

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1229
101ST GENERAL ASSEMBLY

2334H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 285, RSMo, by adding thereto twelve new sections relating to workplace retirement savings plans.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 285, RSMo, is amended by adding thereto twelve new sections, to
2 be known as sections 285.1000, 285.1005, 285.1010, 285.1015, 285.1020, 285.1025, 285.1030,
3 285.1035, 285.1040, 285.1045, 285.1050, and 285.1055, to read as follows:

**285.1000. For purposes of sections 285.1000 to 285.1055, the following terms shall
2 mean:**

3 **(1) "Administrative fund" or "Missouri workplace retirement savings**
4 **administrative fund", the Missouri workplace retirement savings administrative fund**
5 **described in section 285.1045;**

6 **(2) "Board", the Missouri workplace retirement savings board established under**
7 **section 285.1005;**

8 **(3) "Eligible employee", an individual who is employed by a participating**
9 **employer, who has wages or other compensation that is allocable to the state, and who is**
10 **eighteen years of age or older. "Eligible employee" shall not include any of the following:**

11 **(a) Any employee covered under the federal Railway Labor Act, 45 U.S.C. Section**
12 **151;**

13 **(b) Any employee on whose behalf an employer makes contributions to a**
14 **multiemployer pension trust fund under 29 U.S.C. Section 186; or**

15 **(c) Any individual who is an employee of:**

16 **a. The federal government;**

17 **b. Any state government in the United States; or**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 c. Any county, municipal corporation, or political subdivision of any state in the
19 United States;

20 (4) "Eligible employer", a person or entity engaged in a business, industry,
21 profession, trade, or other enterprise in the state of Missouri, whether for profit or not for
22 profit; provided that, such a person or entity employs no more than fifty employees. A
23 person or entity who qualifies as an eligible employer but who later employs more than
24 fifty employees shall be permitted to remain an eligible employer for a period of five years
25 beginning on the date on which the person or entity first employs more than fifty
26 employees. After such five-year period has ended, the person or entity shall immediately
27 cease to qualify as an eligible employer and shall be prohibited from further participation
28 in the plan. For purposes of this subdivision, an eligible employer shall not include:

29 (a) The federal government;

30 (b) The state of Missouri;

31 (c) Any county, municipal corporation, or political subdivision of the state of
32 Missouri; or

33 (d) An employer that maintains a specified tax-favored retirement plan for its
34 employees or that has effectively done so in form and operation at any time within the
35 current or two preceding calendar years. If an employer does not maintain a specified
36 tax-favored retirement plan for a portion of a calendar year ending on or after the effective
37 date of sections 285.1000 to 285.1055 and adopts such a plan effective for the remainder
38 of that calendar year, the employer shall not be treated as an eligible employer for that
39 remainder of the year;

40 (5) "ERISA", the Employee Retirement Income Security Act of 1974, as amended,
41 29 U.S.C. Section 1001 et seq.;

42 (6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

43 (7) "Participant", an eligible employee or other individual who has a balance
44 credited to his or her account under the plan;

45 (8) "Participating employer", an eligible employer that is participating in the plan
46 provided for by sections 285.1000 to 285.1055;

47 (9) "Plan" or "Missouri workplace retirement savings plan", the
48 multiple-employer retirement savings plan established by sections 285.1000 to 285.1055,
49 which shall be treated as a single plan under Title I of ERISA and is described in sections
50 401(a), 401(k), and 413(c) of the Internal Revenue Code, in which multiple employers may
51 choose to participate regardless of whether any relationship exists between and among the
52 employers other than their participation in the plan. Based on the context, the term "plan"

53 may also refer to multiple plans if multiple plans are established under sections 285.1000
54 to 285.1055;

55 (10) "Self-employed individual", an individual who is eighteen years of age or older
56 and who is self-employed and who has self-employment income or other compensation
57 from self-employment that is allocable to the state of Missouri;

58 (11) "Specified tax-favored retirement plan", a retirement plan that is tax-qualified
59 under, or is described in and satisfies the requirements of, section 401(a), 401(k), 403(a),
60 403(b), 408(k)(Simplified Employee Pension), or 408(p)(SIMPLE-IRA) of the Internal
61 Revenue Code;

62 (12) "Total fees and expenses", all fees, costs, and expenses including, but not
63 limited to, administrative expenses, investment expenses, investment advice expenses,
64 accounting costs, actuarial costs, legal costs, marketing expenses, education expenses,
65 trading costs, insurance annuitization costs, and other miscellaneous costs;

66 (13) "Trust", the trust in which the assets of the plan are held.

285.1005. 1. The "Missouri Workplace Retirement Savings Board" is hereby
2 established in the office of the state treasurer.

3 2. The board shall consist of the following members, with the state treasurer, or his
4 or her designee, serving as chair:

5 (1) The state treasurer, or his or her designee;

6 (2) An individual who has a favorable reputation for skill, knowledge, and
7 experience in the field of retirement savings and investments, to be appointed by the
8 governor with the advice and consent of the senate;

9 (3) An individual who has a favorable reputation for skill, knowledge, and
10 experience relating to small business, to be appointed by the governor with the advice and
11 consent of the senate;

12 (4) An individual who is a representative of an association representing employees
13 or who has a favorable reputation for skill, knowledge, and experience in the interests of
14 employees in retirement savings, to be appointed by the speaker of the house of
15 representatives;

16 (5) An individual who has a favorable reputation for skill, knowledge, and
17 experience in the interests of employers in retirement savings, to be appointed by the
18 president pro tempore of the senate;

19 (6) A retired individual to be a representative of the interests of retirees, to be
20 appointed by the speaker of the house of representatives;

21 **(7) An individual who has a favorable reputation for skill, knowledge, and**
22 **experience in retirement investment products or retirement plan designs, to be appointed**
23 **by the president pro tempore of the senate;**

24 **(8) A member of the house of representatives appointed by the speaker of the house**
25 **of representatives; and**

26 **(9) A member of the senate appointed by the president pro tempore of the senate.**

27 **3. The governor, the president pro tempore of the senate, and the speaker of the**
28 **house of representatives shall make the respective initial appointments to the board for**
29 **terms of office beginning on January 1, 2022.**

30 **4. Members of the board appointed by the governor, the president pro tempore of**
31 **the senate, and the speaker of the house of representatives shall serve at the pleasure of the**
32 **appointing authority.**

33 **5. The term of office of each member of the board shall be four years. Any member**
34 **is eligible to be reappointed. If there is a vacancy for any reason, the appropriate**
35 **appointing authority shall make an appointment, to become immediately effective, for the**
36 **unexpired term.**

37 **6. All members of the board shall serve without compensation and shall be**
38 **reimbursed from the administrative fund for necessary travel expenses incurred in**
39 **carrying out the duties of the board.**

40 **7. A majority of the voting members of the board shall constitute a quorum for the**
41 **transaction of business.**

285.1010. 1. The board, subject to the authority granted under sections 285.1000
2 **to 285.1055, shall design, develop, and implement the plan, and, to that end, may conduct**
3 **market, legal, and feasibility analyses.**

4 **2. The members of the board shall be fiduciaries of the plan under ERISA, and the**
5 **board shall have the following powers, authorities, and duties:**

6 **(1) To establish, implement, and maintain the plan, in each case acting on behalf**
7 **of the state of Missouri, including, in its discretion, more than one plan;**

8 **(2) To cause the plan, trust, and arrangements and accounts established under the**
9 **plan to be designed, established, and operated:**

10 **(a) In accordance with best practices for retirement savings vehicles;**

11 **(b) To encourage participation, saving, sound investment practices, and**
12 **appropriate selection of default investments;**

13 **(c) To maximize simplicity and ease of administration for eligible employers;**

14 **(d) To minimize costs, including by collective investment and economies of scale;**

15 **and**

16 (e) To promote portability of benefits;

17 (3) To arrange for collective, common, and pooled investment of assets of the plan
18 and trust, including investments in conjunction with other funds with which assets are
19 permitted to be collectively invested, with a view to saving costs through efficiencies and
20 economies of scale;

21 (4) To develop and disseminate educational information designed to educate
22 participants and citizens about the benefits of planning and saving for retirement and to
23 help participants and citizens decide the level of participation and savings strategies that
24 may be appropriate, including information in furtherance of financial capability and
25 financial literacy;

26 (5) To adopt rules and regulations necessary or advisable for the implementation
27 of sections 285.1000 to 285.1055 and the administration and operation of the plan
28 consistent with the Internal Revenue Code and regulations thereunder, including to ensure
29 that the plan satisfies all criteria for favorable federal tax-qualified treatment and
30 complies, to the extent necessary, with ERISA and any other applicable federal or Missouri
31 law. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
32 under the authority delegated in this section shall become effective only if it complies with
33 and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028.
34 This section and chapter 536 are nonseverable, and if any of the powers vested with the
35 general assembly pursuant to chapter 536 to review, to delay the effective date, or to
36 disapprove and annul a rule are subsequently held unconstitutional, then the grant of
37 rulemaking authority and any rule proposed or adopted after August 28, 2021, shall be
38 invalid and void;

39 (6) To arrange for and facilitate compliance by the plan or arrangements
40 established thereunder with all applicable requirements for the plan under the Internal
41 Revenue Code, ERISA, and any other applicable federal or Missouri law and accounting
42 requirements, and to provide or arrange for assistance to eligible employers, eligible
43 employees, and self-employed individuals in complying with applicable law and tax-related
44 requirements in a cost-effective manner. The board may establish any processes deemed
45 reasonably necessary or advisable to verify whether a person or entity is an eligible
46 employer, including reference to online data and possible use of questions in employer tax
47 filings;

48 (7) To employ or retain a plan administrator, executive director, staff, trustee,
49 record-keeper, investment managers, investment advisors, and other administrative,
50 professional, and expert advisors and service providers, none of whom shall be members
51 of the board and all of whom shall serve at the pleasure of the board, which shall

52 **determine their duties and compensation. The board may authorize the executive director**
53 **and other officials to oversee requests for proposals or other public competitions and enter**
54 **into contracts on behalf of the board or conduct any business necessary for the efficient**
55 **operation of the plan or the board;**

56 **(8) To establish procedures for the timely and fair resolution of participant and**
57 **other disputes related to accounts or program operation and, if necessary, determine the**
58 **eligibility of an employer, employee, or other individual to participate in the plan;**

59 **(9) To develop and implement an investment policy that defines the plan's**
60 **investment objectives, consistent with the objectives of the plan, and that provides for**
61 **policies and procedures consistent with those investment objectives;**

62 **(10) (a) To designate appropriate default investments that include a mix of asset**
63 **classes, such as target date and balanced funds;**

64 **(b) To seek to minimize participant fees and expenses of investment and**
65 **administration;**

66 **(c) To strive to design and implement investment options available to holders of**
67 **accounts established as part of the plan and other plan features that are intended to**
68 **achieve maximum possible income replacement balanced with an appropriate level of risk**
69 **consistent with the investment objectives under the investment policy. The investment**
70 **options may encompass a range of risk and return opportunities and allow for a rate of**
71 **return commensurate with an appropriate level of risk in view of the investment objectives**
72 **under the policy. The menu of investment options shall be determined taking into account**
73 **the nature and objectives of the plan, the desirability of limiting investment choices under**
74 **the plan to a reasonable number, based on behavioral research findings, and the extensive**
75 **investment choices available to participants in the event that funds roll over to an**
76 **individual retirement account (IRA) outside the program; and**

77 **(d) In accordance with subdivision (7) of this subsection, the board, to the extent**
78 **it deems it necessary or advisable, in carrying out its responsibilities and exercising its**
79 **powers under sections 285.1000 to 285.1055, shall employ or retain appropriate entities or**
80 **personnel to assist or advise it or to whom to delegate the carrying out of such**
81 **responsibilities and exercising of such powers;**

82 **(11) To discharge its duties and see to it that the members of the board discharge**
83 **their duties with respect to the plan solely in the interest of the participants as follows:**

84 **(a) For the exclusive purpose of providing benefits to participants and defraying**
85 **reasonable expenses of administering the plan; and**

86 **(b) With the care, skill, prudence, and diligence under the circumstances then**
87 **prevailing that a prudent person acting in a like capacity and familiar with those matters**
88 **would use in the conduct of an enterprise of a like character and with like aims;**

89 **(12) To cause expenses incurred to initiate, implement, maintain, and administer**
90 **the plan to be paid from contributions to, or investment returns or assets of, the plan or**
91 **other moneys collected by or for the plan or pursuant to arrangements established under**
92 **the plan to the extent permitted under federal and Missouri law;**

93 **(13) To collect application, account, or administrative fees and to accept any grants,**
94 **gifts, legislative appropriations, loans, and other moneys from the state of Missouri, any**
95 **unit of federal, state, or local government, or any other person, firm, or entity to defray the**
96 **costs of administering and operating the plan;**

97 **(14) To make and enter into competitively procured contracts, agreements, or**
98 **arrangements with; to collaborate and cooperate with; and to retain, employ, and contract**
99 **with or for any of the following to the extent necessary or desirable for the effective and**
100 **efficient design, implementation, and administration of the plan consistent with the**
101 **purposes set forth in sections 285.1000 to 285.1055 and to maximize outreach to eligible**
102 **employers and eligible employees:**

103 **(a) Services of private and public financial institutions, depositories, consultants,**
104 **actuaries, counsel, auditors, investment advisors, investment administrators, investment**
105 **management firms, other investment firms, third-party administrators, other professionals**
106 **and service providers, and state public retirement systems;**

107 **(b) Research, technical, financial, administrative, and other services; and**

108 **(c) Services of other state agencies to assist the board in the exercise of its powers**
109 **and duties;**

110 **(15) To develop and implement an outreach plan to gain input and disseminate**
111 **information regarding the plan and retirement savings in general;**

112 **(16) To cause moneys to be held and invested and reinvested under the plan;**

113 **(17) To ensure that all contributions under the plan may be used only to:**

114 **(a) Pay benefits to participants under the plan;**

115 **(b) Pay the costs of administering the plan; and**

116 **(c) Make investments for the benefit of the plan, and ensure that no assets of the**
117 **plan or trust are transferred to the general revenue fund or to any other fund of the state**
118 **or are otherwise encumbered or used for any purpose other than those specified in this**
119 **paragraph or section 285.1045;**

120 **(18) To make provisions for the payment of costs of administration and operation**
121 **of the program and trust;**

122 **(19) To evaluate the need for, and procure as needed, insurance against any and**
123 **all loss in connection with the property, assets, or activities of the program, including**
124 **fiduciary liability coverage;**

125 **(20) To evaluate the need for, and procure as needed, pooled private insurance;**

126 **(21) To indemnify, including procurement of insurance as needed for this purpose,**
127 **each member of the board from personal loss or liability resulting from a member's action**
128 **or inaction as a member of the board and as a fiduciary;**

129 **(22) To collaborate with, and evaluate the role of, financial advisors or other**
130 **financial professionals, including in assisting and providing guidance for covered**
131 **employees; and**

132 **(23) To carry out the powers and duties of the program under sections 285.1000 to**
133 **285.1055 and exercise any and all other powers as are appropriate to effect the purposes,**
134 **objectives, and provisions of such sections pertaining to the program.**

135 **3. A board member, program administrator, or other staff of the board shall not:**

136 **(1) Directly or indirectly, have any interest in the making of any investment under**
137 **the program or in any gains or profits accruing from any such investment;**

138 **(2) Borrow any program-related funds or deposits, or use any such funds or**
139 **deposits in any manner, for himself or herself or as an agent or partner of others; or**

140 **(3) Become an endorser, surety, or obligor on investments made under the**
141 **program.**

142 **4. Each board member shall be subject to the provisions of sections 105.452 and**
143 **105.454.**

285.1015. 1. The board shall, consistent with federal law and regulation, adopt and
2 **implement the plan, which shall remain in compliance with federal law and regulations**
3 **once implemented and shall be called the "Missouri Workplace Retirement Savings Plan".**

4 **2. In accordance with terms and conditions specified and regulations promulgated**
5 **by the board, the plan shall:**

6 **(1) Be set forth in documents prescribing the terms and conditions of the plan;**

7 **(2) Be available on a voluntary basis to eligible employers and self-employed**
8 **individuals;**

9 **(3) After appropriate written notice, automatically enroll all eligible employees who**
10 **choose to participate in the plan by not opting out;**

11 **(4) Enroll self-employed individuals who wish to participate;**

12 **(5) Provide participants the option to terminate their participation at any time;**

13 **(6) Allow voluntary pre-tax or designated Roth 401(k) contributions;**

14 **(7) Allow voluntary employer contributions;**

- 15 **(8) Be overseen by the board and its designees;**
- 16 **(9) Be administered and managed by one or more trustees, other fiduciaries,**
17 **custodians, third-party administrators, investment managers, record-keepers, or other**
18 **service providers;**
- 19 **(10) Provide that, unless he or she otherwise specifies, an eligible employee shall**
20 **automatically contribute five percent of his or her salary or wages to the plan or may elect**
21 **to opt out of the plan or may contribute at a higher or lower rate, expressed as a**
22 **percentage of salary or wages; except that, the board, in its discretion, may change the five**
23 **percent initial automatic default contribution rate;**
- 24 **(11) Provide on a uniform basis, if and when the board so determines, in its**
25 **discretion, for an increase of each participant's contribution rate, by a minimum increment**
26 **of one-half of one percent of salary or wages per year, for each additional year the**
27 **participant is employed or is participating in the plan up to the maximum percentage of**
28 **such participant's salary or wages that may be contributed to the plan under federal law.**
29 **Any such increases shall apply to participants, as determined by the board, by default or**
30 **only if initiated by affirmative participant election;**
- 31 **(12) Provide for direct deposit of contributions into investments under the plan.**
32 **To the extent consistent with ERISA, the investment alternatives under the plan shall be**
33 **limited to an automatic investment for participants who do not actively and affirmatively**
34 **elect a particular investment option, which, unless the board provides otherwise, shall be**
35 **a diversified target date fund, including a series of such diversified funds to apply to**
36 **different participants depending on their choice or their target retirement dates, a**
37 **principal-protected option, and up to four additional investment alternatives as may be**
38 **selected by the board in its discretion. To the extent consistent with ERISA, the investment**
39 **options may, at the discretion of the board, include a principal-protection fund as a**
40 **temporary "security corridor" option that applies as the sole initial investment before**
41 **participants may choose other investments or as the initial default investment for a**
42 **specified period of time or up to a specified dollar amount of contributions or account**
43 **balance;**
- 44 **(13) Be professionally managed;**
- 45 **(14) Provide for reports on the status of each participant's account to be provided**
46 **to each participant at least annually and make best efforts to provide participants frequent**
47 **or continual online access to information on the status of their accounts;**
- 48 **(15) When possible and practicable, use existing employer and public**
49 **infrastructure to facilitate contributions, record keeping, and outreach and use pooled or**
50 **collective investment arrangements;**

51 **(16) Provide that each account holder owns the contributions to or earnings on**
52 **amounts contributed to his or her account under the plan and that the state and employers**
53 **have no proprietary interest in those contributions or earnings;**

54 **(17) Be designed and implemented in a manner consistent with federal law to the**
55 **extent that it applies;**

56 **(18) Make provisions for the participation in the plan of individuals who are not**
57 **employees, if allowed under federal law;**

58 **(19) Establish rules and procedures governing the distribution of funds from the**
59 **plan, including such distributions as may be permitted or required by the plan and any**
60 **applicable provisions of ERISA, the tax-qualification rules, and the other tax laws, with**
61 **the objectives of maximizing financial security in retirement, protecting spousal rights, and**
62 **assisting participants to effectively manage the decumulation of their savings and to receive**
63 **payment of their benefits under the plan. The board shall have the authority, in its**
64 **discretion, to provide for one or more reasonably priced distribution options to provide a**
65 **source of fixed regular retirement income, including income for life or for the participant's**
66 **life expectancy, or for joint lives and life expectancies, as applicable;**

67 **(20) Establish rules and procedures promoting portability of benefits, including the**
68 **ability to make tax-free rollovers or transfers to and from the plan, provided that any**
69 **roll-over is initiated by participants; and**

70 **(21) Encourage choices by employers in the state to adopt a specified tax-favored**
71 **retirement plan, including the plan.**

285.1020. The board shall adopt rules to implement the plan that:

2 **(1) Establish the processes for enrollment and contributions under the plan,**
3 **including withholding by participating employers of employee payroll deduction**
4 **contributions from wages and remittance for deposit to the plan, automatic enrollment and**
5 **opt-outs by eligible employees, voluntary contributions by others, including self-employed**
6 **individuals and independent contractors, through payroll deduction or otherwise, the**
7 **making of default contributions using default investments, and participant selection of**
8 **alternative contribution rates or amounts and alternative investments from among the**
9 **options offered under the plan;**

10 **(2) Conduct outreach to individuals, employers, other stakeholders, and the public**
11 **regarding the plan. The rules shall specify the contents, frequency, timing, and means of**
12 **required disclosures from the plan to eligible employees, participants, and self-employed**
13 **individuals, eligible employers, participating employers, and other interested parties.**
14 **These disclosures shall include, but need not be limited to:**

15 **(a) The benefits associated with tax-favored retirement saving;**

16 **(b) The potential advantages and disadvantages associated with participating in the**
17 **plan;**

18 **(c) Instructions for enrolling, making contributions, and opting out of**
19 **participation;**

20 **(d) The potential availability of a saver's tax credit, including the eligibility**
21 **conditions for the credit and instructions on how to claim it;**

22 **(e) A disclaimer that employees seeking tax, investment, or other financial advice**
23 **should contact appropriate professional advisors, and that participating employers are not**
24 **in a position to provide such advice and are not liable for decisions individuals make in**
25 **relation to the plan;**

26 **(f) The potential implications of account balances under the plan for the application**
27 **of asset limits under certain public assistance programs;**

28 **(g) A disclaimer that the account owner is solely responsible for investment**
29 **performance, including market gains and losses, and that plan accounts and rates of return**
30 **are not guaranteed by any employer, the state, the board, any board member or state**
31 **official, or the plan;**

32 **(h) Any additional information about retirement and saving and other information**
33 **designed to promote financial literacy and capability, which may take the form of links to,**
34 **or explanations of how to obtain, such information; and**

35 **(i) Instructions on how to obtain additional information about the plan; and**

36 **(3) Ensure that the assets of the trust and plan shall at all times be preserved,**
37 **invested, and expended only for the purposes set forth in sections 285.1000 to 285.1055, and**
38 **that no property rights therein shall exist in favor of the state, except as provided under**
39 **section 285.1045.**

285.1025. An eligible employer, a participating employer, or other employer is not
2 **and shall not be liable for or bear responsibility for:**

3 **(1) An employee's decision to participate in or opt out of the plan;**

4 **(2) An employee's decision as to which investments to choose;**

5 **(3) Participants' or the board's investment decisions;**

6 **(4) The administration, investment, investment returns, or investment performance**
7 **of the plan, including without limitation any interest rate or other rate of return on any**
8 **contribution or account balance, provided that the eligible employer, participating**
9 **employer, or other employer is not involved in the administration or investment of the**
10 **plan;**

11 **(5) The plan design or the benefits paid to participants; or**

12 **(6) Any loss, failure to realize any gain, or any other adverse consequences,**
13 **including without limitation any adverse tax consequences or loss of favorable tax**
14 **treatment, public assistance, or other benefits, incurred by any person as a result of**
15 **participating in the plan.**

285.1030. 1. The state of Missouri; the board; each member of the board; any other
2 **state official, state board, commission, and agency; any member, officer, and employee**
3 **thereof; and the plan:**

4 **(1) Shall not guarantee any interest rate or other rate of return on or investment**
5 **performance of any contribution or account balance; and**

6 **(2) Shall not be liable or responsible for any loss, deficiency, failure to realize any**
7 **gain, or any other adverse consequences, including without limitation any adverse tax**
8 **consequences or loss of favorable tax treatment, public assistance, or other benefits,**
9 **incurred by any person as a result of participating in the plan.**

10 **2. The debts, contracts, and obligations of the plan or the board are not the debts,**
11 **contracts, and obligations of the state, and neither the faith and credit nor the taxing power**
12 **of the state is pledged directly or indirectly to the payment of the debts, contracts, and**
13 **obligations of the plan or the board.**

14 **3. Nothing in sections 285.1000 to 285.1055 shall be construed to guarantee any**
15 **interest rate or other rate of return on or investment performance of any contribution or**
16 **account balance.**

285.1035. 1. Individual account information relating to accounts under the plan
2 **and relating to individual participants including, but not limited to, names, addresses,**
3 **telephone numbers, email addresses, personal identification information, investments,**
4 **contributions, and earnings shall be confidential and shall be maintained as confidential,**
5 **provided that such information may be disclosed:**

6 **(1) To the extent necessary to administer the plan in a manner consistent with**
7 **sections 285.1000 to 285.1055, ERISA, the Internal Revenue Code, or any other federal or**
8 **Missouri law; or**

9 **(2) If the individual who provides the information or who is the subject of the**
10 **information expressly agrees in writing to the disclosure of the information.**

11 **2. Information required to be confidential under subsection 1 of this section shall**
12 **be considered a "closed record" as that term is defined in section 610.010.**

285.1040. The board may enter into an intergovernmental agreement or
2 **memorandum of understanding with the state of Missouri and any agency thereof to**
3 **receive outreach, technical assistance, enforcement and compliance services, collection or**
4 **dissemination of information pertinent to the plan, subject to such obligations of**

5 confidentiality as may be agreed or required by law, or other services or assistance. The
6 state of Missouri and any agency thereof that enters into such agreements or memoranda
7 of understanding shall collaborate to provide the outreach, assistance, information, and
8 compliance or other services or assistance to the board. The memoranda of understanding
9 may cover the sharing of costs incurred in gathering and disseminating information and
10 the reimbursement of costs for any enforcement activities or assistance.

285.1045. 1. There is hereby created in the state treasury the "Missouri Workplace
2 Retirement Savings Administrative Fund", which shall consist of moneys collected under
3 this section. The state treasurer shall be custodian of the fund. In accordance with sections
4 30.170 and 30.180, the state treasurer may approve disbursements. Subject to
5 appropriation, moneys in the fund shall be distributed by the state treasurer solely for the
6 administration of sections 285.1000 to 285.1055.

7 2. Notwithstanding the provisions of section 33.080 to the contrary, any moneys
8 remaining in the fund at the end of the biennium shall not revert to the credit of the
9 general revenue fund.

10 3. The state treasurer shall invest moneys in the fund in the same manner as other
11 funds are invested. Any interest and moneys earned on such investments shall be credited
12 to the fund.

13 4. The Missouri workplace retirement savings administrative fund shall consist of:

14 (1) Moneys appropriated to the administrative fund by the general assembly;

15 (2) Moneys transferred to the administrative fund from the federal government,
16 other state agencies, or local governments;

17 (3) Moneys from the payment of application, account, administrative, or other fees
18 and the payment of other moneys due to the board;

19 (4) Any gifts, donations, or grants made to the state of Missouri for deposit in the
20 administrative fund;

21 (5) Moneys collected for the administrative fund from contributions to, or
22 investment returns or assets of, the plan or other moneys collected by or for the plan or
23 pursuant to arrangements established under the plan to the extent permitted under federal
24 and Missouri law; and

25 (6) Earnings on moneys in the administrative fund.

26 5. To the extent consistent with ERISA, the tax qualification rules, and other
27 federal law, the board shall accept any grants, gifts, appropriations, or other moneys from
28 the state, any unit of federal, state, or local government, or any other person, firm,
29 partnership, corporation, or other entity solely for deposit into the administrative fund,
30 whether for investment or administrative expenses.

31 **6. To enable or facilitate the start-up and continuing operation, maintenance,**
32 **administration, and management of the program until the plan accumulates sufficient**
33 **balances and can generate sufficient funding through fees assessed on program accounts**
34 **for the plan to become financially self-sustaining:**

35 **(1) The board may borrow from the state of Missouri; any unit of federal, state, or**
36 **local government; or any other person, firm, partnership, corporation, or other entity**
37 **working capital funds and other funds as may be necessary for this purpose, provided that**
38 **such funds are borrowed in the name of the plan and board only and that any such**
39 **borrowings shall be payable solely from the revenues of the plan; and**

40 **(2) The board may enter into long-term procurement contracts with one or more**
41 **financial providers that provide a fee structure that would assist the plan in avoiding or**
42 **minimizing the need to borrow or to rely upon general assets of the state.**

43 **7. Subject to appropriation, the state of Missouri may pay administrative costs**
44 **associated with the creation, maintenance, operation, and management of the plan and**
45 **trust until sufficient assets are available in the administrative fund for that purpose.**
46 **Thereafter, all administrative costs of the administrative fund, including any repayment**
47 **of start-up funds provided by the state of Missouri, shall be repaid only out of moneys on**
48 **deposit therein. However, private funds or federal funding received in order to implement**
49 **the program until the administrative fund is self-sustaining shall not be repaid unless those**
50 **funds were offered contingent upon the promise of such repayment.**

51 **8. The board may use the moneys in the administrative fund solely to pay the**
52 **administrative costs and expenses of the plan and the administrative costs and expenses the**
53 **board incurs in the performance of its duties under sections 285.1000 to 285.1055.**

285.1050. 1. The board shall keep an accurate account of all the activities,
2 **operations, receipts, and expenditures of the plan, the trust, and the board. Each year, a**
3 **full audit of the books and accounts of the board pertaining to those activities, operations,**
4 **receipts and expenditures, personnel, services, or facilities shall be conducted by a certified**
5 **public accountant and shall include, but not be limited to, direct and indirect costs**
6 **attributable to the use of outside consultants, independent contractors, and any other**
7 **persons who are not state employees for the administration of the plan. For the purposes**
8 **of the audit, the auditors shall have access to the properties and records of the plan and**
9 **board and may prescribe methods of accounting and the rendering of periodic reports in**
10 **relation to projects undertaken by the plan.**

11 **2. By August first of each year, the board shall submit to the governor, the state**
12 **treasurer, the president pro tempore of the senate, and the speaker of the house of**
13 **representatives a public report on the operation of the plan and trust and activities of the**

14 board, including an audited financial report, prepared in accordance with generally
15 accepted accounting principles, detailing the activities, operations, receipts, and
16 expenditures of the plan and board during the preceding calendar year. The report shall
17 also include a summary of the benefits provided by the plan, the number of participants,
18 the names of the participating employers, the contribution formulas and amounts of
19 contributions made by participants and by each participating employer, the withdrawals,
20 the account balances, investments, investment returns, and fees and expenses associated
21 with the investments and with the administration of the plan, projected activities of the
22 plan for the current calendar year, and any other information regarding the plan and its
23 operations that the board may determine to provide.

285.1055. 1. The board shall establish the plan so that individuals are able to begin
2 contributing under the plan no later than September 1, 2023.

3 2. The board may, in its discretion, phase in the plan so that the ability to
4 contribute first applies on different dates for different classes of individuals, including
5 employees of employers of different sizes or types and individuals who are not employees;
6 provided that, any such staged or phased-in implementation schedule shall be substantially
7 completed no later than September 1, 2023.

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