NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

SENATE BILL 10-035

BY SENATOR(S) Newell, Foster, Johnston;
also REPRESENTATIVE(S) Bradford, Liston, Schafer S., Tyler.

CONCERNING AUTOMATIC ENROLLMENT IN EMPLOYEE RETIREMENT PLANS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 8-4-105 (1) (d), Colorado Revised Statutes, is amended, and the said 8-4-105 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

8-4-105. Payroll deductions permitted. (1) No employer shall make a deduction from the wages or compensation of an employee except as follows:

(a.5) DEDUCTIONS FOR CONTRIBUTIONS ATTRIBUTABLE TO AUTOMATIC ENROLLMENT IN AN EMPLOYEE RETIREMENT PLAN, AS DEFINED IN SECTION 8-4-105.5, REGARDLESS OF WHETHER THE PLAN IS SUBJECT TO THE FEDERAL "EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974", AS AMENDED;

(d) Any deduction, not listed in ~~paragraph (a)~~ PARAGRAPH (a), (a.5), (b), or (c) of this subsection (1), ~~which~~ THAT is authorized by an employee

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Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

if ~~such~~ THE authorization is revocable, including ~~but not limited to~~ deductions for hospitalization and medical insurance, other insurance, savings plans, stock purchases, ~~voluntary pension~~ SUPPLEMENTAL RETIREMENT plans, charities, and deposits to financial institutions;

SECTION 2. Article 4 of title 8, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

8-4-105.5. Automatic enrollment in retirement plans - relief from liability - conditions - definitions. (1) (a) (I) AN EMPLOYER THAT PROVIDES AUTOMATIC ENROLLMENT IN AN EMPLOYEE RETIREMENT PLAN IS NOT LIABLE FOR THE INVESTMENT DECISIONS MADE BY THE EMPLOYER ON BEHALF OF ANY PARTICIPATING EMPLOYEE WITH RESPECT TO THE DEFAULT INVESTMENT OF CONTRIBUTIONS MADE FOR THAT EMPLOYEE TO THE PLAN IF:

(A) THE PLAN PROVIDES THE PARTICIPATING EMPLOYEE AT LEAST QUARTERLY OPPORTUNITIES TO SELECT INVESTMENTS FOR THE EMPLOYEE'S CONTRIBUTIONS AMONG INVESTMENT ALTERNATIVES AVAILABLE UNDER THE PLAN;

(B) THE PARTICIPATING EMPLOYEE IS GIVEN NOTICE OF THE INVESTMENT DECISIONS THAT WILL BE MADE IN THE ABSENCE OF DIRECTION FROM THE EMPLOYEE, A DESCRIPTION OF ALL THE INVESTMENT ALTERNATIVES AVAILABLE FOR EMPLOYEE INVESTMENT DIRECTION UNDER THE PLAN, AND A BRIEF DESCRIPTION OF PROCEDURES AVAILABLE FOR THE EMPLOYEE TO CHANGE INVESTMENTS; AND

(C) THE EMPLOYEE IS GIVEN AT LEAST ANNUAL NOTICE OF THE ACTUAL DEFAULT INVESTMENTS MADE OF CONTRIBUTIONS ATTRIBUTABLE TO THE EMPLOYEE.

(II) THE RELIEF FROM LIABILITY OF THE EMPLOYER UNDER THIS SUBSECTION (1) EXTENDS TO ANY EMPLOYEE RETIREMENT PLAN OFFICIAL WHO MAKES THE ACTUAL DEFAULT INVESTMENT DECISIONS ON BEHALF OF PARTICIPATING EMPLOYEES.

(b) NOTHING IN THIS SUBSECTION (1) MODIFIES ANY EXISTING RESPONSIBILITY OF EMPLOYERS OR OTHER PLAN OFFICIALS FOR THE SELECTION OF INVESTMENT FUNDS FOR PARTICIPATING EMPLOYEES.

(2) AS USED IN THIS SECTION:

(a) "AUTOMATIC ENROLLMENT" MEANS AN EMPLOYEE RETIREMENT PLAN PROVISION UNDER WHICH AN EMPLOYEE WILL HAVE A SPECIFIED CONTRIBUTION MADE TO THE PLAN, EQUAL TO A COMPENSATION REDUCTION, THAT WILL BE MADE FOR THE EMPLOYEE UNLESS THE EMPLOYEE AFFIRMATIVELY ELECTS, IN ACCORDANCE WITH THE FEDERAL "PENSION PROTECTION ACT OF 2006", PUB.L. 109-280, EITHER NOT TO HAVE ANY COMPENSATION REDUCTION CONTRIBUTIONS OR A COMPENSATION REDUCTION CONTRIBUTION IN AN ALTERNATIVE AMOUNT.

(b) "EMPLOYEE RETIREMENT PLAN" MEANS A PLAN DESCRIBED IN SECTIONS 401(k) OR 403(b) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; A GOVERNMENTAL DEFERRED COMPENSATION PLAN DESCRIBED IN SECTION 457 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED; OR A PAYROLL DEDUCTION INDIVIDUAL RETIREMENT ACCOUNT PLAN DESCRIBED IN SECTIONS 408 OR 408A OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED.

SECTION 3. Act subject to petition - specified effective date. This act shall take effect January 1, 2011; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2010 and shall take effect on

January 1, 2011, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Brandon C. Shaffer PRESIDENT OF THE SENATE	Terrance D. Carroll SPEAKER OF THE HOUSE OF REPRESENTATIVES
Karen Goldman SECRETARY OF THE SENATE	Marilyn Eddins CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES

APPROVED_____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO