

Effective 5/6/2026

67-4-23 Retirement plan exchange.

(1) As used in this section:

- (a) "Automatic-enrollment individual retirement account arrangement" means an individual retirement account that:
 - (i) allows an employee to contribute via payroll deduction;
 - (ii) does not permit employer contributions;
 - (iii) automatically enrolls each eligible employee at a default contribution rate, unless the employee opts out or chooses a different contribution rate;
 - (iv) complies with federal safe harbor requirements for payroll deduction individual retirement accounts; and
 - (v) is portable and fully vested from the time of contribution.
- (b) "Automatic-enrollment 401(k) plan" means a defined contribution plan that:
 - (i) meets the requirements of Section 401(k) of the Internal Revenue Code;
 - (ii) automatically enrolls each eligible employee unless the employee opts out;
 - (iii) allows but does not require employer contributions; and
 - (iv) includes default investment options consistent with Section 404(c) of the Employee Retirement Income Security Act, including the rules governing qualified default investment alternatives.
- (c) "Eligible employer" means a non-governmental entity that:
 - (i) is located in the state or operates in the state; and
 - (ii) has one or more employees.
- (d) "Eligible employee" means an individual who:
 - (i) works for an eligible employer; and
 - (ii) receives from the eligible employer compensation that is reportable on Internal Revenue Service Form W-2.
- (e) "Exchange" means the online portal described in Subsection (2)(a)(i).
- (f) "Individual retirement account" means:
 - (i) an individual retirement account under Section 408 of the Internal Revenue Code; or
 - (ii) a Roth individual retirement account under Section 408A of the Internal Revenue Code.
- (g) "Office" means the state treasurer's office.
- (h) "Participating employee" means an eligible employee who is enrolled in a qualified retirement plan that the eligible employee's employer selected through the exchange.
- (i) "Participating employer" means an eligible employer who selects a qualified retirement plan through the exchange.
- (j) "Participating plan provider" means a plan provider that has a listing on the exchange.
- (k) "Plan provider" means any entity that offers a qualified retirement plan.
- (l) "Qualified default investment alternative" means the same as that term is defined in 29 C.F.R. 2550.404c-5.
- (m) "Qualified retirement plan" means an automatic-enrollment individual retirement account arrangement or an automatic-enrollment 401(k) plan.
- (n) "Small business" means an eligible employer with 50 or fewer employees.

(2)

- (a) The office shall:
 - (i) establish and maintain a secure, publicly accessible online portal through which an eligible employer may review, compare, and select one or more qualified retirement plans for the benefit of the eligible employer's employees;

- (ii) create and disseminate educational resources for eligible employers and eligible employees related to:
 - (A) retirement savings benefits and options; and
 - (B) the benefits of a financial advisor;
 - (iii) promote among small businesses retirement savings and use of the exchange;
 - (iv) collect from participating plan providers information regarding eligible employers' use of the exchange; and
 - (v) establish a mechanism for soliciting and receiving feedback regarding the exchange from eligible employers and eligible employees.
- (b) The office shall ensure that the exchange:
 - (i) provides eligible employers access to qualified retirement plans;
 - (ii) does not include retirement arrangements other than qualified retirement plans;
 - (iii) presents each qualified retirement plan in a standardized and transparent format that includes for each qualified retirement plan:
 - (A) a summary of the qualified retirement plan's key features;
 - (B) disclosure of all fees;
 - (C) an investment menu and performance data, as provided by the plan provider;
 - (D) a summary of fiduciary roles and responsibilities; and
 - (E) a description of the enrollment and withdrawal processes; and
 - (iv) includes a comparison tool that allows an eligible employer to filter and compare qualified retirement plans based on plan features, including cost, investment lineup, service model, and other relevant criteria.
- (3)
 - (a) Subject to Subsections (3)(b) and (c), the office shall list on the exchange a plan provider's qualified retirement plan if the plan provider:
 - (i) submits an application for listing to the office;
 - (ii) complies with all applicable state and federal laws regulating the plan provider's activities;
 - (iii) is in good standing with all relevant state and federal regulating entities;
 - (iv) for compliance and informational purposes, consents to monitoring by and periodic reporting to the office; and
 - (v) satisfies any additional criteria the office establishes by rule.
 - (b) During the first 24 calendar months after the exchange begins operation, the office may limit the number of plan providers allowed to list a qualified retirement plan on the exchange, if the office bases the limitation on neutral, objective criteria established by rule, including readiness, technical feasibility, or availability of plan offerings.
 - (c) Within a reasonable time after the time period described in Subsection (3)(b) expires, the office shall list on the exchange each qualified retirement plan approved in accordance with Subsection (3)(b).
- (4) The office may limit the qualified retirement plans that the exchange presents to an eligible employer conducting a search on the exchange, if:
 - (a) the purpose of limiting the qualified retirement plans is to enhance usability;
 - (b) the office determines which qualified retirement plans the exchange presents by using a methodology that ensures each participating plan provider has a comparable number of qualified retirement plans presented to eligible employers over a defined time period; and
 - (c) the office maintains on the exchange a publicly accessible and searchable list of all qualified retirement plans listed on the exchange.
- (5)

- (a) Each participating plan provider shall annually submit to the office a report that includes for the fiscal year:
 - (i) the number of eligible employers and eligible employees participating in the participating plan provider's qualified retirement plans through the exchange;
 - (ii) for the participating plan provider's qualified retirement plans listed on the exchange:
 - (A) the total assets administered by the participating plan provider;
 - (B) the average account balance;
 - (C) the eligible employee opt-out rate; and
 - (D) each material change to the structure, fees, or investments that occurred during the fiscal year.
- (b) A report described in Subsection (5)(a) is a protected record as provided in Section 63G-2-305.
- (6) A participating plan provider shall promptly notify the office of any legal or regulatory action affecting the participating plan provider's ability to comply with the provisions of this section.
- (7) The office may remove or suspend a plan provider's listing if the office determines that the plan provider:
 - (a) fails to comply with a provision of this section;
 - (b) submits to the office false or misleading information;
 - (c) engages in conduct that is detrimental to participating employers or participating employees, including charging excessive fees, mismanaging assets, or breaching a fiduciary duty; or
 - (d) fails to cooperate with an office request related to the monitoring or reporting described in Subsection (3)(a)(iv).
- (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing:
 - (a) procedures and criteria for applying to list a qualified retirement plan under Subsection (3)(a);
 - (b) monitoring and reporting requirements for participating plan providers;
 - (c) the neutral, objective criteria used to limit participating plan providers under Subsection (3)(b);
 - (d) the methodology and time period described in Subsection (4)(b); and
 - (e) procedures for suspension or removal under Subsection (7).
- (9)
 - (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the office may contract with one or more providers to fulfill the office's duties under this section.
 - (b) The office may not contract under this Subsection (9) with a plan provider.
- (10) Nothing in this section authorizes the state or any subdivision of the state to:
 - (a) assume fiduciary responsibility with respect to any qualified retirement plan offered through the exchange;
 - (b) act as a fiduciary, investment manager, or plan sponsor as those terms are defined in 29 U.S.C. Sec. 1002;
 - (c) act as an investment adviser as defined in 15 U.S.C. Sec. 80b-2;
 - (d) endorse, recommend, rate, or guarantee the performance or suitability of any qualified retirement plan listed on the exchange; or
 - (e) provide individualized financial advice.
- (11) The office shall:
 - (a) establish the exchange platform no later than November 2, 2026;
 - (b) begin accepting applications from plan providers no later than November 2, 2026; and
 - (c) ensure the exchange begins operation no later than January 1, 2027.

Enacted by Chapter 335, 2026 General Session

