

April 26, 2023

TO: The Honorable Michael Marcotte, Chair
Members of the House Committee on Commerce & Economic Development

RE: Senate Bill 135, an act relating to the establishment of VT Saves

Dear Representative Marcotte and Committee Members:

On behalf of the American Council of Life Insurers (ACLI), I write to express concerns with Senate Bill 135, which would establish the VT Saves Program. Senate Bill 135 poses significant costs and risks to the state of Vermont, private employers, and potential employee participants. Similar state-run auto-enrollment individual retirement account (IRA) programs have been rejected by approximately 40 other states and the experiences of the four states that have implemented such programs reveal serious pitfalls. Financial and retirement security is the primary mission of ACLI's 280 member companies, so while ACLI shares the goal of helping more Vermonters save for retirement, we would suggest a different path forward.

High costs and lack of effectiveness

The VT Saves Program would likely be very expensive for Vermont to implement and administer. Most states that have considered state-run retirement plans have found the start-up and ongoing costs to be prohibitive. For this and other reasons, only four of the 13 states that have adopted such plans (California, Connecticut, Illinois, and Oregon) have implemented them. Funding the high costs of a state-run retirement program does not make sense given the wide availability of low-cost, high-quality plans in the private market. In Oregon, taxpayers have already paid more than \$5 million in setup costs, with total startup costs estimated at \$23 million; and the California program has accessed \$16.9 million in general fund loan capacity, with total startup costs estimated at \$170 million. Although these plans are well into general enrollment, they remain financial burdens for taxpayers due to lagging employer participation, low employee contributions, and greater than expected worker opt-outs and withdrawals.

According to the Georgetown Center for Retirement Initiatives, the four state-run IRA plans have accumulated more than \$625 million in assets from more than 600,000 savers working for 41,000 different employers. However, employer participation in state-run retirement plans has lagged even with statutory mandates in place and auto-enrolled workers have only reached 10 percent of projections in Oregon and even less in California and Illinois. Opt-outs have exceeded 30 percent in most states and withdrawal rates are 17.5 percent in California and between 25 and 30 percent in Illinois and Oregon. The latter indicates that many workers in states with

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The American Council of Life Insurers (ACLI) is the leading trade association driving public policy and advocacy on behalf of the life insurance industry. 90 million American families rely on the life insurance industry for financial protection and retirement security. ACLI's member companies are dedicated to protecting consumers' financial wellbeing through life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, and dental, vision and other supplemental benefits. ACLI's 280 member companies represent 94 percent of industry assets in the United States.

government-mandated Roth IRA plans are using the plans for emergency, rather than long-term savings.

Lack of consumer protections

The VT Saves Program would lack the minimum standards and consumer protections inherent in most private market retirement savings plans available to employers. Employer-sponsored retirement plans are generally strong, safe, and reliable because they are subject to the federal Employee Retirement Income Security Act (ERISA), which is designed to protect the workers who participate in them. However, Section 532(d)(1) of S.135 states that the Vermont Saves Program would be designed and implemented in a manner such that neither the IRAs nor covered employers would be subject to ERISA. Some of the protections ERISA offers are minimum standards for plan participation, vesting, benefit accrual, and funding; fiduciary responsibilities for plan managers; plan participants' right to sue for benefits and breaches of fiduciary duty; and, perhaps most importantly, certain guaranteed payments in case of plan termination.

In contrast to private market plans subject to ERISA, S. 135 specifies that neither employers nor the state of Vermont would guarantee VT Saves Program funds, employers and the state are immune from liability to employee participants, and the state has "no duty, responsibility, or liability to any party for the payment of any benefits under the Program, regardless of whether sufficient funds are available under the Program to pay such benefits." Without important ERISA safeguards, the Vermont Saves Program would fail to adequately protect workers' savings.

A better path forward

Fortunately, there is a vibrant marketplace of private retirement plans available to address the retirement savings needs of Vermonters and avoid the costs and risks associated with S. 135. In December of 2022, Congress signed into law the Securing a Strong Retirement Act of 2022 (SECURE Act 2.0). The bipartisan SECURE Act 2.0 builds upon the SECURE Act of 2019 to further strengthen options for low-cost, high-quality retirement plans by providing market-based incentives and tax credits for small employers to adopt auto-enrollment retirement plans. This will help create a more financially inclusive retirement landscape and encourage greater retirement savings. Specifically, the SECURE Act 2.0 provides flexibility and encourages utilization among low- and middle-income earners, part-time workers, older workers, and military spouses. It even enables employers to contribute a 401(k) "match" for an employee's student loan repayments, enabling Millennials with student loan debt to stop deferring saving for retirement.

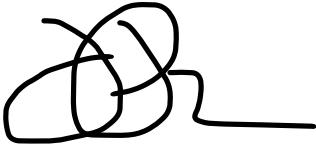
Additionally, new multiple employer plan rules allow diverse employers of all sizes to join together in streamlined and cost-effective retirement plans. These association plans, as well as pooled employer 401(k) plans authorized under the SECURE Act of 2019, are widely available to local chambers of commerce, employer associations, and even to small business clients of large payroll providers like ADP and Paychex. The risk management firm AON predicts that "half of U.S. employers will join pooled employer plans in a decade; creating higher performing, more efficient 401(k) plans for millions of Americans."¹ Employers that offer these plans may also contribute to or match their employees' retirement contributions, which is a significant benefit of private market plans such as 401(k) plans.

In conclusion, ACLI member companies are committed to providing financial and retirement security for Vermonters through the private market. Retirement plans available to employers in

¹ https://benefitslink.com/cgi-bin/pr/index.cgi?rm=press_release;id=53723

the private market offer more cost-effective, safer alternatives to S. 135, and the newly enacted SECURE 2.0 further incentivizes retirement savings, especially among vulnerable and at-risk populations. Unknown future costs and liabilities should not be taken lightly even in good economic times; these are key reasons why approximately 40 other states have rejected state-run retirement proposals similar to the VT Saves Program.

It is also for these reasons that we urge you not to advance S.135. Thank you for your consideration.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal tail stroke extending to the right.

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cc: Christopher Rice, Esq., MMR, LLC