

1 S.135

2 Introduced by Committee on Economic Development, Housing and General

3 Affairs

4 Date: March 17, 2023

5 Subject: Retirement; VT Saves

6 Statement of purpose of bill as introduced: This bill proposes that the Office
7 of the State Treasurer establish and administer VT Saves, a program that
8 provides access to retirement savings for Vermont employees of companies
9 that do not currently offer access to such a program.

10 An act relating to the establishment of VT Saves

11 It is hereby enacted by the General Assembly of the State of Vermont:

12 Sec. 1. 3 V.S.A. chapter 18 is added to read:

13 CHAPTER 18. VT SAVES

14 § 531. DEFINITIONS

15 As used in this chapter:

16 (1) “Contribution level” means the contribution rate for the participant
17 that may be expressed as one of the following:

18 (A) A percentage of the participant’s taxable wages as is required to
19 be reported under Sections 6041 and 6051 of the Internal Revenue Code of

1 1986, or any subsequent corresponding internal revenue code of the United
2 States, as amended from time to time.

3 (B) A dollar amount up to the maximum deductible amount for the
4 participant's taxable year under Section 219(b)(1) of the Internal Revenue
5 Code of 1986, or any subsequent corresponding internal revenue code of the
6 United States, as amended from time to time.

7 (C) In the absence of an affirmative election by the participant, five
8 percent of the participant's taxable wages as is required to be reported under
9 Sections 6041 and 6051 of the Internal Revenue Code of 1986, or any
10 subsequent corresponding internal revenue code of the United States, as
11 amended from time to time. The contribution level of a participant who
12 customarily and regularly receives gratuities in conjunction with the
13 participant's employment shall be a percentage of such participant's wages as
14 is required to be reported under Sections 6041 and 6051 of the Internal
15 Revenue Code of 1986, or any subsequent corresponding internal revenue code
16 of the United States, as amended from time to time.

17 (2) "Covered employee" means an individual who is 18 years of age or
18 older who is employed by a covered employer and who has wages or other
19 compensation that are allocable to the State during a calendar year. A covered
20 employee may include a part-time, seasonal, or temporary employee only to

1 the extent permitted in rules adopted by the Treasurer. A covered employee
2 shall not include:

3 (A) any employee covered under the federal Railway Labor Act, 45
4 U.S.C § 151;

5 (B) any individual who is an employee of the federal government,
6 the State or any other state, any county or municipal corporation, or any of the
7 State's or any other state's units or instrumentalities; or

8 (C) any employee on whose behalf an employer makes contributions
9 to a Taft-Hartley multiemployer pension trust fund.

10 (3) "Covered employer" means a person, entity, or subsidiary engaged
11 in a business, industry, profession, trade, or other enterprise in the State,
12 whether for profit or not for profit, that has not offered to an employee, or is
13 within a control group that maintains or contributes to, effective in form or
14 operation at any time within the current calendar year or two preceding
15 calendar years, a specified tax-favored retirement plan. If an employer does
16 not maintain a specified tax-favored retirement plan for a portion of a calendar
17 year ending on or after the effective date of this chapter but does adopt such a
18 plan for the remainder of that calendar year, the employer is not a covered
19 employer for the remainder of the year. A covered employer does not include:

1 (A) the federal government, the State or any other state, any county
2 or municipal corporation, or any of the State’s or any other state’s units or
3 instrumentalities;

4 (B) any employer that has not been in business during both the
5 current calendar year and the preceding calendar year.

6 (4) “ERISA” means the federal Employee Retirement Income Security
7 Act of 1974, as amended, 29 U.S.C § 1001 et seq.

8 (5) “Internal Revenue Code” means the United States Internal Revenue
9 Code of 1986, as amended.

10 (6) “IRA” means a traditional IRA or a Roth IRA.

11 (7) “Participant” means an individual who has an IRA under the
12 Program.

13 (8) “Payroll deduction IRA or payroll deduction IRA arrangement”
14 means an arrangement by which an employer allows employees to contribute
15 to an IRA by means of payroll deduction.

16 (9) “Program” means the VT Saves Program established in accordance
17 with this chapter.

18 (10) “Roth IRA” means a Roth individual retirement account or Roth
19 individual retirement annuity described in Section 408A of the Internal
20 Revenue Code.

1 (11) “Specified tax-favored retirement plan” means a plan, program, or
2 arrangement that is tax qualified under or described in, and satisfies the
3 requirements of, Section 401(a), Section 401(k), Section 403(a), Section
4 403(b), Section 408(k), Section 408(p) or Section 457(b) of the Internal
5 Revenue Code, without regard to whether it constitutes an employee benefit
6 plan under ERISA.

7 (12) “Traditional IRA” means a traditional individual retirement
8 account or traditional individual retirement annuity described in Section 408(a)
9 or Section 408(b) of the Internal Revenue Code.

10 (13) “Trust” means the trust in which the assets of the Program are
11 held.

12 (14)(A) “Vendor” means:

13 (i) a federally regulated retirement plan sponsor conducting
14 business in the State, including a federally regulated investment company,
15 program administrator, custodian or trustee, or an insurance company; or

16 (ii) a company conducting business in the State to:

17 (I) provide ancillary services, including technological,
18 payroll, or recordkeeping services, and

19 (II) offer retirement plans or payroll deposit individual
20 retirement account arrangements using products of regulated retirement
21 plan sponsors.

1 (B) “Vendor” does not mean individual registered representatives,
2 brokers, financial planners, or agents.

3 (15) “Vermont Retirement Security Fund” means the fund established in
4 section 534 of this chapter for the sole purpose of paying the administrative
5 costs and expenses of the Program.

6 (16) “Wages” means any compensation within the meaning of Section
7 219(f)(1) of the Internal Revenue Code that is received by an employee from
8 an employer during a calendar year.

9 § 532. VT SAVES PROGRAM; ESTABLISHMENT

10 (a) Establishment; purpose. There is established the VT Saves Program
11 (Program), administered by the Office of the State Treasurer, for the purpose
12 of increasing financial security for Vermonters by providing access to an IRA
13 for Vermont employees of companies that do not currently offer a retirement
14 savings program. The Program shall be designed to facilitate portability of
15 benefits through withdrawals, rollovers, and direct transfers from an IRA and
16 achieve economies of scale and other efficiencies to minimize costs. The
17 Program shall:

18 (1) allow a covered employee to contribute to an IRA under the
19 Program, which may be contributed through a payroll deduction; and

20 (2) notwithstanding any other provision of law to the contrary, require
21 each covered employer to offer its covered employees the choice to contribute

1 to a payroll deduction IRA by automatically enrolling them in the payroll
2 deduction IRA with the opportunity to opt out.

3 (b) Type of IRA. The type of IRA to which contributions are made
4 pursuant to subsection (a) of this section shall be a Roth IRA; provided,
5 however, the Treasurer is authorized to add an option for all participants to
6 affirmatively elect to contribute to a traditional IRA instead of a Roth IRA.

7 (c) Contributions.

8 (1) Unless otherwise specified by the covered employee, a covered
9 employee shall automatically initially contribute five percent of the covered
10 employee's salary or wages to the Program. A covered employee may elect to
11 opt out of the Program at any time or contribute at any higher or lower rate,
12 expressed as a percentage of salary or wages, or, as permitted by the Treasurer,
13 expressed as a flat dollar amount, subject in all cases to the IRA contribution
14 and eligibility limits applicable under the Internal Revenue Code at no
15 additional charge.

16 (2) The Treasurer shall provide for, on a uniform basis, an annual
17 increase of each active participant's contribution rate, by not less than one
18 percent, but not more than eight percent, of salary or wages each year. Any
19 such increases shall apply to active participants, including participants by
20 default with an option to opt out or participants who are initiated by
21 affirmative participant election, provided that any increase is subject to the

1 IRA contribution and eligibility limits applicable under the Internal Revenue
2 Code.

3 (3) The Treasurer shall provide for direct deposit of contributions into
4 investments under the Program, including a default investment such as a series
5 of target date funds, and a limited number of investment alternatives, including
6 a principal preservation option.

7 (4) Contributions by a covered employer are not required or permitted
8 under the Program.

9 (5) Each participant owns the contributions to, and earnings on,
10 amounts contributed to the participant's account under the Program. The State
11 and covered employers have no proprietary interest in those contributions or
12 earnings.

13 (d) Administration. The Treasurer shall administer and implement the
14 provisions of this chapter or contract with a vendor to administer the Program
15 and manage the investments in accordance with this chapter, pursuant to the
16 following:

17 (1) The Program shall be designed and implemented in a manner
18 consistent with federal law to the extent that it applies and consistent with the
19 Program not being preempted by, and the payroll deduction IRAs and covered
20 employers not being subject to, ERISA.

1 (2) The costs and expenses incurred to initiate, implement, maintain,
2 manage, and administer the Program and its investments are paid or defrayed
3 from investment returns or assets of the Program or through fees, charges, or
4 funds, whether account based, asset based, per capita, or otherwise, to the
5 extent permitted under federal and State law.

6 (3) The Treasurer shall establish the following processes and
7 requirements to administer the Program:

8 (A) processes for enrollment and contributions to an IRA under the
9 Program, including:

10 (i) withholding by covered employers of employee payroll
11 deduction contributions from wages and remittance for deposit to an IRA;

12 (ii) automatic enrollment in a payroll deduction IRA and opt-outs
13 by covered employees, including self-employed individuals and independent
14 contractors, through payroll deduction or otherwise; and

15 (iii) the making of default contributions using default investments
16 and participant selection of alternative contribution rates or amounts and
17 alternative investments from among the options offered under the Program;

18 (B) processes for phasing in enrollment of eligible individuals,
19 including phasing in enrollment of covered employees by size or type of
20 covered employer;

1 (C) processes for a participant to make nonpayroll contributions to
2 accounts under the Program;

3 (D) processes for an employer to be determined to be exempt from
4 the Program because the employer sponsors a specified tax-favored retirement
5 plan; and

6 (E) requirements for the determination of whether a part-time,
7 seasonal or temporary employee is a covered employee eligible to participate
8 in the Program.

9 (e) Records and accounting. The Treasurer shall maintain separate records
10 and accounting for each account under the Program and allow for participants
11 to maintain their accounts regardless of place of employment and to roll over
12 funds into other IRAs or other retirement accounts.

13 (f) Reports. Annually, the Treasurer shall send a report to each participant
14 detailing the status of the participant's account. Each participant shall also be
15 granted frequent or continual online access to information on the status of that
16 participant's account.

17 (g) Outreach and disclosures. The Treasurer shall conduct outreach to
18 individuals, employers, other stakeholders and the public regarding the
19 Program, including specifying the contents, frequency, timing and means of
20 required disclosures from the Program to covered employees, participants,

1 other individuals eligible to participate in the Program, covered employers and
2 other interested parties.

3 (h) Participant accounts.

4 (1) Interest, investment earnings, and investment losses shall be
5 allocated to each participant's individual retirement account.

6 (2) A participant's benefit under the Program shall be equal to the
7 balance in such participant's individual retirement account as of any applicable
8 measurement date prescribed by the Program.

9 (i) Program assets.

10 (1) The Treasurer is authorized to establish a trust or custodial accounts
11 meeting the requirements of Section 408(a) or (c) of the Internal Revenue
12 Code of 1986, or any subsequent corresponding internal revenue code of the
13 United States, as amended from time to time, or any other applicable federal
14 law requirements for Program participants' investments and assets. Any trust
15 established pursuant to this chapter shall be considered an instrumentality of
16 the State and shall not be subject to ERISA.

17 (2) No assets of the Program or Fund as set forth in section 534 of this
18 chapter shall be transferred to the General Fund or to any other fund of the
19 State or otherwise encumbered or used for any other purpose.

1 (3) All contributions to an IRA under the Program shall be used only to
2 pay benefits to participants, to pay the cost of administering the Program, or to
3 make investments for the benefit of the Program.

4 (j) Fees.

5 (1) The Treasurer may require that each participant be charged a fee to
6 defray Program costs. The amount and method of collection of such fee shall
7 be determined by the Treasurer, provided that the fee shall not exceed \$30.00
8 per participant in each calendar year.

9 (2) No employer shall be required to fund or be responsible for
10 collecting fees from participants.

11 § 533. DUTIES OF THE STATE TREASURER

12 In carrying out the purposes of this chapter, the Treasurer:

13 (1) May adopt such rules, pursuant to the Vermont Administrative
14 Procedure Act, as the Treasurer determines to be necessary or advisable for the
15 implementation and general administration and operation of the Program,
16 including rules governing:

17 (A) the distribution of funds from the Program and promoting
18 portability of benefits, including the ability to make tax-free rollovers or
19 transfers from IRAs under the Program to other IRAs or to tax-qualified plans
20 that accept such rollovers or transfers; and

1 (B) that each participant’s initial contributions, up to a specified
2 dollar amount or for a specified period of time, are required to be invested in a
3 principal preservation investment or must be defaulted into such an
4 investment, unless the participant affirmatively opts for a different investment
5 for those contributions.

6 (2) May make and enter into contracts, agreements, memoranda of
7 understanding, arrangements, partnerships, or other arrangements to
8 collaborate, cooperate, coordinate, contract, or combine resources,
9 investments, or administrative functions with other governmental entities,
10 including States or their agencies or instrumentalities that maintain or are
11 establishing retirement savings programs compatible with the Program,
12 including collective, common, or pooled investments with other funds of other
13 States’ programs with which the assets of the Program and Trust are permitted
14 by law to be collectively invested, to the extent necessary or desirable for the
15 effective and efficient design, administration, and implementation of the
16 Program. The Treasurer is authorized to use sole source or simplified bid
17 processes as may be consistent with the purposes of this chapter.

18 (3) May contract with financial institutions, a trustee, a record keeper,
19 investment managers, investment advisors, other administrative, professional
20 and expert advisors and service providers or other organizations offering or
21 servicing retirement programs.

1 (4) Shall establish criteria and guidelines for the Program to offer
2 qualified retirement investment choices.

3 (5) Shall cause the Program and accounts established under the Program
4 to be designed, established, invested, and operated in accordance with best
5 practices for retirement savings accounts and to avoid preemption of the
6 Program by federal law.

7 (6) May apply for and accept any grants, gifts, legislative
8 appropriations, loans, and other funds from the State, any unit of federal, state,
9 or local government or any other person, firm, or entity to defray Program
10 costs.

11 (7) Shall evaluate the need for, and procure if necessary, insurance
12 against any loss in connection with the property, assets, or activities of the
13 Program as well as establish procedures for abandoned accounts pursuant to 27
14 V.S.A. chapter 13.

15 (8) Shall enter into agreement with the Vermont Department of Taxes
16 to:

17 (A) facilitate the checking of Program eligibility for employers and
18 employees; and

19 (B) pursuant to 32 V.S.A. § 3102(e), share tax return information
20 sufficient to verify wages to determine the ability of an individual to be
21 covered by the Program.

1 (9) May enter into an intergovernmental agreement or memorandum of
2 understanding with any agency or instrumentality of the State to receive
3 outreach, technical assistance, enforcement, and compliance services;
4 collection or dissemination of information pertinent to the Program, subject to
5 such obligations of confidentiality as may be agreed to or required by law; or
6 other services or assistance. The State and any agencies or instrumentalities of
7 the State that enter into such agreements or memoranda of understanding shall
8 collaborate to provide the outreach, assistance, information, and compliance or
9 other services or assistance to the Program. The agreements or memoranda of
10 understanding may cover the sharing of costs incurred in gathering and
11 disseminating information and the reimbursement of costs for any enforcement
12 activities or assistance.

13 (10) Discharge the Treasurer's duties as fiduciary with respect to the
14 Program solely in the interest of the Participants as follows: for the exclusive
15 purpose of providing benefits to Participants and defraying reasonable
16 expenses of administering the Program and with the care, skill, prudence, and
17 diligence under the circumstances then prevailing that a prudent person acting
18 in a like capacity and familiar with those matters would use in the conduct of
19 an enterprise of a like character and with like aims.

1 § 534. VERMONT RETIREMENT SECURITY FUND

2 (a) There is established the Vermont Retirement Security Fund to be
3 administered by the State Treasurer.

4 (b) The Fund shall consist of the following:

5 (1) any monies appropriated to the Fund by the General Assembly;

6 (2) any monies transferred to the Fund from the federal government,
7 other state agencies, or other governmental source;

8 (3) any monies from the payment of fees, penalties, and the payment of
9 other money due to the Program; and

10 (4) any gifts, grants, or donations made to the Fund and any gifts,
11 grants, donations, or investments received by the Treasurer.

12 (c) The Treasurer shall credit to the Fund all interest and income derived
13 from the deposit and investment of monies in the Fund.

14 (d) Any unexpended and unencumbered monies at the end of a fiscal year
15 shall remain in the Fund.

16 § 535. PENALTIES

17 (a) Failure to enroll. If a covered employer fails to enroll a covered
18 employee without reasonable cause, the covered employer is subject to a
19 penalty for each covered employee for each calendar year or portion of a
20 calendar year during which the covered employee was not enrolled in the
21 Program or had not opted out of participation in the Program. The amount of

1 any penalty imposed on a covered employer for the failure to enroll a covered
2 employee without reasonable cause is determined as follows:

3 (1) prior to October 1, 2025, the maximum penalty per covered
4 employee is \$10.00;

5 (2) beginning on October 1, 2025 and ending on September 30, 2026,
6 the maximum penalty per covered employee is \$20.00;

7 (3) on or after October 1, 2026, the maximum penalty per covered
8 employee is \$75.00.

9 (b) Waivers. The Treasurer is authorized to establish a rule waiving the
10 penalty for a covered employer for any failure to enroll a covered employee
11 for which it is established that the covered employer did not know that the
12 failure existed and exercised reasonable diligence to meet the requirements of
13 this chapter, provided that:

14 (1) no penalty shall be imposed on any failure for which it is established
15 that the covered employer subject to liability for the penalty did not know that
16 the failure existed and exercised reasonable diligence to meet the requirements
17 of this subsection above;

18 (2) no penalty shall be imposed on any failure if:

19 (A) the covered employer subject to liability for the penalty
20 exercised reasonable diligence to meet those requirements; and

1 (B) the covered employer complies with the requirements set forth in
2 subdivision (1) of this subsection (b) with respect to each covered employee by
3 the end of the 90-day period beginning on the first date the covered employer
4 knew, or exercising reasonable diligence would have known, that the failure
5 existed; and

6 (3) in the case of a failure that is due to reasonable cause and not to
7 willful neglect, the Treasurer may waive all or part of the penalty to the extent
8 that the payment of the penalty would be excessive or otherwise inequitable
9 relative to the failure involved.

10 § 536. PROTECTION FROM LIABILITY

11 (a) Employer protection from liability.

12 (1) A covered employer shall not be considered a fiduciary in relation to
13 the Program.

14 (2) A covered employer or other employer shall not be liable for and
15 shall not bear responsibility for:

16 (A) any employee's decision to participate in or opt out of the
17 Program;

18 (B) any investment decisions of any participant;

19 (C) the administration, investment, investment returns, or investment
20 performance of the Program, including any interest rate or other rate of return
21 on any contribution or account balance;

1 (D) the Program design or the benefits paid to participants;

2 (E) an individual's awareness of or compliance with the conditions
3 and other provisions of the tax laws that determine which individuals are
4 eligible to make tax-favored contributions to an IRA, in what amount and in
5 what time frame and manner; or

6 (F) any loss, deficiency, failure to realize any gain or any other
7 adverse consequences, including any adverse tax consequences or loss of
8 favorable tax treatment, public assistance, or other benefits, incurred by any
9 person as a result of participating in the Program.

10 (b) Protection for the State and others. The Treasurer and Program:

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

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

18 (3) shall not guarantee any interest rate or other rate of return on or
19 investment performance of any contribution or account balance; and

20 (4) shall not be liable or responsible for any loss, deficiency, failure to
21 realize any gain, or any other adverse consequences, including any adverse tax

1 consequences or loss of favorable tax treatment, public assistance, or other
2 benefits, incurred by any person as a result of participating in the Program.

3 § 537. CONFIDENTIALITY

4 The Treasurer shall establish policies and procedures, consistent with the
5 Vermont Public Records Act and other statutory provisions, for the Program
6 participants' personal and confidential information.

7 § 538. ACCOUNTING AND REPORTS

8 Beginning on January 15, 2024, and annually thereafter, the Treasurer shall
9 submit a report to the Governor and the House Committees on Commerce and
10 Economic Development and on Government Operations and Military Affairs
11 and the Senate Committees on Economic Development, Housing and General
12 Affairs and on Government Operations detailing the activities, operations,
13 receipts, and expenditures of the Program during the preceding calendar year,
14 and any other information regarding the Program. The report shall include, as
15 applicable, the number of participants, the investment options, rates of return,
16 and the projected activities of the Program for the current calendar year.

17 Sec. 2. VT SAVES; IMPLEMENTATION

18 (a) ~~The~~ *Subject to an appropriation from the General Assembly, the* State
19 Treasurer shall implement the VT Saves Program (Program), established in 3
20 V.S.A. chapter 18, as follows:

1 (1) Beginning on July 1, 2025, all covered employers with 25 or more
2 covered employees shall offer the Program to all covered employees.

3 (2) Beginning on January 1, 2026, all covered employers with 15 to 24
4 covered employees shall offer the Program to all covered employees.

5 (3) Beginning on July 1, 2026, all covered employers with five to 14
6 covered employees shall offer the Program to all covered employees.

7 (b) As used in this section, “covered employer” and “covered employee”
8 have the same meanings as in 3 V.S.A. § 531.

9 ~~Sec. 3. VT SAVES, FY 2024, APPROPRIATIONS~~

10 (a) In FY 2024, the amount of \$750,000.00 shall be appropriated from the
11 General Fund to the Office of the State Treasurer to establish and administer
12 the VT Saves Program. Any unexpended funds in FY 2024 shall be carried
13 forward to FY 2025.

14 (b) In FY 2024, the Office of the State Treasurer is authorized to establish
15 three exempt permanent positions.

16 Sec. ~~4~~ 3. REPEALS

17 (a) 2017 Acts and Resolves No. 69, Sec. C.1 (Green Mountain Secure
18 Retirement Plan) is repealed.

19 (b) 2019 Acts and Resolves No. 72, Sec. C.114 (amending 2017 Acts and
20 Resolves No. 69) is repealed.

1 Sec. ~~5~~ 4. EFFECTIVE DATE

2 This act shall take effect on July 1, 2023.