

1 Introduced by Committee on Economic Development, Housing and General
2 Affairs

3 Date:

4 Subject: Retirement; VT Saves

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

9 An act relating to the establishment of VT Saves

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

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

12 CHAPTER 18. VT SAVES

13 § 531. DEFINITIONS

14 As used in this chapter:

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

17 (A) a percentage of the participant’s taxable wages as is required to
18 be reported under Sections 6041 and 6051 of the Internal Revenue Code of
19 1986, or any subsequent corresponding internal revenue code of the United
20 States, as amended from time to time;

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

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

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

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

3 (B) any individual who is an employee of the Federal Government,
4 the State or any other state, any county or municipal corporation, or any of the
5 State’s or any other state’s units or instrumentalities; or

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

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

18 (A) the Federal Government, the State or any other state, any county
19 or municipal corporation, or any of the State’s or any other state’s units or
20 instrumentalities;

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

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

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

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

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

10 (8) “Payroll deduction IRA or payroll deduction IRA arrangement”
11 means an arrangement by which an employer allows employees to contribute
12 to an IRA by means of payroll deduction.

13 (9) “Program” means the VT Saves program established in accordance
14 with this chapter.

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

18 (11) “Specified tax-favored retirement plan” means a plan, program, or
19 arrangement that is tax-qualified under or described in, and satisfies the
20 requirements of, Section 401(a), Section 401(k), Section 403(a), Section
21 403(b), Section 408(k), Section 408(p) or Section 457(b) of the Internal

1 Revenue Code, without regard to whether it constitutes an employee benefit
2 plan under ERISA.

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

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

8 (14)(A) “Vendor” means:

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

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

13 (I) provide ancillary services, including technological,
14 payroll or recordkeeping services, and

15 (II) offer retirement plans or payroll deposit individual
16 retirement account arrangements using products of regulated retirement
17 plan sponsors.

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

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

4 (16) “Wages” means any compensation within the meaning of Section
5 219(f)(1) of the Internal Revenue Code that is received by an employee from
6 an employer during a calendar year.

7 § 532. VT SAVES PROGRAM; ESTABLISHMENT

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

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

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

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

5 (c) Contributions.

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

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

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

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

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

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

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

19 (2) The costs and expenses incurred to initiate, implement, maintain,
20 manage, and administer the Program and its investments are paid or defrayed
21 from investment returns or assets of the Program or through fees, charges, or

1 funds, whether account based, asset based, per capita, or otherwise, to the
2 extent permitted under federal and State law.

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

5 (A) Processes for enrollment and contributions to an IRA under the
6 Program, including:

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

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

12 (iii) the making of default contributions using default investments
13 and participant selection of alternative contribution rates or amounts and
14 alternative investments from among the options offered under the Program.

15 (B) Processes for phasing in enrollment of eligible individuals,
16 including phasing in enrollment of covered employees by size or type of
17 covered employer.

18 (C) Processes for a participant to make nonpayroll contributions to
19 accounts under the Program.

1 (D) Processes for an employer to be determined to be exempt from
2 the Program because the employer sponsors a specified tax-favored retirement
3 plan.

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

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

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

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

21 (h) Participant accounts.

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

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

6 (i) Program assets.

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

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

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

20 (j) Fees.

1 (1) The Treasurer may require that each participant be charged a fee to
2 defray Program costs. The amount and method of collection of such fee shall
3 be determined by the Treasurer, provided that the Treasurer shall seek to keep
4 fees, costs, and expenses as low as practicable.

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

7 § 533. DUTIES OF THE STATE TREASURER

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

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

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

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

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

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

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

19 (5) Shall cause the Program and accounts established under the Program
20 to be designed, established, invested, and operated in accordance with best

1 practices for retirement savings accounts and to avoid preemption of the
2 Program by federal law.

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

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

11 (8) Shall enter into agreement with the Vermont Department of Taxes
12 to:

13 (A) facilitate the checking of Program eligibility for employers and
14 employees; and

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

18 (9) May enter into an intergovernmental agreement or memorandum of
19 understanding with any agency or instrumentality of the State to receive
20 outreach, technical assistance, enforcement, and compliance services;
21 collection or dissemination of information pertinent to the Program, subject to

1 such obligations of confidentiality as may be agreed to or required by law; or
2 other services or assistance. The State and any agencies or instrumentalities of
3 the State that enter into such agreements or memoranda of understanding shall
4 collaborate to provide the outreach, assistance, information, and compliance or
5 other services or assistance to the Program. The agreements or memoranda of
6 understanding may cover the sharing of costs incurred in gathering and
7 disseminating information and the reimbursement of costs for any enforcement
8 activities or assistance.

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

16 § 534. VERMONT RETIREMENT SECURITY FUND

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

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

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

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

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

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

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

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

11 § 535. PENALTIES

12 (a) Failure to enroll. If a covered employer fails to enroll a covered
13 employee without reasonable cause, the covered employer is subject to a
14 penalty for each covered employee for each calendar year or portion of a
15 calendar year during which the covered employee was not enrolled in the
16 Program or had not opted out of participation in the Program. The amount of
17 any penalty imposed on a covered employer for the failure to enroll a covered
18 employee without reasonable cause is determined as follows:

19 (A) prior to October 1, 2025, the maximum penalty per covered
20 employee is \$10.00;

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

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

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

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

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

15 (i) the covered employer subject to liability for the penalty
16 exercised reasonable diligence to meet those requirements; and

17 (ii) the covered employer complies with the requirements set forth
18 in subdivision (1) of this subsection (b) ith respect to each covered employee
19 by the end of the 90-day period beginning on the first date the covered
20 employer knew, or exercising reasonable diligence would have known, that the
21 failure existed; and

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

5 § 536. PROTECTION FROM LIABILITY

6 (a) Employer protection from liability.

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

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

11 (A) any employee’s decision to participate in or opt out of the
12 Program;

13 (B) any investment decisions of any participant;

14 (C) the administration, investment, investment returns or investment
15 performance of the Program, including any interest rate or other rate of return
16 on any contribution or account balance;

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

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

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

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

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

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

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

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

19 § 537. CONFIDENTIALITY

1 The Treasurer shall establish policies and procedures, consistent with the
2 Vermont Public Records Act and other statutory provisions, for the Program
3 participants’ personal and confidential information.

4 § 538. ACCOUNTING AND REPORTS

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

13 Sec. 2. VT SAVES; IMPLEMENTATION

14 (a) The State Treasurer shall implement the VT Saves Program (Program),
15 established in 3 V.S.A. chapter 18, as follows:

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

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

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

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

3 Sec. 3. VT SAVES; FY 2024; APPROPRIATIONS

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

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

10 Sec. 4. REPEALS

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

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

15 Sec. 5. EFFECTIVE DATE

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