

Senator Todd Weiler proposes the following substitute bill:

SMALL EMPLOYER RETIREMENT AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Todd Weiler

House Sponsor: Dixon M. Pitcher

LONG TITLE

General Description:

This bill modifies provisions related to the state treasurer establishing the Utah Voluntary Employee Retirement Accounts Program and creating certain tax credits.

Highlighted Provisions:

This bill:

- ▶ addresses permissible diversion of wages;
- ▶ creates nonrefundable tax credits for employer participation in certain retirement plans;
- ▶ permits depositing tax refunds into the program;
- ▶ enacts the Utah Voluntary Employee Retirement Accounts Program, including:
 - defining terms;
 - requiring liberal construction and compliance with federal and state law;
 - directing the state treasurer to create the program;
 - providing for the administration of the program, including authorizing contracts with one or more providers of services;
 - addressing education about the program;
 - requiring certain information to be provided;
 - addressing confidentiality of information;



- 26 • providing for participation by small nongovernmental employers or employees
- 27 of nongovernmental employers;
- 28 • requiring annual notification related to participation; and
- 29 • requiring reports to participating employees and participating employers; and
- 30 ▶ makes technical changes.

31 **Money Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 This bill provides a special effective date.

35 This bill provides retrospective operation.

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **34-28-3**, as last amended by Laws of Utah 2014, Chapter 188

39 **59-1-403**, as last amended by Laws of Utah 2015, Chapters 411 and 451

40 ENACTS:

41 **59-7-621**, Utah Code Annotated 1953

42 **59-10-1036**, Utah Code Annotated 1953

43 **59-10-1319**, Utah Code Annotated 1953

44 **67-4b-101**, Utah Code Annotated 1953

45 **67-4b-102**, Utah Code Annotated 1953

46 **67-4b-103**, Utah Code Annotated 1953

47 **67-4b-201**, Utah Code Annotated 1953

48 **67-4b-202**, Utah Code Annotated 1953

49 **67-4b-203**, Utah Code Annotated 1953

50 **67-4b-204**, Utah Code Annotated 1953

51 **67-4b-205**, Utah Code Annotated 1953

52 **67-4b-301**, Utah Code Annotated 1953

53 **67-4b-302**, Utah Code Annotated 1953

54 **67-4b-303**, Utah Code Annotated 1953

55

56 *Be it enacted by the Legislature of the state of Utah:*

57 Section 1. Section 34-28-3 is amended to read:

58 **34-28-3. Regular paydays -- Currency or negotiable checks required -- Deposit in**
59 **financial institution -- Statement of total deductions -- Unlawful withholding or diversion**
60 **of wages.**

61 (1) (a) An employer shall pay the wages earned by an employee at regular intervals, but
62 in periods no longer than semimonthly on days to be designated in advance by the employer as
63 the regular payday.

64 (b) An employer shall pay for services rendered during a pay period within 10 days
65 after the close of that pay period.

66 (c) If a payday falls on a Saturday, Sunday, or legal holiday, an employer shall pay
67 wages earned during the pay period on the day preceding the Saturday, Sunday, or legal
68 holiday.

69 (d) If an employer hires an employee on a yearly salary basis, the employer may pay the
70 employee on a monthly basis by paying on or before the seventh of the month following the
71 month for which services are rendered.

72 (e) Wages shall be paid in full to an employee:

73 (i) in lawful money of the United States;

74 (ii) by a check or draft on a depository institution, as defined in Section 7-1-103, that is
75 convertible into cash on demand at full face value; or

76 (iii) by electronic transfer to the depository institution designated by the employee.

77 (2) An employer may not issue in payment of wages due or as an advance on wages to
78 be earned for services performed or to be performed within this state an order, check, or draft
79 unless:

80 (a) it is negotiable and payable in cash, on demand, without discount, at a depository
81 institution; and

82 (b) the name and address of the depository institution appears on the instrument.

83 (3) (a) Except as provided in Subsection (3)(b), an employee may refuse to have the
84 employee's wages deposited by electronic transfer under Subsection (1)(e)(iii) by filing a
85 written request with the employer.

86 (b) An employee may not refuse to have the employee's wages deposited by electronic
87 transfer under Subsection (3)(a) if:

88 (i) for the calendar year preceding the pay period for which the employee is being paid,
89 the employer's federal employment tax deposits are equal to or in excess of \$250,000; and

90 (ii) at least two-thirds of the employees of the employer have their wages deposited by
91 electronic transfer.

92 (c) An employer may not designate a particular depository institution for the exclusive
93 payment or deposit of a check or draft for wages.

94 (4) If a deduction is made from the wages paid, the employer shall, on each regular
95 payday, furnish the employee with a statement showing the total amount of each deduction.

96 (5) An employer licensed under Title 58, Chapter 55, Utah Construction Trades
97 Licensing Act, shall:

98 (a) on the day on which the employer pays an employee, give the employee a written or
99 electronic pay statement that states:

100 (i) the employee's name;

101 (ii) the employee's base rate of pay;

102 (iii) the dates of the pay period for which the individual is being paid;

103 (iv) if paid hourly, the number of hours the employee worked during the pay period;

104 (v) the amount of and reason for any money withheld in accordance with state or
105 federal law, including:

106 (A) state and federal income tax;

107 (B) social security tax;

108 (C) Medicare tax; and

109 (D) court-ordered withholdings; and

110 (vi) the total amount paid to the employee for that pay period; and

111 (b) comply with the requirements described in Subsection (5)(a) regardless of whether
112 the employer pays the employee by check, cash, or other means.

113 (6) An employer may not withhold or divert part of an employee's wages unless:

114 (a) the employer is required to withhold or divert the wages by:

115 (i) court order; or

116 (ii) state or federal law;

117 (b) the employee expressly authorizes the deduction in writing;

118 (c) the employer presents evidence that in the opinion of a hearing officer or an

119 administrative law judge would warrant an offset; [~~or~~]

120 (d) subject to Subsection (8), the employer withholds or diverts the wages:

121 (i) as a contribution of the employee under a contract or plan that is:

122 (A) described in Section 401(k), 403(b), 408, 408A, or 457, Internal Revenue Code;

123 and

124 (B) established by the employer; and

125 (ii) the contract or plan described in Subsection (6)(d)(i) provides that an employee's
126 compensation is reduced by a specified contribution:

127 (A) under the contract or plan; and

128 (B) that is made for the employee unless the employee affirmatively elects:

129 (I) to not have a reduction made as a contribution by the employee under the contract
130 or plan; or

131 (II) to have a different amount be contributed by the employee under the contract or
132 plan[.]; or

133 (e) in accordance with Title 67, Chapter 4b, Utah Voluntary Employee Retirement
134 Accounts Program.

135 (7) An employer may not require an employee to rebate, refund, offset, or return a part
136 of the wage, salary, or compensation to be paid to the employee except as provided in
137 Subsection (6).

138 (8) (a) An employer shall notify an employee in writing of the right to make an election
139 under Subsection (6)(d).

140 (b) An employee may make an election described in Subsection (6)(d) at any time by
141 providing the employer written notice of the election.

142 (c) An employer shall modify or terminate the withholding or diversion described in
143 Subsection (6)(d) beginning with a pay period that begins no later than 30 days following the
144 day on which the employee provides the employer the written notice described in Subsection
145 (8)(b).

146 (9) An employer is not prohibited from pursuing legitimate claims of damages, offsets,
147 or recoupments in a civil action against an employee.

148 Section 2. Section **59-1-403** is amended to read:

149 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

150 (1) (a) Any of the following may not divulge or make known in any manner any
151 information gained by that person from any return filed with the commission:

- 152 (i) a tax commissioner;
- 153 (ii) an agent, clerk, or other officer or employee of the commission; or
- 154 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or
155 town.

156 (b) An official charged with the custody of a return filed with the commission is not
157 required to produce the return or evidence of anything contained in the return in any action or
158 proceeding in any court, except:

- 159 (i) in accordance with judicial order;
- 160 (ii) on behalf of the commission in any action or proceeding under:
 - 161 (A) this title; or
 - 162 (B) other law under which persons are required to file returns with the commission;
- 163 (iii) on behalf of the commission in any action or proceeding to which the commission
164 is a party; or
- 165 (iv) on behalf of any party to any action or proceeding under this title if the report or
166 facts shown by the return are directly involved in the action or proceeding.

167 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may
168 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically
169 pertinent to the action or proceeding.

170 (2) This section does not prohibit:

171 (a) a person or that person's duly authorized representative from receiving a copy of
172 any return or report filed in connection with that person's own tax;

173 (b) the publication of statistics as long as the statistics are classified to prevent the
174 identification of particular reports or returns; and

175 (c) the inspection by the attorney general or other legal representative of the state of the
176 report or return of any taxpayer:

- 177 (i) who brings action to set aside or review a tax based on the report or return;
- 178 (ii) against whom an action or proceeding is contemplated or has been instituted under
179 this title; or
- 180 (iii) against whom the state has an unsatisfied money judgment.

181 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the
182 commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
183 Rulemaking Act, provide for a reciprocal exchange of information with:

184 (i) the United States Internal Revenue Service; or

185 (ii) the revenue service of any other state.

186 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
187 corporate franchise tax, the commission may by rule, made in accordance with Title 63G,
188 Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and
189 other written statements with the federal government, any other state, any of the political
190 subdivisions of another state, or any political subdivision of this state, except as limited by
191 Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal
192 government grant substantially similar privileges to this state.

193 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
194 corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3,
195 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the
196 identity and other information of taxpayers who have failed to file tax returns or to pay any tax
197 due.

198 (d) Notwithstanding Subsection (1), the commission shall provide to the director of the
199 Division of Environmental Response and Remediation, as defined in Section 19-6-402, as
200 requested by the director of the Division of Environmental Response and Remediation, any
201 records, returns, or other information filed with the commission under Chapter 13, Motor and
202 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
203 participation fee.

204 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
205 provide that person sales and purchase volume data reported to the commission on a report,
206 return, or other information filed with the commission under:

207 (i) Chapter 13, Part 2, Motor Fuel; or

208 (ii) Chapter 13, Part 4, Aviation Fuel.

209 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
210 as defined in Section 59-22-202, the commission shall report to the manufacturer:

211 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the

212 manufacturer and reported to the commission for the previous calendar year under Section
213 59-14-407; and

214 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
215 manufacturer for which a tax refund was granted during the previous calendar year under
216 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

217 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,
218 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited
219 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

220 (h) Notwithstanding Subsection (1), the commission may:

221 (i) provide to the Division of Consumer Protection within the Department of
222 Commerce and the attorney general data:

223 (A) reported to the commission under Section 59-14-212; or

224 (B) related to a violation under Section 59-14-211; and

225 (ii) upon request, provide to any person data reported to the commission under
226 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

227 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee
228 of the Legislature, the Office of [the] Legislative Fiscal Analyst, or the Governor's Office of
229 Management and Budget, provide to the committee or office the total amount of revenues
230 collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the
231 time period specified by the committee or office.

232 (j) Notwithstanding Subsection (1), the commission shall make the directory required
233 by Section 59-14-603 available for public inspection.

234 (k) Notwithstanding Subsection (1), the commission may share information with
235 federal, state, or local agencies as provided in Subsection 59-14-606(3).

236 (l) (i) Notwithstanding Subsection (1), the commission shall provide the Office of
237 Recovery Services within the Department of Human Services any relevant information
238 obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer
239 who has become obligated to the Office of Recovery Services.

240 (ii) The information described in Subsection (3)(l)(i) may be provided by the Office of
241 Recovery Services to any other state's child support collection agency involved in enforcing
242 that support obligation.

243 (m) (i) Notwithstanding Subsection (1), upon request from the state court
244 administrator, the commission shall provide to the state court administrator, the name, address,
245 telephone number, county of residence, and social security number on resident returns filed
246 under Chapter 10, Individual Income Tax Act.

247 (ii) The state court administrator may use the information described in Subsection
248 (3)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

249 (n) Notwithstanding Subsection (1), the commission shall at the request of a
250 committee, commission, or task force of the Legislature provide to the committee, commission,
251 or task force of the Legislature any information relating to a tax imposed under Chapter 9,
252 Taxation of Admitted Insurers, relating to the study required by Section 59-9-101.

253 (o) (i) As used in this Subsection (3)(o), "office" means the:

254 (A) Office of [the] Legislative Fiscal Analyst; or

255 (B) Office of Legislative Research and General Counsel.

256 (ii) Notwithstanding Subsection (1) and except as provided in Subsection (3)(o)(iii),
257 the commission shall at the request of an office provide to the office all information:

258 (A) gained by the commission; and

259 (B) required to be attached to or included in returns filed with the commission.

260 (iii) (A) An office may not request and the commission may not provide to an office a
261 person's:

262 (I) address;

263 (II) name;

264 (III) social security number; or

265 (IV) taxpayer identification number.

266 (B) The commission shall in all instances protect the privacy of a person as required by
267 Subsection (3)(o)(iii)(A).

268 (iv) An office may provide information received from the commission in accordance
269 with this Subsection (3)(o) only:

270 (A) as:

271 (I) a fiscal estimate;

272 (II) fiscal note information; or

273 (III) statistical information; and

274 (B) if the information is classified to prevent the identification of a particular return.

275 (v) (A) A person may not request information from an office under Title 63G, Chapter
276 2, Government Records Access and Management Act, or this section, if that office received the
277 information from the commission in accordance with this Subsection (3)(o).

278 (B) An office may not provide to a person that requests information in accordance with
279 Subsection (3)(o)(v)(A) any information other than the information the office provides in
280 accordance with Subsection (3)(o)(iv).

281 (p) Notwithstanding Subsection (1), the commission may provide to the governing
282 board of the agreement or a taxing official of another state, the District of Columbia, the United
283 States, or a territory of the United States:

284 (i) the following relating to an agreement sales and use tax:

285 (A) information contained in a return filed with the commission;

286 (B) information contained in a report filed with the commission;

287 (C) a schedule related to Subsection (3)(p)(i)(A) or (B); or

288 (D) a document filed with the commission; or

289 (ii) a report of an audit or investigation made with respect to an agreement sales and
290 use tax.

291 (q) Notwithstanding Subsection (1), the commission may provide information
292 concerning a taxpayer's state income tax return or state income tax withholding information to
293 the Driver License Division if the Driver License Division:

294 (i) requests the information; and

295 (ii) provides the commission with a signed release form from the taxpayer allowing the
296 Driver License Division access to the information.

297 (r) Notwithstanding Subsection (1), the commission shall provide to the Utah
298 Communications Authority, or a division of the Utah Communications Authority, the
299 information requested by the authority under Sections [63H-7a-302](#), [63H-7a-402](#), and
300 [63H-7a-502](#).

301 (s) Notwithstanding Subsection (1), the commission shall provide to the Utah
302 Educational Savings Plan information related to a resident or nonresident individual's
303 contribution to a Utah Educational Savings Plan account as designated on the resident or
304 nonresident's individual income tax return as provided under Section [59-10-1313](#).

305 (t) Notwithstanding Subsection (1), for the purpose of verifying eligibility under
306 Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the
307 Department of Health or its designee with the adjusted gross income of an individual if:

308 (i) an eligibility worker with the Department of Health or its designee requests the
309 information from the commission; and

310 (ii) the eligibility worker has complied with the identity verification and consent
311 provisions of Sections 26-18-2.5 and 26-40-105.

312 (u) Notwithstanding Subsection (1), the commission may provide to a county, as
313 determined by the commission, information declared on an individual income tax return in
314 accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption
315 authorized under Section 59-2-103.

316 (v) Notwithstanding Subsection (1), the commission shall provide to the state treasurer
317 information related to a resident or nonresident individual's contribution to the Utah Voluntary
318 Employee Retirement Accounts Program as designated on the resident or nonresident's
319 individual income tax return as provided under Section 59-10-1319.

320 (4) (a) Each report and return shall be preserved for at least three years.

321 (b) After the three-year period provided in Subsection (4)(a) the commission may
322 destroy a report or return.

323 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

324 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,
325 the person shall be dismissed from office and be disqualified from holding public office in this
326 state for a period of five years thereafter.

327 (c) Notwithstanding Subsection (5)(a) or (b), an office that requests information in
328 accordance with Subsection (3)(o)(iii) or a person that requests information in accordance with
329 Subsection (3)(o)(v):

330 (i) is not guilty of a class A misdemeanor; and

331 (ii) is not subject to:

332 (A) dismissal from office in accordance with Subsection (5)(b); or

333 (B) disqualification from holding public office in accordance with Subsection (5)(b).

334 (6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

335 Section 3. Section 59-7-621 is enacted to read:

336 **59-7-621. Nonrefundable tax credit for employer's participation in Utah**
337 **Voluntary Employee Retirement Accounts Program.**

338 (1) As used in this section:

339 (a) "Participating employer" means the same as that term is defined in Section
340 67-4b-102.

341 (b) "Program" means the same as that term is defined in Section 67-4b-102.

342 (c) "Small nongovernmental employer" means the same as that term is defined in
343 Section 67-4b-102.

344 (2) (a) For a taxable year beginning on or after January 1, 2016, but beginning on or
345 before December 31, 2017, a participating employer or small nongovernmental employer may
346 claim a nonrefundable tax credit as provided in this Subsection (2).

347 (b) Subject to the other provisions of this section, the tax credit is \$500:

348 (i) (A) for the first year that the participating employer elects to participate in the
349 program; and

350 (B) for which the participating employer receives a statement in accordance with
351 Section 67-4b-303 confirming that the participating employer elects to participate in the
352 program; or

353 (ii) for the first year that a small nongovernmental employer, that is not a participating
354 employer, contracts to participate in a retirement plan for its employees that provides for
355 payroll deductions.

356 (3) A tax credit under this section may not be carried forward or carried back.
357 Section 4. Section 59-10-1036 is enacted to read:

358 **59-10-1036. Nonrefundable tax credit for participation in Utah Voluntary**
359 **Employee Retirement Accounts Program.**

360 (1) As used in this section:

361 (a) "Participating employer" means the same as that term is defined in Section
362 67-4b-102.

363 (b) "Program" means the same as that term is defined in Section 67-4b-102.

364 (c) "Small nongovernmental employer" means the same as that term is defined in
365 Section 67-4b-102.

366 (2) (a) For a taxable year beginning on or after January 1, 2016, but beginning on or

367 before December 31, 2017, a participating employer or small nongovernmental employer may
368 claim a nonrefundable tax credit as provided in this Subsection (2).

369 (b) Subject to the other provisions of this section, the tax credit is \$500:

370 (i) (A) for the first year that the participating employer elects to participate in the
371 program; and

372 (B) for which the participating employer receives a statement in accordance with
373 Section 67-4b-303 confirming that the participating employer elects to participate in the
374 program; or

375 (ii) for the first year that a small nongovernmental employer, that is not a participating
376 employer, contracts to participate in a retirement plan for its employees that provides for
377 payroll deductions.

378 (3) A tax credit under this section may not be carried forward or carried back.

379 Section 5. Section 59-10-1319 is enacted to read:

380 **59-10-1319. Contribution to a Utah Voluntary Employee Retirement Accounts**

381 **Program account.**

382 (1) (a) If a resident or nonresident individual is owed an individual income tax refund
383 for the taxable year, the individual may designate on the resident or nonresident individual's
384 income tax return a contribution to a Utah Voluntary Employee Retirement Accounts Program
385 account, established under Title 67, Chapter 4b, Utah Voluntary Employee Retirement
386 Accounts Program, as provided in this part.

387 (b) If a resident or nonresident individual is not owed an individual income tax refund
388 for the taxable year, the individual may not designate on the resident or nonresident's individual
389 income tax return a contribution to a Utah Voluntary Employee Retirement Accounts Program
390 account.

391 (2) (a) The commission shall send the contribution to the state treasurer along with the
392 following information:

393 (i) the amount of the contribution; and

394 (ii) the taxpayer's:

395 (A) name;

396 (B) social security number or taxpayer identification number; and

397 (C) address.

398 (b) If a contribution to a Utah Voluntary Employee Retirement Accounts Program
399 account is designated in a single individual income tax return filed jointly by spouses, the
400 commission shall send the information described under Subsection (2)(a) for both spouses to
401 the state treasurer.

402 (3) (a) If the taxpayer owns a Utah Voluntary Employee Retirement Accounts Program
403 account, the state treasurer shall deposit the contribution into the account.

404 (b) If the taxpayer owns more than one Utah Voluntary Employee Retirement Accounts
405 Program account, the state treasurer shall allocate the contribution among the accounts in equal
406 amounts.

407 (c) (i) If the taxpayer does not own a Utah Voluntary Employee Retirement Accounts
408 Program account, the state treasurer shall send the taxpayer an account agreement.

409 (ii) If the taxpayer does not sign and return the account agreement by the date specified
410 by the state treasurer or if the taxpayer is not eligible to participate in the Utah Voluntary
411 Employee Retirement Accounts Program, the state treasurer shall return the contribution to the
412 taxpayer without any interest or earnings.

413 (4) For the purpose of determining interest on an overpayment or refund under Section
414 59-1-402, no interest accrues after the commission sends the contribution to the state treasurer.

415 Section 6. Section **67-4b-101** is enacted to read:

416 **CHAPTER 4b. UTAH VOLUNTARY EMPLOYEE RETIREMENT**
417 **ACCOUNTS PROGRAM**

418 **Part 1. General Provisions**

419 **67-4b-101. Title.**

420 This chapter is known as the "Utah Voluntary Employee Retirement Accounts
421 Program."

422 Section 7. Section **67-4b-102** is enacted to read:

423 **67-4b-102. Definitions.**

424 As used in this chapter:

425 (1) "Fiduciary or commercial information" means information:

426 (a) related to any subject if the disclosure of the information:

427 (i) would conflict with a fiduciary obligation; or

428 (ii) is prohibited by an insider trading provision; or

429 (b) of a commercial nature, including information related to account holders.

430 (2) "Investment product" means a fixed or variable rate annuity, savings account,
431 certificate of deposit, money market account, bond, mutual fund, or another form of investment
432 not prohibited by the Internal Revenue Code and authorized by the program.

433 (3) "IRA" means an individual retirement account or individual retirement annuity
434 under Section 408(a) or 408(b), Internal Revenue Code.

435 (4) "Nonparticipating employer" means a small nongovernmental employer in the state
436 that does not elect to participate in the program.

437 (5) "Participating employee" means an individual who:

438 (a) is employed in this state by a small nongovernmental employer;

439 (b) chooses to have contributions made to an account in the program; and

440 (c) has at least \$1 in an account in the program.

441 (6) "Participating employer" means a small nongovernmental employer in the state that
442 elects to participate in the program in accordance with Section [67-4b-301](#).

443 (7) "Program" means the Utah Voluntary Employee Retirement Accounts Program
444 created in Section [67-4b-201](#).

445 (8) "Small nongovernmental employer" means a nongovernmental employer who
446 employs no more than 100 employees in the state for each working day in each of 20 calendar
447 weeks or more in the current or preceding calendar year.

448 Section 8. Section **67-4b-103** is enacted to read:

449 **67-4b-103. Liberal construction -- Compliance.**

450 (1) This chapter shall be liberally construed so as to provide a tax-qualified retirement
451 program for participating employers and participating employees.

452 (2) The program shall comply with the Internal Revenue Code and other applicable
453 federal and state law.

454 Section 9. Section **67-4b-201** is enacted to read:

455 **Part 2. Program Created**

456 **67-4b-201. Program created -- Trust fund created -- State not liable -- Not public**
457 **money.**

458 (1) The state treasurer shall create the Utah Voluntary Employee Retirement Accounts
459 Program within the office of the state treasurer to provide a cost-effective group retirement

460 program for small nongovernmental employers in the state and employees of small
461 nongovernmental employers in the state.

462 (2) The program does not create or constitute a debt, obligation, or liability of the state.

463 (3) Any contract entered into by the state treasurer in connection with the program:

464 (a) does not create or constitute a debt of the state and is solely an obligation of the
465 program; and

466 (b) shall require the person contracting with the state treasurer to indemnify the state.

467 (4) The corpus, assets, and earnings under the program are not public money of the
468 state and are solely available to carry out the purposes of this chapter.

469 Section 10. Section **67-4b-202** is enacted to read:

470 **67-4b-202. Administration.**

471 (1) The state treasurer shall develop standards and requirements for operation of the
472 program consistent with this chapter and applicable federal regulations, including:

473 (a) providing for an automatic deduction IRA;

474 (b) procedures for payroll deductions and remittances;

475 (c) procedures for a participating employee to make deposits into an account if the
476 participating employee is employed by a nonparticipating employer;

477 (d) procedures for portability or discontinuing participation in the program; and

478 (e) procedures for a participating employee to increase or decrease the participating
479 employee's contribution to an account or cease participation in the program, including

480 providing for automatic increases in amounts deducted for an IRA.

481 (2) The state treasurer shall, in accordance with Title 63G, Chapter 6a, Utah
482 Procurement Code, contract with one or more providers that provide:

483 (a) options for accounts and investment products under the program;

484 (b) a procedure through a website for a small nongovernmental employer to elect to
485 become a participating employer in accordance with Section [67-4b-301](#);

486 (c) a procedure through a website for an employee of a small nongovernmental
487 employer to become a participating employee and to select an investment product;

488 (d) for record keeping, reporting, and other administrative services;

489 (e) for management of money being deposited in an investment product; or

490 (f) for educating the general public about the program.

491 Section 11. Section **67-4b-203** is enacted to read:

492 **67-4b-203. Information to governor or Legislature.**

493 The program shall submit to the governor and the Legislature, upon request:

494 (1) any study or evaluation of the program;

495 (2) a summary of the benefits provided by the program, including the number of
496 participating employers and participating employees in the program; and

497 (3) any other information that is relevant to make a full, fair, and effective disclosure of
498 the operations of the program that is not fiduciary or commercial information.

499 Section 12. Section **67-4b-204** is enacted to read:

500 **67-4b-204. Confidentiality of information.**

501 Information specific to a participating employee is exempt from Title 63G, Chapter 2,
502 Government Records Access and Management Act, including:

503 (1) identifying information;

504 (2) account balances;

505 (3) details of transactions; or

506 (4) an item similar to the items described in Subsections (1) through (3).

507 Section 13. Section **67-4b-205** is enacted to read:

508 **67-4b-205. Education of the public concerning program.**

509 (1) (a) The state treasurer shall develop educational information to educate the public
510 concerning the program.

511 (b) In accordance with Subsection [67-4b-202](#)(2), the state treasurer may contract with
512 one or more providers to develop the educational information required by this section.

513 (2) The following shall cooperate with the state treasurer to disseminate educational
514 information developed under this section, either through distributing the educational
515 information or including links to the educational information prominently on websites:

516 (a) the Department of Workforce Services;

517 (b) the State Tax Commission;

518 (c) the Department of Commerce; and

519 (d) the Avenue H web portal created by Section [63N-11-104](#) and administered by the
520 Office of Consumer Health Services within the Governor's Office of Economic Development.

521 Section 14. Section **67-4b-301** is enacted to read:

522 **Part 3. Participation**

523 **67-4b-301. Election to participate.**

524 (1) (a) A small nongovernmental employer in this state may elect to participate in the
525 program if, as of July 1, 2016, the small nongovernmental employer does not offer an active
526 retirement program for its employees before electing to participate in the program.

527 (b) A participating employer shall comply with all program requirements, including
528 making payroll deductions and remittances as required by the state treasurer.

529 (2) A participating employer may elect to discontinue participation in accordance with
530 program requirements.

531 (3) (a) A small nongovernmental employer in this state may not be required to
532 participate in the program.

533 (b) If an employee of a nonparticipating employer in this state elects to participate in
534 the program, the participating employee shall make deposits in the participating employee's
535 account in accordance with procedures established by the state treasurer, except that a
536 nonparticipating employer may not be required to make payroll deductions and remittances.

537 Section 15. Section **67-4b-302** is enacted to read:

538 **67-4b-302. Information given to employees.**

539 (1) A small nongovernmental employer shall annually notify the small
540 nongovernmental employer's employees of the following:

541 (a) whether the small nongovernmental employer is a participating employer;

542 (b) what steps an employee may take to become a participating employee; and

543 (c) any other information required by the state treasurer.

544 (2) The state treasurer shall establish:

545 (a) the information required to be included under Subsection (1); and

546 (b) one or more methods a small nongovernmental employer may use to comply with
547 the notification requirements of Subsection (1).

548 Section 16. Section **67-4b-303** is enacted to read:

549 **67-4b-303. Statement confirming participation -- Ongoing reporting.**

550 (1) (a) The state treasurer shall provide a statement to a participating employer that
551 confirms that the participating employer has elected to participate in the program in a calendar
552 year.

553 (b) The state treasurer shall provide the State Tax Commission for calendar years 2016
554 and 2017 an electronic listing in a form the State Tax Commission prescribes of those persons
555 who receive in the previous calendar year a statement under this Subsection (1).

556 (2) The state treasurer shall provide for ongoing reporting to a participating employee
557 regarding the account of the participating employee, including:

558 (a) the frequency of the reporting; and

559 (b) what is to be itemized in the report.

560 (3) In accordance with Subsection [67-4b-202](#)(2), the state treasurer may contract with
561 one or more providers to:

562 (a) provide the statement under Subsection (1);

563 (b) report to the State Tax Commission under Subsection (1); and

564 (c) report to participating employees under Subsection (2).

565 Section 17. **Effective date -- Retrospective operation.**

566 (1) This bill takes effect on July 1, 2016.

567 (2) The amendments in this bill to Section [59-1-403](#) and the enactment of the following
568 sections have retrospective operation for a taxable year beginning on or after January 1, 2016:

569 (a) Section [59-7-621](#);

570 (b) Section [59-10-1036](#); and

571 (c) Section [59-10-1319](#).