

1 S.135

2 An act relating to the establishment of VT Saves

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

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

5 CHAPTER 18. VT SAVES

6 § 531. DEFINITIONS

7 As used in this chapter:

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

10 (A) A percentage of the participant’s taxable wages as is required to
11 be reported under Sections 6041 and 6051 of the Internal Revenue Code of
12 1986, or any subsequent corresponding internal revenue code of the United
13 States, as amended from time to time.

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

18 (C) In the absence of an affirmative election by the participant, five
19 percent of the participant’s taxable wages as is required to be reported under
20 Sections 6041 and 6051 of the Internal Revenue Code of 1986, or any
21 subsequent corresponding internal revenue code of the United States, as

1 amended from time to time. The contribution level of a participant who
2 customarily and regularly receives gratuities in conjunction with the
3 participant's employment shall be a percentage of such participant's wages as
4 is required to be reported under Sections 6041 and 6051 of the Internal
5 Revenue Code of 1986, or any subsequent corresponding internal revenue code
6 of the United States, as amended from time to time.

7 (2) "Covered employee" means an individual who is 18 years of age or
8 older who is employed by a covered employer and who has wages or other
9 compensation that are allocable to the State during a calendar year. A covered
10 employee may include a part-time, seasonal, or temporary employee only to
11 the extent permitted in rules adopted by the Treasurer. A covered employee
12 shall not include:

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

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

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

20 (3) "Covered employer" means a person, entity, or subsidiary engaged
21 in a business, industry, profession, trade, or other enterprise in the State,

1 whether for profit or not for profit, that has not offered to an employee, or is
2 within a control group that maintains or contributes to, effective in form or
3 operation at any time within the current calendar year or two preceding
4 calendar years, a specified tax-favored retirement plan. If an employer does
5 not maintain a specified tax-favored retirement plan for a portion of a calendar
6 year ending on or after the effective date of this chapter but does adopt such a
7 plan for the remainder of that calendar year, the employer is not a covered
8 employer for the remainder of the year. A covered employer does not include:

9 (A) the federal government, the State or any other state, any county
10 or municipal corporation, or any of the State's or any other state's units or
11 instrumentalities;

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

14 (4) "ERISA" means the federal Employee Retirement Income Security
15 Act of 1974, as amended, 29 U.S.C § 1001 et seq.

16 (5) "Internal Revenue Code" means the United States Internal Revenue
17 Code of 1986, as amended.

18 (6) "IRA" means a traditional IRA or a Roth IRA.

19 (7) "Participant" means an individual who has an IRA under the
20 Program.

1 (8) “Payroll deduction IRA or payroll deduction IRA arrangement”
2 means an arrangement by which an employer allows employees to contribute
3 to an IRA by means of payroll deduction.

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

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

9 (11) “Specified tax-favored retirement plan” means a plan, program, or
10 arrangement that is tax qualified under or described in, and satisfies the
11 requirements of, Section 401(a), Section 401(k), Section 403(a), Section
12 403(b), Section 408(k), Section 408(p) or Section 457(b) of the Internal
13 Revenue Code, without regard to whether it constitutes an employee benefit
14 plan under ERISA.

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

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

20 (14)(A) “Vendor” means:

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

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

5 (I) provide ancillary services, including technological,
6 payroll, or recordkeeping services, and

7 (II) offer retirement plans or payroll deposit individual
8 retirement account arrangements using products of regulated retirement
9 plan sponsors.

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

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

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

18 § 532. VT SAVES PROGRAM; ESTABLISHMENT

19 (a) Establishment; purpose. There is established the VT Saves Program
20 (Program), administered by the Office of the State Treasurer, for the purpose
21 of increasing financial security for Vermonters by providing access to an IRA

1 for Vermont employees of companies that do not currently offer a retirement
2 savings program. The Program shall be designed to facilitate portability of
3 benefits through withdrawals, rollovers, and direct transfers from an IRA and
4 achieve economies of scale and other efficiencies to minimize costs. The
5 Program shall:

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

8 (2) notwithstanding any other provision of law to the contrary, require
9 each covered employer to offer its covered employees the choice to contribute
10 to a payroll deduction IRA by automatically enrolling them in the payroll
11 deduction IRA with the opportunity to opt out.

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

16 (c) Contributions.

17 (1) Unless otherwise specified by the covered employee, a covered
18 employee shall automatically initially contribute five percent of the covered
19 employee's salary or wages to the Program. A covered employee may elect to
20 opt out of the Program at any time or contribute at any higher or lower rate,
21 expressed as a percentage of salary or wages, or, as permitted by the Treasurer,

1 expressed as a flat dollar amount, subject in all cases to the IRA contribution
2 and eligibility limits applicable under the Internal Revenue Code at no
3 additional charge.

4 (2) The Treasurer shall provide for, on a uniform basis, an annual
5 increase of each active participant's contribution rate, by not less than one
6 percent, but not more than eight percent, of salary or wages each year. Any
7 such increases shall apply to active participants, including participants by
8 default with an option to opt out or participants who are initiated by affirmative
9 participant election, provided that any increase is subject to the IRA
10 contribution and eligibility limits applicable under the Internal Revenue Code.

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

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

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

1 (d) Administration. The Treasurer shall administer and implement the
2 provisions of this chapter or contract with a vendor to administer the Program
3 and manage the investments in accordance with this chapter, pursuant to the
4 following:

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

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

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

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

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

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

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

7 (B) processes for phasing in enrollment of eligible individuals,
8 including phasing in enrollment of covered employees by size or type of
9 covered employer;

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

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

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

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

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

5 (g) Outreach and disclosures. The Treasurer shall conduct outreach to
6 individuals, employers, other stakeholders and the public regarding the
7 Program, including specifying the contents, frequency, timing and means of
8 required disclosures from the Program to covered employees, participants,
9 other individuals eligible to participate in the Program, covered employers and
10 other interested parties.

11 (h) Participant accounts.

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

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

17 (i) Program assets.

18 (1) The Treasurer is authorized to establish a trust or custodial accounts
19 meeting the requirements of Section 408(a) or (c) of the Internal Revenue
20 Code of 1986, or any subsequent corresponding internal revenue code of the
21 United States, as amended from time to time, or any other applicable federal

1 law requirements for Program participants' investments and assets. Any trust
2 established pursuant to this chapter shall be considered an instrumentality of
3 the State and shall not be subject to ERISA.

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

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

10 (j) Fees.

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

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

17 § 533. DUTIES OF THE STATE TREASURER

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

19 (1) May adopt such rules, pursuant to the Vermont Administrative
20 Procedure Act, as the Treasurer determines to be necessary or advisable for the

1 implementation and general administration and operation of the Program,
2 including rules governing:

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

7 (B) that each participant's initial contributions, up to a specified
8 dollar amount or for a specified period of time, are required to be invested in a
9 principal preservation investment or must be defaulted into such an investment,
10 unless the participant affirmatively opts for a different investment for those
11 contributions.

12 (2) May make and enter into contracts, agreements, memoranda of
13 understanding, arrangements, partnerships, or other arrangements to
14 collaborate, cooperate, coordinate, contract, or combine resources,
15 investments, or administrative functions with other governmental entities,
16 including States or their agencies or instrumentalities that maintain or are
17 establishing retirement savings programs compatible with the Program,
18 including collective, common, or pooled investments with other funds of other
19 States' programs with which the assets of the Program and Trust are permitted
20 by law to be collectively invested, to the extent necessary or desirable for the
21 effective and efficient design, administration, and implementation of the

1 Program. The Treasurer is authorized to use sole source or simplified bid
2 processes as may be consistent with the purposes of this chapter.

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

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

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

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

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

1 (8) Shall enter into agreement with the Vermont Department of Taxes

2 to:

3 (A) facilitate the checking of Program eligibility for employers and
4 employees; and

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

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

20 (10) Discharge the Treasurer's duties as fiduciary with respect to the
21 Program solely in the interest of the Participants as follows: for the exclusive

1 purpose of providing benefits to Participants and defraying reasonable
2 expenses of administering the Program and with the care, skill, prudence, and
3 diligence under the circumstances then prevailing that a prudent person acting
4 in a like capacity and familiar with those matters would use in the conduct of
5 an enterprise of a like character and with like aims.

6 § 534. VERMONT RETIREMENT SECURITY FUND

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

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

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

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

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

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

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

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

1 § 535. PENALTIES

2 (a) Failure to enroll. If a covered employer fails to enroll a covered
3 employee without reasonable cause, the covered employer is subject to a
4 penalty for each covered employee for each calendar year or portion of a
5 calendar year during which the covered employee was not enrolled in the
6 Program or had not opted out of participation in the Program. The amount of
7 any penalty imposed on a covered employer for the failure to enroll a covered
8 employee without reasonable cause is determined as follows:

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

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

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

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

20 (1) no penalty shall be imposed on any failure for which it is established
21 that the covered employer subject to liability for the penalty did not know that

1 the failure existed and exercised reasonable diligence to meet the requirements
2 of this subsection above;

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

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

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

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

15 § 536. PROTECTION FROM LIABILITY

16 (a) Employer protection from liability.

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

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

1 (A) any employee’s decision to participate in or opt out of the

2 Program;

3 (B) any investment decisions of any participant;

4 (C) the administration, investment, investment returns, or investment
5 performance of the Program, including any interest rate or other rate of return
6 on any contribution or account balance;

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

8 (E) an individual’s awareness of or compliance with the conditions
9 and other provisions of the tax laws that determine which individuals are
10 eligible to make tax-favored contributions to an IRA, in what amount and in
11 what time frame and manner; or

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

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

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

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

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

6 (4) shall not be liable or responsible for any loss, deficiency, failure to
7 realize any gain, or any other adverse consequences, including any adverse tax
8 consequences or loss of favorable tax treatment, public assistance, or other
9 benefits, incurred by any person as a result of participating in the Program.

10 § 537. CONFIDENTIALITY

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

14 § 538. ACCOUNTING AND REPORTS

15 Beginning on January 15, 2024, and annually thereafter, the Treasurer shall
16 submit a report to the Governor and the House Committees on Commerce and
17 Economic Development and on Government Operations and Military Affairs
18 and the Senate Committees on Economic Development, Housing and General
19 Affairs and on Government Operations detailing the activities, operations,
20 receipts, and expenditures of the Program during the preceding calendar year,
21 and any other information regarding the Program. The report shall include, as

1 applicable, the number of participants, the investment options, rates of return,
2 and the projected activities of the Program for the current calendar year.

3 Sec. 2. VT SAVES; IMPLEMENTATION

4 (a) Subject to an appropriation from the General Assembly, the State
5 Treasurer shall implement the VT Saves Program (Program), established in 3
6 V.S.A. chapter 18, as follows:

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

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

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

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

15 Sec. 3. REPEALS

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

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

20 Sec. 4. EFFECTIVE DATE

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