HOUSE DOCKET, NO. 2318 FILED ON: 1/16/2025

HOUSE . . . . . No. 1143

The Commonwealth of Massachusetts

PRESENTED BY:

Paul J. Donato

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to encourage retirement planning.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Paul J. Donato	*35th Middlesex*	*1/16/2025*
Patrick Joseph Kearney	*4th Plymouth*	*2/3/2025*
Brian W. Murray	*10th Worcester*	*2/3/2025*
Colleen M. Garry	*36th Middlesex*	*2/3/2025*
Patricia A. Duffy	*5th Hampden*	*2/3/2025*
Sal N. DiDomenico	*Middlesex and Suffolk*	*2/3/2025*
Lindsay N. Sabadosa	*1st Hampshire*	*2/3/2025*
Marjorie C. Decker	*25th Middlesex*	*3/6/2025*
Samantha Montaño	*15th Suffolk*	*3/6/2025*
James Arciero	*2nd Middlesex*	*3/6/2025*
Michael D. Brady	*Second Plymouth and Norfolk*	*3/6/2025*
Jessica Ann Giannino	*16th Suffolk*	*3/6/2025*
Natalie M. Higgins	*4th Worcester*	*3/24/2025*
Brandy Fluker-Reid	*12th Suffolk*	*4/17/2025*

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HOUSE . . . . . No. 1143

By Representative Donato of Medford, a petition (accompanied by bill, House, No. 1143) of Paul J. Donato and others for legislation to encourage retirement planning by establishment of a Massachusetts secure choice savings program. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act to encourage retirement planning.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Section 1. Chapter 10 of the General Law is hereby amended by inserting after Section 35I the following new section:

Section 35I 1⁄2.

(a) Definitions. Unless the context requires a different meaning or as expressly provided in this Section, all terms shall have the same meaning as when used in a comparable context in the Internal Revenue Code. As used in this Act:

"Board" means the Massachusetts Secure Choice Savings Board established under this Act.

"Department" means the Department of Revenue.

"Commissioner" means the Commissioner of Revenue.

"Employee" means any individual who is 18 years of age or older, who is employed by an employer, and who has wages that are allocable to Massachusetts during a calendar year under the provisions of Massachusetts General Laws, Chapter 62.

"Employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in the Commonwealth of Massachusetts, whether for profit or not for profit, that (i) has at no time during the previous calendar year employed fewer than 5 employees in the State, (ii) has been in business at least 2 years, and (iii) has not offered a qualified retirement plan, including, but not limited to, a plan qualified under Section 401(a), Section 401(k), Section 403(a), Section 403(b), Section 408(k), Section 408(p), or Section 457(b) of the Internal Revenue Code of 1986 in the preceding 2 years.

"Enrollee" means any employee or former employee who is enrolled in the Program.

"Fund" means the Massachusetts Secure Choice Savings Program Fund.

"Internal Revenue Code" means Internal Revenue Code of 1986, or any successor law, in effect for the calendar year.

"IRA" means a Roth IRA (individual retirement account) under Section 408A or a traditional IRA under Section 408 of the Internal Revenue Code.

"Participating employer" means an employer that provides a payroll deposit retirement savings arrangement as provided for by this Act for its employees who are enrolled in the Program.

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

"Program" means the Massachusetts Secure Choice Savings Program.

"Wages" means any compensation within the meaning of Section 219(f)(1) of the Internal Revenue Code that is received by an enrollee from a participating employer during the calendar year.

(b) Establishment of Massachusetts Secure Choice Savings Program. A retirement savings program in the form of an automatic enrollment payroll deduction IRA, known as the Massachusetts Secure Choice Savings Program, is hereby established and shall be administered by the Board for the purpose of promoting greater retirement savings for private-sector employees in a convenient, low-cost, and portable manner.

(c) Massachusetts Secure Choice Savings Program Fund.

(1) The Massachusetts Secure Choice Savings Program Fund is hereby established as a trust outside of the State Treasurer’s Office, with the Board as its trustee. The Fund shall include the individual retirement accounts of enrollees, which shall be accounted for as individual accounts. Moneys in the Fund shall consist of moneys received from enrollees and participating employers pursuant to automatic payroll deductions and contributions to savings made under this Act. The Fund shall be operated in a manner determined by the Board, provided that the Fund is operated so that the accounts of enrollees established under the Program meet the requirements for IRAs under the Internal Revenue Code.

(2) The amounts deposited in the Fund shall not constitute property of the Commonwealth and the Fund shall not be construed to be a department, institution, or agency of the Commonwealth. Amounts on deposit in the Fund shall not be commingled with

Commonwealth funds and the Commonwealth shall have no claim to or against, or interest in, such funds.

(d) Massachusetts Secure Choice Administrative Fund. The Massachusetts Secure Choice Administrative Fund ("Administrative Fund") is created as a nonappropriated, separate and apart trust fund in the State Treasurer's Office. The Board shall use moneys in the Administrative Fund to pay for administrative expenses it incurs in the performance of its duties under this Act. The Administrative Fund may receive any grants or other moneys designated for administrative purposes from the State, or any unit of federal or local government, or any other person, firm, partnership, or corporation. Any interest earnings that are attributable to moneys in the Administrative Fund must be deposited into the Administrative Fund.

(e) Composition of the Board. There is created the Massachusetts Secure Choice Savings Board.

(1) The Board shall consist of the following 7 members:

(i) the State Treasurer, or his or her designee, who shall serve as chair;

(ii) the State Comptroller, or his or her designee;

(iii) the Secretary of the Commonwealth, or his or her designee;

(iv) two public representatives with expertise in retirement savings plan administration or investment, or both, appointed by the Governor;

(v) one representative of participating employers, appointed by the Governor;

(vi) one representative of enrollees, appointed by the Secretary of the Commonwealth.

(2) Members of the Board shall serve without compensation but may be reimbursed for necessary travel expenses incurred in connection with their Board duties from funds appropriated for the purpose.

(3) The initial appointments shall be as follows: one public representative for 4 years; one public representative for 2 years; the representative of participating employers for 3 years; and the representative of enrollees for 1 year. Thereafter, all appointments shall be for terms of 4 years.

(4) A vacancy in the term of an appointed Board member shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(5) Each Board member, prior to assuming office, shall take an oath that he or she will diligently and honestly administer the affairs of the Board and that he or she will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the Program.

The oath shall be certified by the officer before whom it is taken and immediately filed in the office of the Secretary of the Commonwealth.

(f) Fiduciary Duty. The Board, the individual members of the Board, the trustee appointed under subsection (b) of Section 8, any other agents appointed or engaged by the Board, and all persons serving as Program staff shall discharge their duties with respect to the Program solely in the interest of the Program's enrollees and beneficiaries as follows:

(1) for the exclusive purposes of providing benefits to enrollees and beneficiaries and defraying reasonable expenses of administering the Program; and

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

(g) Duties of the Board. In addition to the other duties and responsibilities stated in this Act, the Board shall:

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

(i) accords with best practices for retirement savings vehicles;

(ii) maximizes participation, savings, and sound investment practices;

(iii) maximizes simplicity, including ease of administration for participating employers and enrollees;

(iv) provides an efficient product to enrollees by pooling investment funds; and

(v) ensures the portability of benefits.

(2) Appoint a trustee to the Program Fund in compliance with Section 408 of the Internal Revenue Code.

(3) Explore investment options, subject to Section 11 of this Act, that offer enrollees returns on contributions and the conversion of individual retirement savings account balances to secure retirement income without incurring debt or liabilities to the State.

(4) Make and enter into contracts necessary for the administration of the Program and Fund, including, but not limited to, retaining and contracting with investment managers, private

financial institutions, other financial and service providers, consultants, actuaries, counsel, auditors, third-party administrators, and other professionals as necessary.

(5) Conduct a review of the performance of any investment vendors no less frequently than every 4 years, including, but not limited to, a review of returns, fees, and customer service. A copy of reviews conducted under this subsection shall be posted to the Board's Internet website.

(6) Determine the number and duties of staff members needed to administer the Program and assemble such a staff, including, as needed, employing staff, appointing a Program administrator, and entering into contracts with the State Treasurer to make employees of the State Treasurer's Office available to administer the Program.

(7) Cause moneys in the Fund to be held and invested as pooled investments with a view to achieving cost savings through efficiencies and economies of scale.

(8) Evaluate and establish the process by which an enrollee is able to contribute a portion of his or her wages to the Program for automatic deposit of those contributions and the process by which the participating employer provides a payroll deposit retirement savings arrangement to forward those contributions and related information to the Program, including, but not limited to, contracting with financial service companies and third-party administrators with the capability to receive and process employee information and contributions for payroll deposit retirement savings arrangements or similar arrangements.

(9) Design and establish the process for enrollment under Section 14 of this Act, including the default contribution rate, account type, investment option, and automatic escalation rate. The Board shall also design and establish the process by which an employee can:

(i) opt not to participate in the Program; (2) select a contribution rate, account type, investment option, or escalation rate different than the default options set by the Board; or (3) terminate participation in the Program.

(10) Evaluate and establish the process by which an individual may voluntarily enroll in and make contributions to the Program.

(11) Accept any grants, appropriations, or other moneys from the Commonwealth, any unit of federal, State, or local government, or any other person, firm, partnership, or corporation solely for deposit into the Fund, whether for investment or administrative purposes.

(12) Evaluate the need for, and procure as needed, insurance against any and all loss in connection with the property, assets, or activities of the Program, and indemnify as needed each member of the Board from personal loss or liability resulting from a member's action or inaction as a member of the Board.

(13) Make provisions for the payment of administrative costs and expenses for the creation, management, and operation of the Program. Subject to appropriation, the Commonwealth may pay administrative costs associated with the creation and management of the Program until sufficient assets are available in the Fund for that purpose. Thereafter, all administrative costs of the Fund, including repayment of any start-up funds provided by the State, shall be paid only out of moneys on deposit therein. However, private funds or federal funding received in order to implement the Program until the Fund is self-sustaining shall not be repaid unless those funds were offered contingent upon the promise of such repayment. The Board shall keep annual administrative expenses as low as possible and is authorized to charge and collect reasonable administrative fees from enrollees.

(14) Allocate administrative fees to individual retirement accounts in the Program on a pro rata basis.

(15) Set minimum and maximum contribution levels in accordance with limits established for IRAs by the Internal Revenue Code.

(16) Facilitate education and outreach to employers and employees. Design and establish an internet website for the Program with details for employers, employees, and enrollees.

(17) Facilitate compliance by the Program with all applicable requirements for the Program under the Internal Revenue Code, including tax qualification requirements or any other applicable law and accounting requirements.

(18) Carry out the duties and obligations of the Program in an effective, efficient, and low-cost manner.

(19) Exercise any and all other powers reasonably necessary for the effectuation of the purposes, objectives, and provisions of this Act pertaining to the Program.

(20) Deposit into the Massachusetts Secure Choice Administrative Fund all grants, gifts, donations, fees, and earnings from investments from the Massachusetts Secure Choice Savings Program Fund that are used to recover administrative costs. All expenses of the Board shall be paid from the Massachusetts Secure Choice Administrative Fund.

(h) Risk Management. The Board shall prepare and adopt a written statement of investment policy that includes a risk management and oversight program. This investment policy shall prohibit the Board, Program, and Fund from borrowing for investment purposes. The risk management and oversight program shall be designed to ensure that an effective risk

management system is in place to monitor the risk levels of the Program and Fund portfolio, to ensure that the risks taken are prudent and properly managed, to provide an integrated process for overall risk management, and to assess investment returns as well as risk to determine if the risks taken are adequately compensated compared to applicable performance benchmarks and standards. The Board shall consider the statement of investment policy and any changes in the investment policy at a public hearing.

(i) Investment firms.

(1) The Board shall engage, after an open bid process, an investment manager or managers to invest the Fund and any other assets of the Program. Moneys in the Fund may be invested or reinvested by the State Treasurer's Office or may be invested in whole or in part under contract with the State Board of Investment, private investment managers, or both, as selected by the Board. In selecting the investment manager or managers, the Board shall take into consideration and give weight to the investment manager's fees and charges in order to reduce the Program's administrative expenses.

(2) The investment manager or managers shall comply with any and all applicable federal and state laws, rules, and regulations, as well as any and all rules, policies, and guidelines promulgated by the Board with respect to the Program and the investment of the Fund, including, but not limited to, the investment policy.

(3) The investment manager or managers shall provide such reports as the Board deems necessary for the Board to oversee each investment manager's performance and the performance of the Fund.

(j) Investment options.

(1) The Board shall establish as an investment option a life-cycle fund with a target date based upon the age of the enrollee. This shall be the default investment option for enrollees who fail to elect an investment option unless and until the Board designates by rule a new investment option as the default.

(2) The Board may also establish additional investment options, including, but not limited to, any of the following:

(i) a conservative principal protection fund;

(ii) a growth fund;

(iii) a secure return fund whose primary objective is the preservation of the safety of principal and the provision of a stable and low-risk rate of return; if the Board elects to establish a secure return fund, the Board may procure any insurance, annuity, or other product to insure the value of individuals' accounts and guarantee a rate of return; the cost of such funding mechanism shall be paid out of the Fund; under no circumstances shall the Board, Program, Fund, the State, or any participating employer assume any liability for investment or actuarial risk; the Board shall determine whether to establish such investment options based upon an analysis of their cost, risk profile, benefit level, feasibility, and ease of implementation;

(iv) an annuity fund.

(k) Intergovernmental Collaboration, Data Sharing, and Multistate Agreements.

(1) The Board may enter into an intergovernmental agreement or memorandum of understanding with the State and any agency of the State to receive outreach, technical assistance, enforcement and compliance services, collection or dissemination of information

pertinent to the Program (subject to such obligations of confidentiality as may be agreed or required by law), or other services or assistance. The State and any agencies of the State that enter into such agreements or memoranda of understanding shall collaborate to provide the outreach, assistance, information, and compliance or other services or assistance to the Board. The memoranda of understanding may cover the sharing of costs incurred in gathering and disseminating information and the reimbursement of costs for any enforcement activities or assistance.

(2) All agencies of the Commonwealth shall cooperate as requested by the Program in the performance of its duties under this Act, including, unless otherwise prohibited, the sharing of relevant data as the parties shall mutually agree.

(3) The Board shall assess the feasibility of multistate or regional agreements to administer the Program through shared administrative and operational resources and may enter into those agreements if deemed beneficial to the Program.

(l) Employer and employee information packets and disclosure forms.

(1) The Board shall design and disseminate an employer information packet and an employee information packet, which shall include background information on the Program, appropriate disclosures for employees, and information regarding the Internet website described in Section 8 of this Act.

(2) The employee information packet shall include a disclosure form. The disclosure form shall explain, but not be limited to, all of the following:

(i) the benefits and risks associated with making contributions to the Program;

(ii) the mechanics of how to make contributions to the Program;

(iii) how to opt out of the Program;

(iv) how to participate in the Program with a level of employee contributions other than the default contribution rate.

(v) the process for withdrawal of retirement savings;

(vi) how to obtain additional information about the Program;

(vii) that employees seeking financial advice should contact financial advisors, that participating employers are not in a position to provide financial advice, and that participating employers are not liable for decisions employees make pursuant to this Act;

(viii) that the Program is not an employer-sponsored retirement plan; and

(ix) that the Program Fund is not guaranteed by the Commonwealth.

(3) The employee information packet shall also include a form for an employee to note his or her decision to opt out of participation in the Program or elect to participate with a level of employee contributions other than the default rate set by the Board.

(4) Participating employers shall supply the employee information packet to employees after the employer has registered for the Program. Participating employers shall supply the employee information packet to new employees at the time of hiring, and new employees may opt out of participation in the Program or elect to participate with a level of employee contributions other than the default contribution rate at that time.

(m) Program implementation and enrollment. The Program shall be implemented, and enrollment of employees shall begin, within 24 months after the effective date of this Act. The provisions of this Section shall be in force after the Board opens the Program for enrollment.

(1) Each employer shall establish a payroll deposit retirement savings arrangement to allow each employee to participate in the Program on a timeline set by the Board.

(2) Employers shall automatically enroll in the Program each of their employees who has not opted out of participation in the Program and shall provide payroll deduction retirement savings arrangements and deposit, on behalf of such employees, these funds into the Program.

(3) Enrollees shall have the ability to select a contribution level into the Fund. This level may be expressed as a percentage of wages or as a dollar amount up to the deductible amount for the enrollee's taxable year under Section 219(b)(1)(A) of the Internal Revenue Code. Enrollees may change their contribution level at any time, subject to rules promulgated by the Board. If an enrollee fails to select a contribution level using the form prescribed by the Board, then he or she shall contribute the default contribution rate of his or her wages to the Program.

(4) Enrollees may select an investment option from the permitted investment options listed in Section 11 of this Act. Enrollees may change their investment option at any time, subject to rules promulgated by the Board. In the event that an enrollee fails to select an investment option, that enrollee shall be placed in the investment option selected by the Board as the default.

(5) Employers shall retain the option at all times to set up any type of employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), Simplified Employee Pension (SEP) plan, or Savings Incentive Match Plan for Employees (SIMPLE) plan, instead of

having a payroll deposit retirement savings arrangement to allow employee participation in the Program.

(6) An enrollee may terminate his or her participation in the Program at any time in a manner prescribed by the Board.

(n) Payments. Employee contributions deducted by the participating employer through payroll deduction shall be paid by the participating employer to the Fund using one or more payroll deposit retirement savings arrangements established by the Board, either:

(i) on or before the last day of the month following the month in which the compensation otherwise would have been payable to the employee in cash; or

(ii) before such later deadline prescribed by the Board for making such payments, but not later than the due date for the deposit of tax required to be deducted and withheld relating to collection of income tax at source on wages or for the deposit of tax required to be paid under the unemployment insurance system for the payroll period to which such payments relate.

(o) Duty and liability of the Commonwealth.

(1) The State, the Board, each member of the Board or other State official, other State boards, commissions, or agencies, any member, officer, or employee thereof, and the Program --

(i) have no responsibility for compliance by individuals with the conditions and other provisions of the Internal Revenue Code that determine which individuals are eligible to make tax-favored contributions to IRAs, in what amount, and in what time frame and manner,

(ii) have no duty, responsibility, or liability to any party for the payment of any benefits under the Program, regardless of whether sufficient funds are available under the Program to pay such benefits,

(iii) do not and shall not guarantee any interest rate or other rate of return on or investment performance of any contribution or account balance, and

(iv) are not and shall not be liable or responsible for any loss, deficiency, failure to realize any gain, or any other adverse consequences, including without limitation any adverse tax consequences or loss of favorable tax treatment, public assistance or other benefits, incurred by any person as a result of participating in the Program.

(2) The debts, contracts, and obligations of the Program or the Board are not the debts, contracts, and obligations of the State, and neither the faith and credit nor the taxing power of the State is pledged directly or indirectly to the payment of the debts, contracts, and obligations of the Program or the Board.

(p) Duty and liability of participating employers.

(1) Participating employers shall not have any liability for an employee's decision to participate in, or opt out of, the Program or for the investment decisions of the Board or of any enrollee.

(2) A participating employer shall not be a fiduciary, or considered to be a fiduciary, over the Program. A participating employer shall not bear responsibility for the administration, investment options, or investment performance of the Program. A participating employer shall

not be liable with regard to investment returns, Program design, and benefits paid to Program participants.

(q) Audit and reports.

(1) The Board shall annually submit:

(i) an audited financial report, prepared in accordance with generally accepted accounting principles, on the operations of the Program during each calendar year by July 1 of the following year to the Comptroller, Secretary of the Commonwealth, and the State Treasurer.

(ii) a report prepared by the Board, which shall include, but is not limited to, a summary of the benefits provided by the Program, including the number of enrollees in the Program, the percentage and amounts of investment options and rates of return, and such other information that is relevant to make a full, fair, and effective disclosure of the operations of the Program and the Fund. The annual audit shall be made by an independent certified public accountant and shall include, but is not limited to, direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not State employees for the administration of the Program.

(2) In addition to any other statements or reports required by law, the Board shall provide periodic reports at least annually to enrollees, reporting contributions and investment income allocated to, withdrawals from, and balances in their Program accounts for the reporting period. Such reports may include any other information regarding the Program as the Board may determine.

(r) Penalties.

(1) An employer who fails without reasonable cause to enroll an employee in the Program within the time prescribed under this Act shall be subject to a penalty equal to:

(i) $250 for each employee for each calendar year or portion of a calendar year during which the employee neither was enrolled in the Program nor had elected out of participation in the Program; and the employee or any appropriate official of the State may bring a civil action to require the employer to enroll the employee and shall recover such costs and reasonable attorney's fees as may be allowed by the court; and

(ii) for each calendar year beginning after the date a penalty has been assessed with respect to an employee, $500 for any portion of that calendar year during which such employee continues to be unenrolled without electing out of participation in the Program.

(iii) No penalty shall be imposed under subsection 19(a) on any failure for which it is established that the employer subject to liability for the penalty did not know that the failure existed and exercised reasonable diligence to meet the requirements of this Act.

(iv) No penalty shall be imposed under subsection 19(a) on any failure if:

(A) the employer subject to liability for the penalty exercised reasonable diligence to meet those

requirements; and

(B) the employer complies with those requirements with respect to each employee by the end of the 90-day period beginning on the first date the employer knew, or exercising reasonable diligence would have known, that the failure existed.

(v) In the case of a failure that is due to reasonable cause and not to willful neglect, all or part of the penalty may be waived to the extent that the payment of the penalty would be excessive or otherwise inequitable relative to the failure involved.

(vi) Provide that, if a participating employer fails to transmit a payroll deduction contribution to the Program on the earliest date the amount withheld from the enrollee's compensation can reasonably be segregated from the participating employer's assets, but not later than the 15th day of the month following the month in which the enrollee's contribution amounts are withheld from his or her paycheck, the failure to remit such contributions on a timely basis shall be subject to the same sanctions as employer misappropriation of employee wage withholdings and to the penalties specified in subsection

(r)(1) above.

(2) Except as provided in this subsection, all information received by the Department from returns filed by an employer or from any investigation conducted under the provisions of this Act shall be confidential, except for official purposes within the Department or pursuant to official procedures for collection of penalties assessed under this Act. Nothing contained in this subsection shall prevent the Commissioner from publishing or making available to the public reasonable statistics concerning the operation of this Act wherein the contents of returns are grouped into aggregates in such a way that the specific information of any employer shall not be disclosed. Nothing contained in this subsection shall prevent the Commissioner from divulging information to an authorized representative of the employer or to any person pursuant to a request or authorization made by the employer or by an authorized representative of the employer.

(3) Civil penalties collected under this Act and fees collected pursuant to subsection (d) of this Section shall be deposited into the Tax Compliance and Administration Fund. The Department may, subject to appropriation, use moneys in the fund to cover expenses it incurs in the performance of its duties under this Act. Interest attributable to moneys in the Tax Compliance and Administration Fund shall be credited to the Tax Compliance and Administration Fund.

(4) The Department may charge the Board a reasonable fee for its costs in performing its duties under this Section to the extent that such costs have not been recovered from penalties imposed under this Section.

(5) This Section shall go into effect 9 months after the Board notifies the Commissioner that the Program has been implemented. Upon receipt of such notification from the Board, the Department shall immediately post on its Internet website a notice stating that this Section is in effect. This notice shall include a statement that rather than enrolling employees in the Program under this Act, employers may sponsor an alternative arrangement, including, but not limited to, a defined benefit plan, 401(k) plan, a Simplified Employee Pension (SEP) plan, or a Savings Incentive Match Plan for Employees (SIMPLE) plan. The Board shall provide a link to the vendor Internet website.

(s) Rules. The Department shall adopt rules and regulations, in accordance with the Massachusetts Administrative Procedure Act (Mass. Gen. Laws Ch. 30A), that may be necessary to implement this Act.

(t) Delayed implementation. If the Board does not obtain adequate funds to implement the Program within the time frame set forth under Section 14 of this Act, the Board may delay the implementation of the Program.

(u) Federal considerations. The Board shall request in writing an opinion or ruling from the appropriate entity with jurisdiction over the federal Employee Retirement Income Security Act regarding the applicability of the federal Employee Retirement Income Security Act to the Program. The Board may not implement the Program if the IRA arrangements offered under the Program fail to qualify for the favorable federal income tax treatment ordinarily accorded to IRAs under the Internal Revenue Code or if it is determined that the Program is an employee benefit plan and State or employer liability is established under the federal Employee Retirement Income Security Act.