of 525
this section. 526

Sec. 113.65. Once annually, the Ohio secure choice retirement 527
savings investment board shall offer vendors an opportunity to 528
register to participate in the retirement investments 529

clearinghouse. Renewal of registration shall be required at least 530
once every five years thereafter for vendors that wish to continue 531
to participate. The board shall provide public notice prior to the 532
initial registration, annual registration, and registration 533
renewal periods. 534

Sec. 113.66. (A) The Ohio secure choice retirement savings 535
investment board may remove a vendor from the retirement 536
investments clearinghouse if the vendor submits materially 537
inaccurate information to the board, does not remit assessed fees 538
within sixty days, or fails to submit notice of material changes 539
to its registered investment products. Vendors found to have 540
submitted materially inaccurate information to the board shall be 541
allowed sixty days to correct the information. 542

(B) The board shall remove a vendor from the clearinghouse if 543
investments offered by the vendor are products of a regulated 544
investment company or insurance company that is not authorized to 545
do business in this state. 546

(C) The board shall establish an appeals process for vendors 547
that are denied registration or removed from the clearinghouse. 548

Sec. 113.67. (A) The retirement investments clearinghouse 549
shall include information on investment performance based upon the 550
investment's average annual total return as measured by a 551
nationally recognized rating service selected by the Ohio secure 552
choice retirement savings investment board for standard periods of 553
time of not less than one year. 554

(B) The board's internet web site shall include a table 555
showing, for each registered investment product, the total fee 556
cost in dollars incurred by an investor who initially invested 557
five thousand dollars and earned a five per cent rate of return 558
for one-, five-, ten-, fifteen-, and twenty-year time periods. 559

This table shall be accompanied by a disclaimer that the rate of return is for purposes of illustrating the respective impacts of different fee amounts on each investment, and is not to predict future investment returns. 560
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(C) A vendor shall not charge a fee associated with a product registered on the retirement investments clearinghouse that is not disclosed therein. 564
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Sec. 113.68. The Ohio secure choice retirement savings investment board shall notify eligible employers of the existence of, and the internet web site address for, the retirement investments clearinghouse. 567
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Sec. 113.69. (A) The actual cost of establishing the retirement investments clearinghouse and the vendor registration system shall be borne equally by registered vendors, based on the total number of registered vendors. At the close of the initial registration period, each registered vendor shall pay a one-time establishment fee equal to a pro rata share of the establishment costs, as determined by the Ohio secure choice retirement savings investment board. The one-time establishment fee charged to vendors that register with the board after the close of the initial registration period shall be distributed equally among registered vendors that have paid the establishment fee and credited toward subsequent maintenance and administrative fees charged to each vendor. 571
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(B) The actual cost of maintaining the retirement investments clearinghouse and the vendor registration system, and the costs associated with publicizing the availability of the clearinghouse to eligible employers, shall be borne equally by registered vendors, based on the total number of registered vendors. Each registered vendor shall pay a renewal fee equal to a pro rata 584
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share of the maintenance costs, as determined by the board. 590

(C) Each registered vendor shall pay an administrative fee 591
for each retirement investment product it offers to employers, 592
which fee shall represent the actual costs associated with 593
processing the information related to the investment option and 594
presenting it on the retirement investments clearinghouse, as 595
determined by the board. 596

(D) The board shall not use funds held in the Ohio secure 597
choice retirement savings trust to establish or maintain the 598
retirement investments clearinghouse or the vendor registration 599
system. 600

Sec. 113.70. (A) The Ohio secure choice retirement savings 601
investment board and the Ohio secure choice retirement savings 602
program, and its officers and employees, are not responsible for, 603
and shall not be held liable for, the adequacy of the information 604
provided by the participating vendors and contained in the 605
retirement investments clearinghouse. The clearinghouse maintained 606
by the board serves only to provide information supplied by the 607
participating vendors for the consideration of the selection of 608
retirement investment products. 609

(B) Participating vendors shall not utilize the program's 610
logo, or claim or infer endorsement or recommendation by the board 611
or the program with respect to products and services identified by 612
the vendors in the clearinghouse. At the discretion of the board, 613
a failure to comply with this division may lead to removal from 614
the registry. 615

(C) The board and the program shall not be held liable for 616
the actions of registered vendors. 617

Sec. 113.71. (A) Once the Ohio secure choice retirement 618
savings program is open for enrollment, any employer may choose to 619

have a payroll deposit retirement savings arrangement to allow 620
employee participation in the program. 621

(B)(1) Beginning three months after the program is open for 622
enrollment, eligible employers that have more than one hundred 623
eligible employees and that do not offer an employer-sponsored 624
retirement plan or automatic enrollment payroll deduction IRA 625
shall have a payroll deposit retirement savings arrangement to 626
allow employee participation in the program. 627

(2) Beginning six months after the program is open for 628
enrollment, eligible employers that have more than fifty eligible 629
employees and that do not offer an employer-sponsored retirement 630
plan or automatic enrollment payroll deduction IRA shall have a 631
payroll deposit retirement savings arrangement to allow employee 632
participation in the program. 633

(3) Beginning nine months after the program is open for 634
enrollment, all other eligible employers that do not offer an 635
employer-sponsored retirement plan or automatic enrollment payroll 636
deduction IRA shall have a payroll deposit retirement savings 637
arrangement to allow employee participation in the program. 638

(C)(1) Each eligible employee shall be enrolled in the 639
program unless the employee elects not to participate in the 640
program by noting that decision on the opt-out form. 641

(2) Following initial implementation of the program, 642
participating employers shall, at least once every two years, 643
designate an open enrollment period during which eligible 644
employees that previously opted out of the program may be enrolled 645
in the program unless the employee again elects to opt out. 646

(3) An employee who elected to opt out of the program and who 647
subsequently wants to participate may only enroll during the 648
employer's designated open enrollment period or, if permitted by 649

the employer, at an earlier time. 650

(4) An employee may terminate the employee's participation in the program at any time in a manner prescribed by the Ohio secure choice retirement savings investment board and, thereafter, by making a notation on the opt-out form. 651
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(D)(1) A participating employee shall contribute at least three per cent of the employee's annual salary or wages to the program. 655
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(2) The board may adjust the minimum contribution amount set forth in division (D)(1) of this section to no less than two per cent and no more than four per cent and may vary that amount within the two per cent to four per cent range for participating employees according to the length of time the employee has contributed to the program. 658
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(E) Employers may, at any time, set up an employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), simplified employee pension plan, or savings incentive match plan for employees plan, or offer an automatic enrollment payroll deduction IRA, instead of having a payroll deposit retirement savings arrangement to allow employee participation in the program. 664
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Sec. 113.72. (A) Employers shall not be held liable for an employee's decision to participate in, or opt out of, the Ohio secure choice retirement savings program, or for the investment decisions of employees whose assets are deposited in the program. 671
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(B) An employer shall not: 675

(1) Be considered a fiduciary of the Ohio secure choice retirement savings trust or the program; 676
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(2) Bear responsibility for the administration, investment, or investment performance of the program; 678
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(3) Be held liable with regard to investment returns, program design, and benefits paid to program participants. 680
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(C) An employer's voluntary contribution under division (J) of section 113.60 of the Revised Code shall not in any way contradict the provisions of this section or change the employer's relationship to the program or an employer's obligations to employees. 682
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Sec. 113.73. (A) Each eligible employer that, without good cause, fails to allow its eligible employees to participate in the Ohio secured choice retirement savings program shall be notified by the treasurer of state of the employer's failure to comply with sections 113.51 to 113.77 of the Revised Code. After an administrative hearing, the treasurer of state shall impose a fine of two hundred fifty dollars per eligible employee if noncompliance by the employer extends ninety or more days after receipt of the notice. If, after an administrative hearing, the employer is found to be in noncompliance one hundred or more days after receipt of the notice, the treasurer of state shall impose an additional fine of five hundred dollars per eligible employee. 687
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(B) All fines collected under this section shall be deposited into the administration fund of the Ohio secure choice retirement savings trust. 699
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(C) The treasurer of state may charge the Ohio secure choice retirement savings investment board a reasonable fee for costs the treasurer of state's office incurs in implementing, administering, and enforcing the program. 702
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Sec. 113.74. The state shall not be liable for payment of the retirement savings benefits earned by participants in the Ohio secure choice retirement savings program. Any financial liability for the payment of benefits in excess of funds available under the 706
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program shall be borne by the entities with whom the Ohio secure 710
choice retirement savings investment board contracts to provide an 711
insurance, annuity, or other funding mechanism to protect the 712
value of participants' accounts pursuant to section 113.61 of the 713
Revised Code. The state, and any of the funds of the state, shall 714
not be obligated for payment of the retirement savings benefits. 715

Sec. 113.75. (A) Not later than the first day of August of 716
each year, the Ohio secure retirement savings investment board 717
shall submit an audited financial report, prepared in accordance 718
with generally accepted accounting principles, on the operations 719
of the Ohio secure choice retirement savings trust to the 720
governor, the director of budget and management, the auditor of 721
state, and the general assembly. The annual audit shall be 722
conducted by an independent certified public accountant and shall 723
include, but not be limited to, direct and indirect costs 724
attributable to the use of outside consultants, independent 725
contractors, and any other persons who are not state employees. 726

(B) The annual audit shall be supplemented by the following 727
information prepared by the board: 728

(1) Any relevant studies or evaluations prepared in the 729
preceding year; 730

(2) A summary of the benefits provided by the trust including 731
the number of participants in the trust; 732

(3) Any other information that is relevant in order to make a 733
full, fair, and effective disclosure of the operations of the 734
trust. 735

Sec. 113.76. The Ohio secure choice retirement savings 736
investment board shall adopt rules it deems necessary to implement 737
sections 113.51 to 113.77 of the Revised Code consistent with the 738

Internal Revenue Code and regulations issued thereunder to ensure 739
that the Ohio secure choice retirement savings program meets all 740
criteria for federal tax-deferral or tax-exempt benefits, or both. 741

Sec. 113.77. The Ohio secure choice retirement savings 742
program shall be suspended if the payroll deposit retirement 743
savings arrangements offered under the program fail to qualify for 744
the favorable federal income tax treatment ordinarily accorded to 745
IRAs under the Internal Revenue Code or if it is determined that 746
the program is an employee benefit plan under the "Employee 747
Retirement Income Security Act," 88 Stat. 829, 29 U.S.C. 1001, as 748
amended. 749

Sec. 113.78. Sections 113.51 to 113.77, except for section 750
113.53, of the Revised Code shall not be implemented unless all of 751
the following occur: 752

(A) The Ohio secure choice retirement savings investment 753
board conducts a market analysis to determine whether the 754
necessary conditions for implementation of sections 113.51 to 755
113.77 of the Revised Code can be met, including, but not limited 756
to, likely participation rates, participants' comfort with various 757
investment vehicles and degree of risk, contribution levels, and 758
the rate of account closures and rollovers. The board shall 759
conduct this analysis only if sufficient funds to initiate and 760
complete the required market analysis are made available through a 761
nonprofit or private entity or from federal funding. The Ohio 762
secure choice retirement savings program fund is hereby created in 763
the state treasury. The fund shall consist of all moneys made 764
available to conduct the market analysis. The board shall forward 765
and offer to present its findings to the chair of the committees 766
of the house of representatives and the senate that have 767
jurisdiction over commerce and labor matters. 768

(B) The board determines that, based on the market analysis, 769
sections 113.51 to 113.77 of the Revised Code will be 770
self-sustaining. 771

(C) Sufficient funds are made available through a nonprofit 772
or other private entity, federal funding, or appropriations to 773
allow the board to implement sections 113.51 to 113.77 of the 774
Revised Code until the Ohio secure choice retirement savings trust 775
has sufficient funds to be self-sustaining. 776