

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

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Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Vermont Saves Program Rule

_____ s/ Mike Pieciak _____, on 9/17/2024
(signature) (date)

Printed Name and Title:
Mike Pieciak, Treasurer

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Vermont Saves Program Rule

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

24P029

3. ADOPTING AGENCY:

Office of the State Treasurer

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Becky Wasserman

Agency: Office of the State Treasurer

Mailing Address: 109 State Street, Suite 4, Montpelier VT
05609

Telephone: 802-498-346 Fax:

E-Mail: becky.wasserman@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://www.vermonttreasurer.gov/vt-saves>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Justin St. James

Agency: Office of the State Treasurer

Mailing Address: 109 State Street, Suite 4, Montpelier VT
05609

Telephone: 802-828-719 Fax:

E-Mail: justin.stjames@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

3 V.S.A. § 533(1)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

Section 533 of Title 3 of the Vermont Statutes Annotated authorizes the State Treasurer to prepare and adopt rules necessary for the implementation and general administration and operation of the Vermont Saves Program. This rule falls within this authority because it pertains to the governance and administration of the Vermont Saves Program.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE NOT RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

The Vermont Saves Program Rule proposes to implement 3 V.S.A. Chapter 18, consistent with the legislative intent to establish a State auto-IRA program for "the purpose of increasing financial security for Vermonters by providing access to an IRA for Vermont employees of companies that do not currently offer a retirement savings program." The rule is intended to ensure the Program is designed to meet the Legislature's requirements that the Program facilitate portability of participant benefits through withdrawals, rollovers, and direct transfers and minimize costs by achieving economies of scale and other efficiencies. Among other things, the rule addresses program eligibility requirements and mandates, employer registration and

exemption certification, the participant opt out process, portability (including rollovers and distributions), fund withdrawals, contributions, default contribution rates and investments options, payroll deductions, and the auto-escalation process.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

Vermont law (3 V.S.A. § 533) specifically authorizes the State Treasurer to adopt rules that are necessary and advisable for the implementation and general administration and operation of the Vermont Saves Program. The rule is required to ensure the Program is designed in a manner consistent with legislative intent and in compliance with all applicable State and federal laws and regulations, including the Internal Revenue Code regulations relating to individual retirement arrangements (IRAs).

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The decision by the Office of the State Treasurer to adopt a rule to implement and administer the Program is rationally related to designing a Program with clear and easy registration requirements for all employers in the State who are required to comply with 3 V.S.A. Chapter 18 and ensure that retirement savings through the Program is convenient and accessible to all eligible participants.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

The Rule primarily affects all employers in the State with five or more employees who do not offer a workplace retirement plan and all eligible employees who are automatically enrolled in the Program. The rule may also affect financial advisers and payroll companies who are contacted about retirement or other workplace benefits that are an alternative to the Vermont Saves Program.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

Vermont Saves will potentially impact tens of thousands of Vermonters and their families. The Program is intended to provide a retirement savings vehicle for employees who do not have access to a workplace retirement plan. Without access to these savings, individuals will have to rely upon

federal and state benefit programs in their retirement years. This Program, through its auto-enrollment feature, seeks to create retirement savings vehicles with simple investment options for Vermonters who may not save for retirement otherwise. This may in turn lessen the burden on state governmental programs in future years. The VT Saves Program has no impact on employers, who are not required or permitted to make contributions into their employee accounts. The State made an initial appropriation of \$750,000.00 to launch Vermont Saves, but ongoing funding from the State is not anticipated as Program fees will fund the Program.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 8/20/2024

Time: 10:00 AM

Street Address: Office of the State Treasurer
109 State Street 4th Floor, Montpelier VT

Zip Code: 05609

URL for Virtual: [https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDRiOTBmNTUtnDEzNy00MjlkLWEyZTYtMDk0MDQ5ZDUzNTJh%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22df07d0d2-40a9-41d5-](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDRiOTBmNTUtnDEzNy00MjlkLWEyZTYtMDk0MDQ5ZDUzNTJh%40thread.v2/0?context=%7b%22Tid%22%3a%2220b4933b-baad-433c-9c02-70edcc7559c6%22%2c%22Oid%22%3a%22df07d0d2-40a9-41d5-99b6-62215acbe0a9%22%7d)

99b6-62215acbe0a9%22%7d Phone: +1 802-828-

7667,,894247809# United States, Montpelier

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

8/27/2024

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Retirement

Vermont Saves

VT Saves

IRA

MICHAEL S. PIECIAK
STATE TREASURER

RETIREMENT DIVISION
TEL: (802) 828-2305



STATE OF VERMONT
OFFICE OF THE STATE TREASURER

UNCLAIMED PROPERTY DIVISION
TEL: (802) 828-2407

ACCOUNTING DIVISION
TEL: (802) 828-2301

MEMORANDUM

To: Legislative Committee on Administrative Rules (LCAR)
From: Becky Wasserman, Director of Economic Empowerment, Office of the State Treasurer
Date: September 13, 2024
RE: 24P-029; Final Proposed Rule; *Vermont Saves Program Rule*

The Office of the State Treasurer filed its proposed rule, the Vermont Saves Program Rule, with the Office of the Secretary of State on July 12, 2024. A public hearing was held on August 20, 2024.

After consideration of the public comments received, please find attached a filing of the Final Proposed Rule for the Committee's consideration, annotated to reflect changes from the proposed rule filing. Also attached is an Excel sheet list of the comments received and our response to each comment with specific section references.

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Vermont Saves Program Rule

2. ADOPTING AGENCY:

Office of the State Treasurer

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: July 8, 2024, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Jared Adler, Jennifer Mojo, Michael Obuchowski, and Nicole Dubuque
Members Absent: John Kessler and Diane Sherman
Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the May 13, 2024 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: An emergency rule titled 'General Assistance Emergency Housing Assistance Emergency Rules', provided by the Agency of Human Services, Department for Children and Families, was supported by ICAR Chair Brown on June 25, 2024.
- No public comments made.
- Presentation of Proposed Rules on pages 2-6 to follow.
 1. Marriage Ceremony For Incarcerated Individuals, Department of Corrections, page 2
 2. Best Management Practices Rule, Agency of Agriculture, Food and Markets, page 3
 3. Technical Service Provider Certification Rule, Agency of Agriculture, Food and Markets, page 4
 4. Prior Authorization, Agency of Human Services, page 5
 5. Vermont Saves Program Rule, Office of the State Treasurer, page 6
- No other business.
- Next scheduled meeting is August 12, 2024 at 2:00 p.m.
- 2:47 p.m. meeting adjourned.

Proposed Rule: Vermont Saves Program Rule, Office of the State Treasurer

Presented By: Becky Wasserman

Motion made to accept the rule as presented by Sean Brown, seconded by Mike Obuchowski, and passed unanimously except for Natalie Weill who abstained, with no recommendations.



Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Vermont Saves Program Rule

2. ADOPTING AGENCY:

Office of the State Treasurer

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

The Vermont Saves Program has the potential to improve tens of thousands of Vermonters’ financial lives, and particularly their retirement security. The Program will provide a retirement savings vehicle for many individuals who do not have access to a workplace retirement savings account. Without access to these accounts, many such individuals would rely entirely on

federal and state benefit programs in their retirement years. This Program, through its auto-enrollment feature, seeks to create retirement savings vehicles with simple, effective investment options for these Vermonters. This may in turn lessen the burden on state governmental programs in future years.

The Program only permits employee contributions, so there is no financial burden on employers. Employers are simply required to sign up all covered employees, but that is a short process, done through the Program's vendor. The Program will also benefit these employers who do not currently offer employees a retirement savings vehicle, as it could aid employee retention.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

There is no direct economic cost impact on schools as a result of these rules. Our office's hope is that increased retirement savings will eventually lead to less pressure on taxpayers as demand for publicly provided benefit programs for those of retirement age is lessened as retirement savings grow.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

There is no direct cost impact to schools from these rules.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

There is no direct economic cost impact of these rules on small businesses. These rules should aid small businesses, as it provides at no cost to the employer, an opportunity for their employees to have retirement savings vehicles. Aside from a short sign-up process and very modest payroll requirements, there is no ongoing administrative burden for small business

owners. Additionally, given that they are prohibited from contributing any amount of money to employee accounts, there is zero financial burden on small businesses as a result of these rules.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

These rules only require a short, one-time, registration process to be completed by small businesses, and simple ongoing payroll deductions. Our office is focused on outreach well in advance of implementation to make the registration process as easy as possible. Additionally, our office's vendor will be available, as will our office, to troubleshoot any concerns voiced by small businesses.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

These rules will positively impact tens of thousands of Vermonters by providing a vehicle for retirement investments and savings. Additionally, these rules are necessary to implement the program pursuant to Act 43 of the 2023 Legislative Session, and meet the timelines set forth by the General Assembly. Our office is soliciting feedback from small business owners on our advisory board to make the administrative requirements on business owners as uncomplicated and streamlined as possible.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This economic impact analysis provides the Office's best assessment of the economic impact of this Program based on the information available.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Vermont Saves Program Rule

2. ADOPTING AGENCY:

Office of the State Treasurer

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact anticipated.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact anticipated.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact anticipated.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
No impact anticipated.

7. *CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
No impact anticipated.

8. *OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
No impact anticipated.

9. *SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
Retirement savings accounts have no impact on the environment. The Office of the State Treasurer recognizes that there are potential reductions in greenhouse gas emissions from reducing the use of first-class mail to notify employers of their requirement to register for the Program and notify participants about their account. However, identifying whether this rule will, in fact, impact greenhouse gas emissions depends on how many employers in the State opt to receive registration notification through first-class mail rather than online and how many participants opt to receive account information through first-class mail rather than an online portal. It will also depend on whether the energy use associated with electronic systems ultimately will use less fossil fuels and produce less carbon emissions than first-class mail. Without knowing having this data available to us, it would be speculative for the Office to attempt to calculate the impact on greenhouse gas emission from this rule. We believe, regardless of how many employers request first-class mail, the environmental impacts will be de minimis.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Vermont Saves Program Rule

2. ADOPTING AGENCY:

Office of the State Treasurer

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Office of the State Treasurer will notify the public and interested stakeholders of the proposed rule and public hearing in accordance with the Vermont APA. Prior to commencing this formal rulemaking process, our Office circulated a version of the proposed rules to an advisory board of stakeholders for advice and feedback. In addition to holding a public hearing, our office will widely circulate the proposed rules to stakeholder groups when they are available for public comment. We will also post the rules to our office's website for public review. All public comments will be carefully reviewed and considered for inclusion into the proposed rules.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

VT Saves Advisory Board

Vermont Chamber of Commerce

Public Input

Vermont Businesses for Social Responsibility

Vestwell (Office's vendor who will administer the program)

AARP

Partnership for a Dignified Retirement (Colorado, Delaware, and Maine State Treasurer Offices)



Public Comments
White

rganizations

707 North St. Asaph Street
Alexandria, Virginia 22314

T 703 836.0466
F 703 836.0976
www.napeo.org

August 27, 202

Submitted via email to becky.wasserman@vermont.gov

Ms. Becky Wasserman, Executive Director
Vermont Saves Program
c/o Office of the State Treasurer
109 State Street, Suite 4
Montpelier, VT 05609

Re: Comments on the Proposed Rules for the Vermont Saves Program

Dear Ms. Wasserman:

On behalf of the National Association of Professional Employer Organizations (NAPEO), thank you for the opportunity to submit comments on the proposed rules for the Vermont Saves Program (VT Saves or Program).

Professional employer organizations (PEOs), or employee leasing companies, provide human resource services to small and mid-size businesses—paying wages and taxes under the PEO’s EIN, offering workers’ compensation, welfare benefits and risk management services, and providing compliance assistance with employment-related rules and regulations. PEOs have been operating in Vermont for decades.¹

NAPEO appreciates that the proposed rules for VT Saves recognize the existence of “multi-party employment relationships,” which are employment relationships in which more than one entity could be viewed as an employer of a particular employee. In this regard, we are writing to express our support for how the proposed rules appear to apply the Program’s employer requirements in the case of a multi-party employment relationship that involves a PEO. We are also writing to recommend some modifications to the proposed rules that we believe will help better ensure the rules operate as intended and in a clearer manner, as well as to more closely align the proposed rules’ language with existing Vermont law.

¹ Under Vermont law, PEOs are referred to as an “employee leasing company.” 21 V.S.A Ch. 12.

SPECIFIC COMMENTS ON VT SAVES' PROPOSED RULES AND RECOMMENDED CHANGES

NAPEO respectfully offers the following comments and recommendations for changes to the proposed rules to help ensure that the Program's policy objectives in terms of coverage goals and administrative simplicity are achieved.

A. Definitions Related to Parties in a PEO Relationship

We appreciate the inclusion of certain defined terms in the proposed rules that are relevant to a multi-party employment relationship involving a PEO. We have the following specific comments and recommendations regarding these terms:

- **Work-Site Employer**

- Existing Vermont law provides a definition for the term "client company" in 21 V.S.A. § 1031(3). To be consistent with the existing statutory definitions relating to employee leasing companies, we recommend replacing the term "work-site employer" in the proposed rules with "client company," and then defining the latter term by reference to the statutory definition.
- As defined in 21 V.S.A. § 1031(3), "client company" means a person who enters into an agreement with an employee leasing company to lease any or all of its regular employees. We recommend that the definition of "work-site employer" in the proposed rules for VT Saves be amended as follows:

~~50. "Work site employer" means any person, business, or other entity that procures the services of an Employee Leasing Company under a contract, and which retains direction and control of the Covered Employees specified in the contract regarding responsibilities not specified in the contract pertaining to the business of the work site employer.~~ "Client company" has the same meaning as in 21 V.S.A. § 1031(3).

- **Work-Site Employee**

- We recommend amending the proposed definition for "work-site employee" as follows to be consistent with our above recommendation to replace the term "work-site employer" with "client company." We also recommend removing the proposed definition's reference to a "covered employee" and instead referring to an "employee" in the more general sense, which would be more fitting given the context.

~~49. "Work-Site Employee" means a Covered Employee contracted through an Employee Leasing Company, an employee who is leased to a Client Company by an Employee Leasing Company pursuant to an agreement described in 21 V.S.A. § 1031(4).~~

- **Employee Leasing Company**

- As noted above, existing Vermont law refers to a PEO as an employee leasing company. To be consistent with the existing statutory definition of employee leasing company as provided in 21 V.S.A § 1031(5), we recommend modifying the definition of Employee Leasing Company for purposes of VT Saves to read as follows:

18. “Employee Leasing Company” has the same meaning as an employee leasing company, a professional employment organization, an employer of record, or any similar entity that provides employee-related services or workers by contract and for a fee to a Covered Employer. as in 21 V.S.A § 1031(5).

B. Clarification that a Client Company, and not the PEO, is treated as the employer of a Work-Site Employee for Purposes of VT Saves

Under section II.6 of the proposed rules, if a business utilizes a PEO, then the entity whose FEIN appears in the Vermont Department of Labor’s records for purposes of the payment of unemployment insurance (UI) premiums is the entity that is responsible for either certifying exempt status or for registering with VT Saves. In Vermont, PEOs are required to report UI contributions with respect to a work-site employee using the client company’s FEIN.² As a result, the proposed rules for VT Saves would, in effect, provide that the client company (rather than the PEO) is responsible for certifying exempt status or registering with VT Saves. We strongly support this result, which will help maximize employee coverage under VT Saves, ensure that small businesses are treated consistently by VT Saves regardless of whether they use a PEO, and avoid the many unnecessary administrative burdens and unintended results that would occur absent this result.

While we support the general treatment of the parties involved in a PEO relationship under the proposed rules, we recommend a few modest but important changes to the text of the rules. Our primary recommendation is to clarify that the client company is treated as the employer of a work-site employee. This clarification is important because the employer requirements and operation of VT Saves depend upon identifying each employee-employer relationship, and it will further ensure that VT Saves operates in a matter that is consistent with our understanding of the intent and objectives of the program in the context of a PEO relationship. In addition, we recommend some modifications to the text to more closely align the proposed rule’s language to existing Vermont law, such as referring to UI “contributions” instead of UI “premiums.”

For the reasons discussed above, NAPEO recommends amending the section on multi-party employment relationships in the proposed rules to read as follows:

² 21 V.S.A. § 1038 (“Quarterly unemployment reports shall be filed and unemployment contributions shall be paid based on the client company’s experience rating and under the client company’s State employer account number.”).

6. Multi-Party Employment Relationships

a. If a business utilizes an Employee leasing company, the entity that pays under which unemployment insurance ~~premiums~~ contributions for ~~Covered~~ work-site employees are paid, as indicated by the FEIN that appears in the Vermont Department of Labor's records, shall be the entity that is treated as the employer of the work-site employee for purposes of the Program and shall be responsible for either certifying exempt status or Registration in accordance with this regulation.

b. Any wages paid to a Work-Site employee by the Employee leasing company shall be treated as wages received from the ~~Work-Site employer~~ Client Company.

c. Nothing in this regulation prohibits a party in a relationship between a business Client Company and an Employee Leasing eCompany from assisting another party in the relationship to comply with this rule.

C. Employer Exemption for Client Companies that Offer a PEO's 401(k) Plan

The definition of "Covered Employer" in the proposed rules effectively exempts an employer that offers to its employees a Specified Tax-Favored Retirement plan, such as a 401(k) plan. One of the benefits that many PEOs make available to their clients is the option to make a 401(k) plan that is sponsored by the PEO available to a client's employees. In this regard, we read the proposed rules as providing that a Client Company that offers to its employees a PEO's 401(k) plan would be exempt from participating in VT Saves. NAPEO supports this result because we believe it was the intent of the legislature that the employer exemption should be available to any employer that makes a payroll deduction retirement savings opportunity available to its workers, regardless of whether the employer sponsors its own plan or offers coverage through another avenue, including through a PEO.

D. Clarify Businesses with Less Than Five Employees are Exempt from VT Saves

The definition of "Covered Employer" in the proposed rules indicates that businesses with more than five employees are required to comply with the requirement to facilitate VT Saves unless an exemption applies. As drafted, however, the proposed rules are silent on whether employers with fewer than five employees are also required to participate in VT Saves. If the proposed rules are intended to exclude employers with fewer than five employees from the registration and participation requirements, then we recommend that the rules clarify this exclusion.

Once more, we appreciate your consideration of our comments on the proposed rules for VT Saves. Should you have any questions with respect to the issues discussed herein, please contact me or Kristin Baldwin, NAPEO Director of State Government Affairs at kbaldwin@napeo.org.

Sincerely,

Tim Graham

Tim Graham
President
Payrolling Partners, Inc.
tgraham@payrollingpartners.com



AMERICAN BENEFITS

COUNCIL

August 20, 2024

Submitted electronically via email to becky.wasserman@vermont.gov

Becky Wasserman, Executive Director
Vermont Saves
Office of the State Treasurer
109 State Street, Suite 4
Montpelier, VT 05609

Re: Proposed Rules Governing the Vermont Saves Program

Dear Ms. Wasserman:

The American Benefits Council (the “Council”) appreciates the opportunity to comment on the proposed rules for the Vermont Saves program (“the program”). While the Council supports several aspects of the proposed rules, we are writing primarily to recommend certain modifications and clarifications to the employer exemption process. Our comments are intended to help ensure the program operates in a manner that complements the existing employer-based retirement system without adversely affecting those employers that already offer a retirement plan to their employees (referred to herein as “plan sponsors”). In addition, we believe our recommendations would help reduce the risk that Vermont Saves could be challenged as preempted by the federal Employee Retirement Income Security Act of 1974 (ERISA).

The Council is a Washington D.C.-based employee benefits public policy organization. The Council advocates for employers dedicated to the achievement of best-in-class solutions that protect and encourage the health and financial well-being of their workers, retirees and their families. Council members include over 220 of the world’s largest corporations and collectively either directly sponsor or support sponsors of health and retirement benefits for virtually all Americans covered by employer-provided plans. The great majority of the Council’s members have operations in multiple states, including Vermont.

THE COUNCIL'S ENGAGEMENT WITH STATE-RUN AUTO-IRA PROGRAMS

The Council and its members have long supported both public and private efforts to expand access to retirement savings opportunities for workers. Because the United States' employment-based retirement system is voluntary for employers, the Council has worked closely with Congress and the federal agencies over the years to reduce the administrative burdens and costs of sponsoring a retirement plan. As more states enact state-run retirement programs requiring the participation of certain private-sector employers, the Council has also been working with the states in recent years to share our experiences in how to achieve savings success and to ensure that these state programs do not adversely affect employers that already voluntarily offer a retirement savings opportunity to their workers.

Our goal in working with states that implement auto-IRA programs, such as Vermont, is to ensure that the programs do not undermine the incentive for employers to adopt and maintain an employer-based, federally regulated retirement plan with employer contributions, higher contribution limits, and more participant protections. We strongly believe that state auto-IRA programs, including Vermont Saves, will be more successful, more widely supported, and better able to help achieve positive retirement savings outcomes for all workers if they are designed in a way that complements, rather than interferes with, the existing private-sector retirement plan system and avoids imposing unnecessary burdens on plan sponsors.

ERISA PREEMPTION AND RECOMMENDATIONS REGARDING VERMONT SAVES' EMPLOYER EXEMPTION PROCESS

Designing and administering Vermont Saves in a manner that does not adversely affect plan sponsors is not only in the interests of employers and employees in Vermont, but it also has very important implications for reducing the risk that the program could be challenged on ERISA preemption grounds. ERISA is a comprehensive federal statute regulating employer-sponsored retirement and welfare benefit plans. One of the fundamental reasons why Congress passed ERISA was to ensure that employers who voluntarily sponsor a retirement plan are not subject to a multitude of regimes under state laws that would inevitably vary from state to state. To achieve this goal, Congress included an explicit and far-reaching preemption provision in the statute. According to that provision, and except as otherwise provided by law, title I and title IV of ERISA *"shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan"* (emphasis added).¹

ERISA's broad preemption provision has been applied even to state laws that simply impose a new or different employer reporting requirement that "relates" to an

¹ ERISA § 514(a).

employee benefit plan. A 2016 Supreme Court decision reaffirmed this point when it struck down a state reporting requirement imposed on ERISA-covered health plans because the new reporting requirements interfered with a national and uniform system of plan administration.² In this regard, to best reduce the program's risk of ERISA preemption with respect to an exemption process, *we recommend that the proposed rules invite, rather than require, plan sponsors to certify their exemption.* This voluntary approach would be consistent with the CalSavers program rules, which provide that exempt employers "may, but need not," inform the program of their exemption.³

In the event that the program does not provide for a voluntary employer exemption process, then we offer the following comments and recommendations on the employer exemption process as described in the proposed rules:

- **Use Form 5500 data to reduce the number of plan sponsors to whom the program sends registration notices.** Section II.1.a of the proposed rules states that the program administrator is required to send registration notices to covered employers. By requiring that registration notices be sent to *covered* employers (as opposed to all Vermont employers more generally), we appreciate that the proposal appears to intend that only covered employers who are required to facilitate the program will be the targeted recipients of the registration notice. We strongly support such an approach.

In addition, to reduce the instances in which a plan sponsor, which by definition is not a covered employer, receives a registration notice from Vermont Saves, we recommend that the program refrain from sending registration notices to those employers for whom the program locates a federal Form 5500 (Annual Return/Report of Employee Benefit Plan). The presence of a Form 5500 indicates that an employer already offers a specified tax-favored retirement plan and is therefore exempt from the program. Taking such action is an important step in reducing the administrative burdens that Vermont Saves may otherwise impose on plan sponsors, and other states have successfully used the Form 5500 database to screen for exempt employers.

- **Clarify that plan sponsors are not required to submit an employer certification if they do not receive a registration notice.** Although not entirely clear, the proposed rules appear to indicate that a plan sponsor is required to submit an employer certification of exempt status if it receives a registration notice.⁴ This language therefore could be read to suggest that plan sponsors are *not* required

² *Gobeille v. Liberty Mut. Ins. Co.*, 577 U.S. 312, 319-20 (2016).

³ CAL. CODE REGS. tit. 10, § 10001(d).

⁴ Proposed rules sections II.1.b and II.3.a.

to submit an employer certification if the plan sponsor does not receive a registration notice. If this interpretation is correct, then the Council supports this aspect of the process, particularly if the program utilizes Form 5500 data to refine and reduce its list of notice recipients to exclude as many plan sponsors as possible. Clarification on this process point would be helpful, however, because without clarification, it may not be clear to plan sponsors that do not receive a written notice whether they must nevertheless provide an employer certification. In this regard, we recommend adding a statement such as the following to Section II.3.a or II.4:

“An employer that offers a Specified tax-favored retirement plan and that does not receive a Registration notice is not required to take any action with respect to the Program.”

- **Eliminate the option to require recertification.** Section II.3.b of the proposed rules provides that a confirmation of an employer’s exempt status will remain in effect until the employer meets the criteria of a covered employer. Section II.3.c, however, provides that employers that previously received confirmation of their exemption “may be required to recertify exempt status not more than one time per calendar year, as directed by the Treasurer.”

To the extent that the program requires plan sponsors to take any action to obtain an exemption, we strongly support providing that the confirmation of exempt status will remain in effect as long as the employer continues to offer a plan. We ask that the last sentence of Section II.3.c, however, be eliminated from the rules because requiring plan sponsors to engage in a recertification process at any interval imposes an unnecessary burden on plan sponsors and unnecessarily increases the program’s risk of being preempted by ERISA. In support of our request, we note the following: (a) it is very rare for an employer that has adopted a retirement plan to completely eliminate the plan (except where the employer has gone out of business); and (b) in the rare case this does happen, the Form 5500 data will show that the plan has been terminated.

OTHER RECOMMENDATIONS

In addition to our comments above regarding the exemption process for plan sponsors, we offer the following recommendations on the proposed rules for your consideration:

- **Clarify the exemption for very small employers.** Under the Vermont Saves statute, the definition of “covered employer” does not explicitly exclude employers under a certain size, such as employers that have fewer than five employees. The enacted legislation, however, describes the program’s

implementation waves in a manner that suggests the Vermont legislature may have intended to exclude employers with fewer than five employees from the employer participation requirement. In this regard, we read the proposed rules as attempting to address this ambiguity because the proposal would define the term “covered employer” by reference to the statutory definition while also adding that the term “includes an employer who has five or more employees at any time in a calendar year.” Because the additional language in the proposal’s definition of covered employer does not clearly address whether employers with fewer than five employees are *also included*, we recommend modifying the definition to remove any doubt in this regard. In addition, to make the definition more workable and precise, we recommend that the determination of whether an employer meets the five-employee threshold be made by reference to “the previous calendar year” rather than “a calendar year.”⁵ For example, we suggest the following language:

“Covered employer” means an employer who meets the statutory definition in 3 V.S.A. § 531(3) and who has five or more employees at any time in the previous calendar year.

- **Consider which references to the defined term “covered employer” should instead refer more generally to an “employer.”** We note that there are some instances throughout the proposed rules where the defined term “covered employer” is used, but where we believe it would be more appropriate and improve clarity if the rules instead referred to an “employer” in the more general sense. For example, by definition, the term “covered employer” excludes a plan sponsor that offers a specified tax-favored retirement plan. Further, a “covered employer” is *required* to register with Vermont Saves and may not submit an employee certification of exempt status. The proposed rules thus create some confusion to the extent that they discuss a covered employer certifying its exempt status, for that is an option that is not available to a covered employer. As two examples of this, we recommend changing the following provisions as indicated below:

II.3.a

If a ~~Covered~~ an employer receives a Registration notice and believes that it is not a Covered employer, an authorized representative of the employer

⁵ See, for example, the rules for Illinois Secure Choice (providing that “‘Employer’ means a person, entity or client employer engaged in a business, industry, profession, trade, or other enterprise in Illinois . . . that: *has employed at least 5 employees in the State during every quarter of the previous calendar year* as indicated in employer-reported quarterly data submitted to the Department; has been in business at least 2 years; and is not offering or contributing to a qualified retirement plan.”). [Emphasis added.] 74 ILL. ADMIN. CODE § 721.200.

may complete and submit an Employer certification on the program website, attesting that the employer is exempt.

II.3.b

After ~~the~~ an employer submits a satisfactory and complete Employer certification, the program administrator shall promptly provide the employer with a confirmation of the employer's exempt status. ...

* * * * *

Thank you for considering the Council's comments on the program's proposed rules. If you would find it helpful to discuss any of these matters with us, please contact me at 202-289-6700 or at dhowland@abcstaff.org.

Sincerely,



Diann Howland
Vice President, Legislative Affairs

VT Saves – Initial Proposed Rules: Review and comment

August 2024

The following notes are provided based on an analysis of the enabling legislation and initial proposed rules for the Vermont Saves program. An annotated copy of the rules is included with this review.

In general:

A - These rules are well organized and look like they will support effective operation of the VT Saves program. Elements left flexible in statute are now defined more specifically. A number of operating procedures affecting the public are now described in more detail as well.

B - AARP may be interested in the following elements, in case the organization has a position on or wants to comment on them. Items are indicated green, amber or red.

C - There is one potential red item at the bottom of the list – it occurs late in the proposed rules but may be important to you.

There are a number of amber and potentially amber items for you to consider as well.

Elements of note:

I. Definitions

1 – **Automatic escalation** is now defined as a 1% annual increase. ■

2 – **Covered employee** is defined as in statute, plus employed for at least 500 hours or more in a calendar year. *This creates a monitoring responsibility for employers to know or estimate which employees are on track to work 500 hours in a year. If the goal is to reduce program turnover by filtering out very high turnover workers, this is already accomplished by the requirement for employers to register new workers only after the 120-day mark. (Or 90 days if the below suggestion is taken). Consider eliminating unless there is a political reason to retain.* ■

3 – **Covered employer** is defined as in statute, plus with five or more employees at any time in a calendar year. *This is a good starting point and can be adjusted downward if/as desired at a future point.* ■

4 – **Custom contribution rate** is defined as a contribution rate affirmatively selected by a Covered Participant, subject to the limitations imposed by the Program or applicable law. *It's a fine point but I would avoid using the word "custom" as the antonym to the word "default" or "standard".* **Language suggestion:** select a **specified** contribution rate at any time. ■ or ■

II. Employer Requirements

5 - A Covered employer **shall submit** Employee information for all Covered employees **no later than 120 days** after the date of employment. *120 days (four months) is a substantial period past the date of initial employment. Vermont could consider a shorter period of 90 days. It could also make clear that employers can submit Employee information at the beginning of employment.* **Language suggestion:** A Covered employer may submit Employee information for new Covered employees as soon as they become eligible, but in all cases shall submit Employee information no later than 120 days after the date of employment. ■ or ■

6 – **Multi-Party employment relationships** – defines responsibilities for employee leasing companies and work-site employers. **Unclear to me:** *If the work-site employer opts not to provide employees with access to a retirement plan, will employees be covered under VT Saves. Best if the answer is "yes" but I am not sure that requirement is clear here.* ■

IV. Accounts

7 – Default and Custom Investment Options

b. Current language: During the Hold-and-sweep period, the Covered participant's Payroll deduction contributions will be directed into the Principal preservation investment, unless the Covered participant has made an affirmative election to invest in a non-default investment option or to cease making Contributions.

Language suggestion: ... unless the covered participant has made an affirmative investment election. (full stop)

Note - this could be into any investment/s including the default investment option, if elected, allowing the PPT to skip the waiting period. Also, ceasing making contributions is not the same as deciding to close the account.

c. Current language: After the Hold-and-sweep period, the Program administrator shall direct Payroll deduction contributions into the Default investment option unless the Participant has affirmatively elected a custom investment option or to cease making contributions.

Language suggestion: as above ... **has affirmatively elected** specific investment/s from the program's menu. (full stop)

or

8 – Automatic escalation

Proposed strikeout: Under Default automatic escalation, a Covered participant's Contribution rate will automatically increase by ~~not less than~~ one percent of the Covered participant's wages at the beginning of each calendar year following the Covered participant's onboarding, ...

The escalation rate is earlier defined specifically as one percent.

9 - Termination of Participating Employer Status Through Program Exemption

Is there a meaningful difference between a and b; should the timelines for both be the same? Proposed: Merge into one notification requirement for both underlying reasons. or

10 – Abandoned Accounts

An account that remains inactive for a dormancy period prescribed under applicable law may be deemed abandoned and paid or delivered under Title 27 of the Vermont Statutes Annotated or other applicable law.

*<https://legislature.vermont.gov/statutes/section/27/018/01462> - abandonment after three years of lost contact, or sooner under some circumstances. **This is the first time I have seen rules specifically remitting dormant Auto IRA account balances to a state's unclaimed property division, and if so, sets a precedent.** There are currently federal efforts underway through SECURE 2.0 to establish a federal retirement account lost and found process. The process as defined here would potentially precede/supersede those federal efforts. The question may become one of 50 state unclaimed property divisions or one federal retirement savings lost and found database.*

Does AARP have a position on this? or

OFFICE OF THE STATE TREASURER RESPONSIVENESS SUMMARY

Entity and recommendation	T Response	Section Modified/ Changes
American Benefits Council		See new Section II.1.a.i. "i. The Program Administrator shall use all reasonable efforts to locate publicly available information to determine if a business entity is a Covered Employer. The Program Administrator shall only send a Registration notice to a business entity that the Program Administrator determines is a Covered Employer."
Possible ERISA violation	We agree with the suggestion and adopted it.	
Use 5500 form to screen for exempt employers Plan sponsors needn't submit certification if no reg notice	We agree with the suggestion and believe our new Section II.1.a.i. addresses this concern. See new Sec II.3.d. language	see above new language for Section II.1.a.i.
Remove last sentence of Section II.3.c	Agree with suggestion and believe Section II.1.a.i. language addresses the issue in addition to deleting the suggested language.	See Section II.3.c and deletion of last sentence.
Clarify exemption for small employers & remove covered employer II.3.a and b	We believe the definition of "five or more employees" is clear regarding the inapplicability of the definition to small employers. We agree with clarifying that "Covered" should be eliminated in these two sections as requested.	See Section II.3.a and b. Removed "Covered" to reflect that an employer doesn't meet that definition until their eligibility is determined.
Massena Associates LLC (on behalf of AARP)		
Modify "Covered Employee"	This suggestion was not incorporated. The enabling statutes made clear that our office would address in rulemaking that would clarify the status of part-time employees in the Program.	
Change "custom contribution rate" to "specified"	This suggestion was not incorporated. "Custom" is used in the Auto-IRA statutes of multiple other states and is an accurate reflection of the action in question.	

<p>Decrement submission deadline from 120 to 90 days</p>	<p>The suggestion was not incorporated. As noted in Line 7B above, our office believes 120 days is a better metric to reflect long-term, part-time workers, than 90 days.</p>	<p>See new language in Section II.6.a-c that seeks to clarify responsibilities in multi-party employment relationships.</p>
<p>"Multi-party employment relationships": if retirement not provided, are employees covered b rule</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See deletions of language in Sec. IV.10.b and c. These will provide additional clarity about the investment of contributions by participants in and after the hold-sweep periods.</p>
<p>Concerns about the hold-sweep period and proposing clarifications to the language.</p>	<p>This suggestion was incorporated into the rule, but we declined to merge Sections IV.10.b and c together as it did not help with clarity in our estimation.</p>	<p>See new language in Sec. IV.15.a and striking of language in Sec. IV.15.b. These changes streamline the exempt notification processes and will provide clearer guidance to Covered Employers & Participants.</p>
<p>Worried about hold-sweep and dormancy</p>	<p>This suggestion was not incorporated. If a federal law concerning dormant accounts is enacted, it will supercede any state rule concerning those accounts.</p>	<p>See new language in Sec. IV.15.a and striking of language in Sec. IV.15.b. These changes streamline the exempt notification processes and will provide clearer guidance to Covered Employers & Participants.</p>
<p>Termination of participating employer timelines</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See new language in Sec. IV.15.a and striking of language in Sec. IV.15.b. These changes streamline the exempt notification processes and will provide clearer guidance to Covered Employers & Participants.</p>
<p>Auto-escalation, "not less than one percent"</p>	<p>The suggestion was not incorporated as the cited language matches that of the statute.</p>	<p>See Section 1.50's new use/definition of "Client company" and tying it directly to the statutory definition.</p>
<p>National Association of Professional Employer Organizations</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See Section 1.49's new language clarifying definition of "Work-site employee" and tying it directly to the statutory definition.</p>
<p>Replace "work-site employer/employee" w/ "client company" (statutory definition)</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See new language in Section II.6.a-c that seeks to clarify responsibilities in multi-party employment relationships.</p>
<p>Amend 1.49's definition of "Work-site employee"</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See new language in Section II.6.a-c that seeks to clarify responsibilities in multi-party employment relationships.</p>
<p>Clarity in Section II.6 that a Client company shall be treated as the employer of a Work-site en rule.</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See new language in Section II.6.a-c that seeks to clarify responsibilities in multi-party employment relationships.</p>

<p>1.18 statutory definition of "Employee Leasing Company"</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See Section 1.18's new language clarifying that "Employee leasing company" is defined as set forth in statute.</p>
<p>Concerns with exempt status of businesses with less than five employees.</p>	<p>This suggestion was not incorporated into the rule as we believe the definition in both statute and in Sec 1.13 is clear that Covered employers have five or more employees at any time in a calendar year.</p>	<p>See new language in Section II.6.a-c that provides consistent use of "Client company" instead of "work-site employer" consistent with changes in Section 1.49 and 50.</p>
<p>"Client company" consistent with "work-site employee"</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See new language in Section II.6.a-c that seeks to clarify responsibilities in multi-party employment relationships.</p>
<p>Congruence w/ "UI contributions instead of "UI premiums"</p>	<p>This suggestion was incorporated into the rule.</p>	<p>See new language in Section II.6.a-c that seeks to clarify responsibilities in multi-party employment relationships.</p>

Office of the State Treasurer
Vermont Saves Program Rule

I. Definitions

1. "Acceptable submission method" means one or more modes of document submission detailed on the Program website.
2. "Account" means an Individual Retirement Account that has been established under the Program.
3. "Act" means 2023 Acts and Resolves No. 43.
4. "Automatic escalation" means a one percent annual increase in a Covered Participant's contribution level at the beginning of each calendar year following the Covered Participant's Onboarding.
5. "Beneficiary" means an individual, person, or entity entitled to receive the proceeds of a Program account upon the death of a Participant.
6. "Code" means the Internal Revenue Code of 1986, as amended, and any U.S. Department of Treasury regulations, rulings, announcements, or other guidance issued thereunder.
7. "Confirmation notice" means a document sent by the Program Administrator to Covered Employees to notify them that they have been enrolled in the Program.
8. "Contribution" means monies contributed to an Account.
9. "Contribution level" has the same meaning as in 3 V.S.A. § 531(1).
10. "Covered employee" has the same meaning as in 3 V.S.A. § 531(2). A Covered Employee includes a person who meets the statutory definition and is employed for at least 500 hours or more in a calendar year.
11. "Covered employer" has the same meaning as in 3 V.S.A. § 531(3) and includes an employer who has five or more employees at any time in a calendar year.
12. "Covered participant" means a covered employee who is a Participant in the Program.
13. "Custom automatic escalation" means an automatic annual increase to a Participant's contribution rate affirmatively selected by the Participant, subject to the limitations imposed by the Program Administrator or applicable law.
14. "Custom contribution rate" means a contribution rate affirmatively selected by a Covered Participant, subject to the limitations imposed by the Program or applicable law.
15. "Default contribution rate" means five percent of a Covered Participant's wages.

16. "Default investment option" means the investment option that will receive Contributions if the Participant does not select a different investment option or options.
17. "Employee information" means the information relating to Covered Employees that a Covered Employer is required to provide to the Program Administrator to complete registration.
18. "Employee leasing company" ~~means an employee-leasing company, a professional-employment organization, an employer-of-record service, or any similar entity that provides employee-related services or workers by contract and for a fee to a Covered Employer.~~ has the same meaning as in 21 V.S.A. § 1031(5).
19. "Employer certification" means the certification submitted by an employer to the Program Administrator certifying that said employer does not meet the definition of a Covered Employer.
20. "Employer information" means the information relating to a covered employer's business that the covered employer is required to provide to the Program Administrator as part of registration.
21. "ERISA" means the federal Employee Retirement Income Security Act of 1974 [29 U.S.C. § 1001 et seq.], as amended.
22. "Exempt" means not required to Onboard or Participate in the Program.
23. "FEIN" means the federal "Employer Identification Number" provided by the IRS.
24. "Hold and sweep period" means a period after the end of the Opt-out period during which time a Covered Participant's contributions are held in a principal preservation investment, unless the Covered Participant makes an affirmative election otherwise.
25. "IRA" has the meaning set forth in 3 V.S.A. § 531(6).
26. "IRS" means the Internal Revenue Service.
27. "Non-covered individual" means a person who is not a covered employee.
28. "Non-covered participant" means a participant who is not a covered employee.
29. "Non-payroll contribution" means a contribution that a participant remits outside of a payroll deduction contribution.
30. "Onboard" or "Onboarding" refers to the process by which Covered Employers, Covered Employees, and Participants furnish all required information to the Program Administrator in order to participate in the Program.

31. "Opt-out" means a covered employee affirmatively declines the option of being automatically enrolled into the Program.
32. "Opt-out period" means the period of time following the provision of Program Information to a Covered Employee during which a Covered Employee may opt out of automatic enrollment into the Program.
33. "Participant" means an individual for whom an account is held under the Program, whether they are a "non-covered" or "covered" Participant as defined in this rule.
34. "Participate" means to have an account open with the Program.
35. "Participating employer" means a Covered Employer that is remitting Covered Participant contributions.
36. "Payroll deduction contribution" means a Contribution made by a Covered Participant via a payroll deduction IRA arrangement with a Participating Employer.
37. "Principal preservation investment" means a money market fund or other conservative, highly liquid investment offered as an investment option in the Program.
38. "Program" means the VT Saves Program established under 3 V.S.A. chapter 18.
39. "Program administrator" means the third-party entity procured by the State Treasurer to provide recordkeeping and related services for the Program.
40. "Program information" means the document or documents provided by the Program Administrator to participants that details the investment options and other Program features.
41. "Register" or "Registration" means the process for Covered Employers to submit registration information, including Employee and Employer Information, to the Program Administrator.
42. "Registration date" means the deadline established by the State Treasurer for a covered employer to either register or submit an employer certification.
43. "Registration notice" means the written notice or notices, which may be sent electronically, provided to certain employers directing the employers to either register or submit an employer certification by the Registration Date.
44. "Roth IRA" has the same meaning as in 3 V.S.A. § 531(10).
45. "Specified tax-favored retirement plan" has the same meaning as in 3 V.S.A. § 531(11).

46. "Treasurer" means the Treasurer of the State of Vermont or one or more authorized employees thereof.
47. "Traditional IRA" has the same meaning as in 3 V.S.A. § 531(12).
48. "Wages" has the same meaning as in 3 V.S.A. § 531(16).
49. "Work-site employee" means ~~a Covered Employee contracted through an Employee Leasing Company.~~ an employee who is leased to a Client Company by an Employee Leasing Company pursuant to an agreement described in 21 V.S.A. § 1031(4).
50. ~~"Client company" has the same meaning as in 21 V.S.A. §1031(3). "Work-site employer" means any person, business, or other entity that procures the services of an Employee Leasing Company under a contract, and which retains direction and control of the Covered Employees specified in the contract regarding responsibilities not specified in the contract pertaining to the business of the work-site employer.~~

II. Employer Requirements

1. Notice of Registration
 - a. As directed by the Treasurer, the Program Administrator shall send Registration notices to Covered employers.
 - i. The Program Administrator shall use all reasonable efforts to locate publicly available information to determine if a business entity is a Covered Employer. The Program Administrator shall only send a Registration notice to a business entity that the Program Administrator determines is a Covered Employer.
 - b. The Registration notices shall direct Covered employers to either Register with the Program (see § 2) or submit an Employer certification of exempt status (see § 3) by the Registration date.
 - c. The Registration notices shall include instructions acceptable to the Treasurer.
 - d. The Registration date shall be at least 30 days after the date of the first Registration notice.
2. Employer Registration Requirements
 - a. A Covered employer shall Register with the Program by submitting all necessary Registration information, including both Employer information and Employee information, via an acceptable submission method on or before the Registration date.
 - b. Employer information shall include:
 - i. Employer name and assumed business name, if any.
 - ii. FEIN.
 - iii. Employer mailing address.
 - iv. Name, telephone number, and email address of an individual designated by the employer to serve as the point of contact.
 - v. Any additional information required by the Program administrator.
 - c. Employee information shall include:

- i. Full legal name.
 - ii. Social security number or individual taxpayer identification number.
 - iii. Date of birth.
 - iv. Street address.
 - v. Email address, if available.
 - iv. Phone number, if available.
 - v. Any additional information required by the Program administrator.
- d. A Covered employer shall submit Employee information for all Covered employees no later than 120 days after the date of employment.
- e. After initial Registration, a Covered employer shall have a continuing obligation to:
 - i. Promptly provide the Program administrator with any new or updated Employee or Employer information.
 - ii. Promptly Register new or otherwise unregistered Covered employees.
 - iii. Promptly provide the Program administrator with any additional information needed to administer the Program.
- f. Upon the submission and review of all necessary Registration information, the Program administrator shall send a Confirmation notice to the Covered employer and send the Program information to each Covered employee. In the event that the Program administrator does not have a functioning email address for the Covered employee, the Program administrator shall send the Confirmation notice by first class mail.

3. Process to Certify Exempt Status

- a. If an ~~Covered~~ employer receives a Registration notice and believes that it is not a Covered employer, an authorized representative of the employer may complete and submit an Employer certification on the Program website, attesting that the employer is exempt.
- b. After an ~~Covered~~ employer submits a satisfactory and complete Employer certification, the Program administrator shall promptly provide the employer with a confirmation of the employer's exempt status. A confirmation of exempt status will remain in effect until the employer meets the criteria of a Covered employer.
- c. If an employer certification is found to be inaccurate or incomplete, or does not meet Program exemption standards, the Program administrator shall, as directed by the Treasurer, notify the employer of any necessary corrective action and the deadline by which the corrective action must be taken. ~~Employers that previously received confirmation of employer exemption may be required to recertify exempt status not more than one time per calendar year, as directed by the Treasurer.~~
- d. An employer that offers a Specified tax-favored retirement plan and that does not receive a Registration notice is not required to take any action with respect to the Program.

4. Additional Employer Provisions

- a. A business entity that offers a Specified tax-favored retirement plan to any of its employees shall not Register with the Program, even if the plan is not offered to all employees.
- b. Covered employers shall not:

- i. Prohibit, restrict, or discourage employee participation in the Program.
 - ii. Provide Participants or Beneficiaries financial advice or direction regarding investment choices, contribution rates, automatic escalation, or any other decision concerning the Program.
 - iii. Remit any Payroll deduction contributions for any Covered employee who opted out of the Program, unless and until the Covered employee subsequently affirmatively elects to enroll in the Program.
 - iv. Exercise any authority, control, or responsibility regarding the Program, other than those duties prescribed in statute or these rules promulgated thereunder.
 - v. Make a contribution to a Participant's account.
 - c. Covered employers may contact the Program administrator for technical assistance in completing Registration or other Program requirements.
5. Withholding and Remitting Payroll Deduction Contributions by Participating Employer
- a. Participating employers shall be responsible for withholding and remitting Payroll deduction contributions for Covered participants.
 - b. Participating employers shall not remit Payroll deduction contributions until the end of the Opt-out period.
 - c. Participating employers shall remit all Payroll deduction contributions withheld from wages to the Program administrator as soon as administratively practicable, and in no event later than 14 days from the close of the payroll period in which the wages were earned.
 - d. Amounts withheld by the Participating employer for Payroll deduction contributions shall not exceed the amount of the Covered participant's wages remaining after any payroll deductions required by law or other deductions that have higher legal precedence, including a court or administrative order.
6. Multi-Party Employment Relationships
- a. If a business utilizes an Employee leasing company, the entity that pays under which unemployment insurance premiums contributions for Covered work-site employees are paid, as indicated by the FEIN that appears in the Vermont Department of Labor's records, shall be the entity that is treated as the employer of the work-site employee for purposes of the Program and shall be responsible for either certifying exempt status or Registration in accordance with this regulation.
 - b. Any wages paid to a Work-site employee by an Employee leasing company shall be treated as wages received from the Work-site employer Client Company.
 - c. Nothing in this ~~regulation~~ rule prohibits a party in a relationship between a business Client Company and an Employee Leasing eCompany from assisting another party in the relationship to comply with this rule.

III. Covered Employees, Covered Participants, and Non-Covered Participants

- 7. Right to Opt-Out
 - a. Covered employees who have been registered with the Program have the right to Opt-out of auto-enrollment during the initial Opt-out period. No account shall be established if a Covered employee opts out during the Opt-out period.
 - b. The Treasurer shall set the Opt-out period for Covered employees, which shall be

not less than 30 calendar days from the date on which the Covered employee receives notice of (i) their right to Opt-out and (ii) the Opt-out period.

- c. Covered employees who Opt-out may subsequently elect to Participate at any time.
- d. If the Covered employee does not Opt-out during the Opt-out period, the Program administrator shall send a Confirmation notice to the Covered employee indicating that the Covered employee has been automatically enrolled in the Program, and that an IRA account has been opened in the Covered employee's name.
- e. A Covered participant may at any time elect to stop making Contributions, or cease participation in the Program, subject to the submission of any necessary information or forms required by the Program administrator and applicable law.

8. Non-Covered Participants

- a. Non-covered individuals may Participate in the Program by completing a self-enrollment process, approved by the Treasurer, as long as they meet the requirements to open an IRA and provide all Registration information as may be required by the Program administrator.
- b. The Program administrator shall provide Program information to Non-covered individuals as soon as administratively possible after all required Registration information has been received.

IV. Accounts

9. Account Opening and Closure

- a. Participants shall have not more than one user account on the Program administrator's platform. This holds true even if a Participant makes Payroll deduction contributions through multiple employers.
- b. If a Covered employee is automatically enrolled into the Program, the Program administrator shall open a Roth IRA for the Covered employee, and any Contributions made by the Covered participant shall be made to the Roth IRA until the Covered participant elects otherwise.
- c. A Participant may affirmatively elect to open and make contributions to a Traditional IRA instead of a Roth IRA.
- d. The Program administrator shall inform Participants of the process to open a Traditional IRA instead of a Roth IRA, and how to make Contributions to a Traditional IRA. In doing so the Program administrator may direct Participants to IRS information describing the differences between Traditional and Roth IRAs.
- e. A Participant may close an account at any time.

10. Default Investment and Custom Investment Options

- a. Participants may direct their contribution to any single investment option or combination of investment options offered by the Program.

- b. During the Hold-and-sweep period, the Covered participant's Payroll deduction contributions will be directed into the Principal preservation investment, unless the Covered participant has made an affirmative election, ~~to invest in a non-default investment option or to cease making Contributions.~~
- e. After the Hold-and-sweep period, the Program administrator shall direct Payroll deduction contributions into the Default investment option unless the Participant has affirmatively elected a custom investment option, ~~or to cease making contributions.~~
- d. The Treasurer shall set the Hold-and-sweep period for Covered participants, which shall be not less than 30 calendar days from the date on which the Covered participants are automatically enrolled into the Program.

11. Contributions

- a. It shall be the responsibility of the Participant to determine:
 - i. whether they are eligible to make Contributions to an account under the Code and other applicable law;
 - ii. whether the amount of their Contributions to an account complies with the contribution limits established under the Code; and
 - iii. whether their Contributions are deductible.

12. Default Contribution Rate and Custom Contribution Rate

- a. The Default contribution rate shall be five percent of a covered participant's wages.
- b. A Covered participant may select a Custom contribution rate at any time.
- c. The Program administrator shall provide Covered participants with instructions on how to elect a Custom contribution rate.
- d. The Program administrator may limit participants to selecting Contribution rates that are whole-number percentages. The Program administrator may allow Covered participants to select flat-dollar Payroll deduction contributions instead of percentages.

13. Non-Payroll Contributions

- a. Any Participant may choose to make Non-payroll contributions to their account.
- b. The Program administrator may set an acceptable minimum initial Non-payroll contributions and a minimum recurring Non-payroll contribution for Non-covered participants.
- c. The Program administrator shall establish acceptable methods and procedures for making Non-payroll contributions.

14. Automatic Escalation

- a. Contributions of Covered participants who have participated in the Program for at least six months shall be subject to Default automatic escalation, except as provided in this section.
- b. Under Default automatic escalation, a Covered participant's Contribution rate will automatically increase by not less than one percent of the Covered participant's wages at the beginning of each calendar year following the Covered participant's onboarding, up to a maximum of eight percent of the Covered participant's wages.
- c. The Program administrator may offer Participants the option of Custom automatic escalation (e.g. by a different percentage or dollar amount per year). If the Program administrator offers this function, the Program administrator shall establish acceptable limits and procedures pertaining to Custom automatic escalation.
- d. On at least an annual basis, the Program administrator shall notify Covered participants of any pending Automatic escalation sufficiently in advance to allow them to Opt-out of Automatic escalation, select a Custom automatic escalation (if offered), revert to Default automatic escalation, or affirmatively change a Contribution rate.

15. Termination of Participating Employer Status Through Program Exemption

- a. Participating employers who will begin offering a Specified tax-favored retirement plan must provide the Program administrator and Covered participants with at least 60 days' notice prior to the cessation of Payroll deduction contributions and provide Covered Participants with information describing how to contact the Program administrator.
- ~~b. Participating employers that have become exempt must notify Covered participants at least 30 days before Payroll deduction contributions cease and provide them with information describing how to contact the Program administrator.~~
- c. Unless Covered participants elect otherwise, accounts will remain in the Program after the Participating employer certifies its exemption.

16. Termination of Employment

- a. If a Participant ceases to be a Covered employee by termination or other means, the account will remain open, unless they affirmatively elect to close the account, and they may continue to make Contributions to the account.

17. Portability

- a. A Participant's account may receive rollovers and transfers from other retirement savings vehicles in accordance with the Code and other applicable law.
- b. A Participant or Beneficiary may roll over or transfer all or a portion of an account to a different retirement savings vehicle in accordance with the Code. The Participant must commence the process by notifying the Program administrator and providing any information required to effectuate the rollover or transfer.

18. Withdrawals

- a. A Participant may withdraw all or a portion of funds from their account at any time by submitting a completed request to the Program administrator, in a form established by the Program administrator and permitted by the IRS.
- b. The Program shall not assess any penalty for withdrawals. Withdrawals shall be subject to any applicable state and federal income tax obligations and may be subject to penalties under the Code.

19. Abandoned Accounts

- a. Abandoned Accounts. An account that remains inactive for a dormancy period prescribed under applicable law may be deemed abandoned and paid or delivered under Title 27 of the Vermont Statutes Annotated or other applicable law.

V. Compliance

20. Authority

- a. The Treasurer has authority to ensure compliance with and enforce the Act and all rules promulgated under the Act.

21. Complaints

- a. A Covered employee with a complaint concerning a Covered employer's conduct relating to the Act or any rules promulgated thereunder may submit the complaint to the Treasurer in writing, by phone, by email, or through any other means permitted by the Treasurer.
- b. All complaints concerning a Covered employer's compliance with this chapter received by any other State of Vermont agency shall be referred to the Treasurer.
- c. The Treasurer shall maintain on the Program's website instructions and information relating to the submission of a complaint, including an email address, phone number, and other relevant contact information.
- d. All complaints shall be held and treated as confidential to the extent permitted by applicable law.
- e. The Treasurer shall promptly review, investigate, and attempt to resolve informally all complaints submitted under this Section.

22. Enforcement

- a. If the Treasurer determines that a Covered employer is not in compliance with the Act or any rules promulgated thereunder, they shall issue or cause to be issued, a notice to the Covered employer outlining the nature and extent of the alleged noncompliance, providing instructions for compliance, and specifying the potential administrative penalties for noncompliance.
- b. If a Covered employer to which an enforcement notice is issued does not come into compliance within 90 days of the date the notice was issued, the Treasurer may impose administrative penalties against a Covered employer that fails to

comply with the Act, or any rules promulgated thereunder, which penalties shall not exceed those established in 3 V.S.A. § 535.

- c. A Covered employer shall have a right to appeal a final order imposing a penalty within 30 days of the day the notice of the decision was mailed to the Covered employer.

23. Compliance Monitoring

- a. The Treasurer shall, with or without a complaint, monitor the status of Covered employers' compliance with this chapter, including through review of available data and documents.

VI. Severability

- 24. If any provision of this rule is found to be invalid, the other provisions of this rule shall remain in full force and effect.

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**Office of the State Treasurer
Vermont Saves Program Rule**

I. Definitions

1. "Acceptable submission method" means one or more modes of document submission detailed on the Program website.
2. "Account" means an Individual Retirement Account that has been established under the Program.
3. "Act" means 2023 Acts and Resolves No. 43.
4. "Automatic escalation" means a one percent annual increase in a Covered Participant's contribution level at the beginning of each calendar year following the Covered Participant's Onboarding.
5. "Beneficiary" means an individual, person, or entity entitled to receive the proceeds of a Program account upon the death of a Participant.
6. "Code" means the Internal Revenue Code of 1986, as amended, and any U.S. Department of Treasury regulations, rulings, announcements, or other guidance issued thereunder.
7. "Confirmation notice" means a document sent by the Program Administrator to Covered Employees to notify them that they have been enrolled in the Program.
8. "Contribution" means monies contributed to an Account.
9. "Contribution level" has the same meaning as in 3 V.S.A. § 531(1).
10. "Covered employee" has the same meaning as in 3 V.S.A. § 531(2). A Covered Employee includes a person who meets the statutory definition and is employed for at least 500 hours or more in a calendar year.
11. "Covered employer" has the same meaning as in 3 V.S.A. § 531(3) and includes an employer who has five or more employees at any time in a calendar year.
12. "Covered participant" means a covered employee who is a Participant in the Program.
13. "Custom automatic escalation" means an automatic annual increase to a Participant's contribution rate affirmatively selected by the Participant, subject to the limitations imposed by the Program Administrator or applicable law.
14. "Custom contribution rate" means a contribution rate affirmatively selected by a Covered Participant, subject to the limitations imposed by the Program or applicable law.
15. "Default contribution rate" means five percent of a Covered Participant's wages.

16. "Default investment option" means the investment option that will receive Contributions if the Participant does not select a different investment option or options.
17. "Employee information" means the information relating to Covered Employees that a Covered Employer is required to provide to the Program Administrator to complete registration.
18. "Employee leasing company" has the same meaning as in 21 V.S.A. § 1031(5).
19. "Employer certification" means the certification submitted by an employer to the Program Administrator certifying that said employer does not meet the definition of a Covered Employer.
20. "Employer information" means the information relating to a covered employer's business that the covered employer is required to provide to the Program Administrator as part of registration.
21. "ERISA" means the federal Employee Retirement Income Security Act of 1974 [29 U.S.C. § 1001 et seq.], as amended.
22. "Exempt" means not required to Onboard or Participate in the Program.
23. "FEIN" means the federal "Employer Identification Number" provided by the IRS.
24. "Hold and sweep period" means a period after the end of the Opt-out period during which time a Covered Participant's contributions are held in a principal preservation investment, unless the Covered Participant makes an affirmative election otherwise.
25. "IRA" has the meaning set forth in 3 V.S.A. § 531(6).
26. "IRS" means the Internal Revenue Service.
27. "Non-covered individual" means a person who is not a covered employee.
28. "Non-covered participant" means a participant who is not a covered employee.
29. "Non-payroll contribution" means a contribution that a participant remits outside of a payroll deduction contribution.
30. "Onboard" or "Onboarding" refers to the process by which Covered Employers, Covered Employees, and Participants furnish all required information to the Program Administrator in order to participate in the Program.

31. "Opt-out" means a covered employee affirmatively declines the option of being automatically enrolled into the Program.
32. "Opt-out period" means the period of time following the provision of Program Information to a Covered Employee during which a Covered Employee may opt out of automatic enrollment into the Program.
33. "Participant" means an individual for whom an account is held under the Program, whether they are a "non-covered" or "covered" Participant as defined in this rule.
34. "Participate" means to have an account open with the Program.
35. "Participating employer" means a Covered Employer that is remitting Covered Participant contributions.
36. "Payroll deduction contribution" means a Contribution made by a Covered Participant via a payroll deduction IRA arrangement with a Participating Employer.
37. "Principal preservation investment" means a money market fund or other conservative, highly liquid investment offered as an investment option in the Program.
38. "Program" means the VT Saves Program established under 3 V.S.A. chapter 18.
39. "Program administrator" means the third-party entity procured by the State Treasurer to provide recordkeeping and related services for the Program.
40. "Program information" means the document or documents provided by the Program Administrator to participants that details the investment options and other Program features.
41. "Register" or "Registration" means the process for Covered Employers to submit registration information, including Employee and Employer Information, to the Program Administrator.
42. "Registration date" means the deadline established by the State Treasurer for a covered employer to either register or submit an employer certification.
43. "Registration notice" means the written notice or notices, which may be sent electronically, provided to certain employers directing the employers to either register or submit an employer certification by the Registration Date.
44. "Roth IRA" has the same meaning as in 3 V.S.A. § 531(10).
45. "Specified tax-favored retirement plan" has the same meaning as in 3 V.S.A. § 531(11).

46. "Treasurer" means the Treasurer of the State of Vermont or one or more authorized employees thereof.
47. "Traditional IRA" has the same meaning as in 3 V.S.A. § 531(12).
48. "Wages" has the same meaning as in 3 V.S.A. § 531(16).
49. "Work-site employee" means an employee who is leased to a Client Company by an Employee Leasing Company pursuant to an agreement described in 21 V.S.A. § 1031(4).
50. "Client company" has the same meaning as in 21 V.S.A. §1031(3).

II. Employer Requirements

1. Notice of Registration
 - a. As directed by the Treasurer, the Program Administrator shall send Registration notices to Covered employers.
 - i. The Program Administrator shall use all reasonable efforts to locate publicly available information to determine if a business entity is a Covered Employer. The Program Administrator shall only send a Registration notice to a business entity that the Program Administrator determines is a Covered Employer.
 - b. The Registration notices shall direct Covered employers to either Register with the Program (see § 2) or submit an Employer certification of exempt status (see § 3) by the Registration date.
 - c. The Registration notices shall include instructions acceptable to the Treasurer.
 - d. The Registration date shall be at least 30 days after the date of the first Registration notice.
2. Employer Registration Requirements
 - a. A Covered employer shall Register with the Program by submitting all necessary Registration information, including both Employer information and Employee information, via an acceptable submission method on or before the Registration date.
 - b. Employer information shall include:
 - i. Employer name and assumed business name, if any.
 - ii. FEIN.
 - iii. Employer mailing address.
 - iv. Name, telephone number, and email address of an individual designated by the employer to serve as the point of contact.
 - v. Any additional information required by the Program administrator.
 - c. Employee information shall include:

- i. Full legal name.
 - ii. Social security number or individual taxpayer identification number.
 - iii. Date of birth.
 - iv. Street address.
 - v. Email address, if available.
 - iv. Phone number, if available.
 - v. Any additional information required by the Program administrator.
- d. A Covered employer shall submit Employee information for all Covered employees no later than 120 days after the date of employment.
- e. After initial Registration, a Covered employer shall have a continuing obligation to:
 - i. Promptly provide the Program administrator with any new or updated Employee or Employer information.
 - ii. Promptly Register new or otherwise unregistered Covered employees.
 - iii. Promptly provide the Program administrator with any additional information needed to administer the Program.
- f. Upon the submission and review of all necessary Registration information, the Program administrator shall send a Confirmation notice to the Covered employer and send the Program information to each Covered employee. In the event that the Program administrator does not have a functioning email address for the Covered employee, the Program administrator shall send the Confirmation notice by first class mail.

3. Process to Certify Exempt Status

- a. If an employer receives a Registration notice and believes that it is not a Covered employer, an authorized representative of the employer may complete and submit an Employer certification on the Program website, attesting that the employer is exempt.
- b. After an employer submits a satisfactory and complete Employer certification, the Program administrator shall promptly provide the employer with a confirmation of the employer's exempt status. A confirmation of exempt status will remain in effect until the employer meets the criteria of a Covered employer.
- c. If an employer certification is found to be inaccurate or incomplete, or does not meet Program exemption standards, the Program administrator shall, as directed by the Treasurer, notify the employer of any necessary corrective action and the deadline by which the corrective action must be taken.
- d. An employer that offers a Specified tax-favored retirement plan and that does not receive a Registration notice is not required to take any action with respect to the Program.

4. Additional Employer Provisions

- a. A business entity that offers a Specified tax-favored retirement plan to any of its employees shall not Register with the Program, even if the plan is not offered to all employees.
- b. Covered employers shall not:

- i. Prohibit, restrict, or discourage employee participation in the Program.
 - ii. Provide Participants or Beneficiaries financial advice or direction regarding investment choices, contribution rates, automatic escalation, or any other decision concerning the Program.
 - iii. Remit any Payroll deduction contributions for any Covered employee who opted out of the Program, unless and until the Covered employee subsequently affirmatively elects to enroll in the Program.
 - iv. Exercise any authority, control, or responsibility regarding the Program, other than those duties prescribed in statute or these rules promulgated thereunder.
 - v. Make a contribution to a Participant's account.
 - c. Covered employers may contact the Program administrator for technical assistance in completing Registration or other Program requirements.
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- a. Participating employers shall be responsible for withholding and remitting Payroll deduction contributions for Covered participants.
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 - d. Amounts withheld by the Participating employer for Payroll deduction contributions shall not exceed the amount of the Covered participant's wages remaining after any payroll deductions required by law or other deductions that have higher legal precedence, including a court or administrative order.
6. Multi-Party Employment Relationships
- a. If a business utilizes an Employee leasing company, the entity under which unemployment insurance contributions for work-site employees are paid, as indicated by the FEIN that appears in the Vermont Department of Labor's records, shall be the entity that is treated as the employer of the work-site employee for purposes of the Program and shall be responsible for either certifying exempt status or Registration in accordance with this regulation.
 - b. Any wages paid to a Work-site employee by an Employee leasing company shall be treated as wages received from the Client Company.
 - c. Nothing in this rule prohibits a party in a relationship between a Client Company and an Employee Leasing Company from assisting another party in the relationship to comply with this rule.

III. Covered Employees, Covered Participants, and Non-Covered Participants

7. Right to Opt-Out

- a. Covered employees who have been registered with the Program have the right to Opt-out of auto-enrollment during the initial Opt-out period. No account shall be established if a Covered employee opts out during the Opt-out period.
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not less than 30 calendar days from the date on which the Covered employee receives notice of (i) their right to Opt-out and (ii) the Opt-out period.

- c. Covered employees who Opt-out may subsequently elect to Participate at any time.
- d. If the Covered employee does not Opt-out during the Opt-out period, the Program administrator shall send a Confirmation notice to the Covered employee indicating that the Covered employee has been automatically enrolled in the Program, and that an IRA account has been opened in the Covered employee's name.
- e. A Covered participant may at any time elect to stop making Contributions, or cease participation in the Program, subject to the submission of any necessary information or forms required by the Program administrator and applicable law.

8. Non-Covered Participants

- a. Non-covered individuals may Participate in the Program by completing a self-enrollment process, approved by the Treasurer, as long as they meet the requirements to open an IRA and provide all Registration information as may be required by the Program administrator.
- b. The Program administrator shall provide Program information to Non-covered individuals as soon as administratively possible after all required Registration information has been received.

IV. Accounts

9. Account Opening and Closure

- a. Participants shall have not more than one user account on the Program administrator's platform. This holds true even if a Participant makes Payroll deduction contributions through multiple employers.
- b. If a Covered employee is automatically enrolled into the Program, the Program administrator shall open a Roth IRA for the Covered employee, and any Contributions made by the Covered participant shall be made to the Roth IRA until the Covered participant elects otherwise.
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- e. The Treasurer shall promptly review, investigate, and attempt to resolve informally all complaints submitted under this Section.

22. Enforcement

- a. If the Treasurer determines that a Covered employer is not in compliance with the Act or any rules promulgated thereunder, they shall issue or cause to be issued, a notice to the Covered employer outlining the nature and extent of the alleged noncompliance, providing instructions for compliance, and specifying the potential administrative penalties for noncompliance.
- b. If a Covered employer to which an enforcement notice is issued does not come into compliance within 90 days of the date the notice was issued, the Treasurer may impose administrative penalties against a Covered employer that fails to

comply with the Act, or any rules promulgated thereunder, which penalties shall not exceed those established in 3 V.S.A. § 535.

- c. A Covered employer shall have a right to appeal a final order imposing a penalty within 30 days of the day the notice of the decision was mailed to the Covered employer.

23. Compliance Monitoring

- a. The Treasurer shall, with or without a complaint, monitor the status of Covered employers' compliance with this chapter, including through review of available data and documents.

VI. Severability

24. If any provision of this rule is found to be invalid, the other provisions of this rule shall remain in full force and effect.

The Vermont Statutes Online

The Vermont Statutes Online does not include the actions of the 2024 session of the General Assembly. We expect them to be updated by November 1st.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 3 : Executive

Chapter 018 : VT Saves

(Cite as: 3 V.S.A. § 533)

§ 533. Duties of the State Treasurer

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

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

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

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

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

(3) May contract with financial institutions, a trustee, a record keeper, investment

managers, investment advisors, other administrative, professional and expert advisors and service providers or other organizations offering or servicing retirement programs.

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

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

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

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

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

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

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

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

(10) Discharge the Treasurer's duties as fiduciary with respect to the Program solely in the interest of the Participants as follows: for the exclusive purpose of providing benefits to Participants and defraying reasonable expenses of administering the Program and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an enterprise of a like character and with like aims. (Added 2023, No. 43, § 1, eff. July 1, 2023.)



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Aug 23, 2024

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	24P029
Title:	Vermont Saves Program Rule.
Type:	Standard
Status:	Proposed
Agency:	Office of State Treasurer
Legal Authority:	3 V.S.A. § 533(1)

Summary:

The Vermont Saves Program Rule proposes to implement 3 V.S.A. Chapter 18, consistent with the legislative intent to establish a State auto-IRA program for “the purpose of increasing financial security for Vermonters by providing access to an IRA for Vermont employees of companies that do not currently offer a retirement savings program.” The rule is intended to ensure the Program is designed to meet the Legislature’s requirements that the Program facilitate portability of participant benefits through withdrawals, rollovers, and direct transfers and minimize costs by achieving economies of scale and other efficiencies. Among other things, the rule addresses program eligibility requirements and mandates, employer registration and exemption certification, the participant opt out process, portability (including rollovers and distributions), fund withdrawals, contributions, default

contribution rates and investments options, payroll deductions, and the auto-escalation process. The rule also ensures the Program is compliant with all applicable State and federal laws and regulations.

Persons Affected:

The Rule primarily affects all employers in the State with five or more employees who do not offer a workplace retirement plan and all eligible employees who are automatically enrolled in the Program. The rule may also affect financial advisers and payroll companies who are contacted about retirement or other workplace benefits that are an alternative to the Vermont Saves Program.

Economic Impact:

Vermont Saves will potentially impact tens of thousands of Vermonters and their families. The Program is intended to provide a retirement savings vehicle for employees who do not have access to a workplace retirement plan. Without access to these savings, individuals will have to rely upon federal and state benefit programs in their retirement years. This Program, through its auto-enrollment feature, seeks to create retirement savings vehicles with simple investment options for Vermonters who may not save for retirement otherwise. This may in turn lessen the burden on state governmental programs in future years. The VT Saves Program has no impact on employers, who are not required or permitted to make contributions into their employee accounts. The State made an initial appropriation of \$750,000.00 to launch Vermont Saves, but ongoing funding from the State is not anticipated as Program fees will fund the Program.

Posting date:

Jul 17,2024

Hearing Information

Information for Hearing # 1

Hearing date: 08-20-2024 10:00 AM

[ADD TO YOUR CALENDAR](#)

Location: Virtually via MS Teams

Address: Call In Option:Phone: +1 802-828-7667,,894247809#

<https://teams.microsoft.com/l/meetup-join/>

City: 193ameeting_MDRiOTBmNTUtNDEzNy00MjlkLWEyZTYtMDk0MDQ5ZDUzNTJh40thread.context7b

State: VT

Zip: n/a

Virtually via MS Teams Call in Option: Phone: +1 802-828-7667,,894247809# or online at <https://teams.microsoft.com/l/meetup-join/>

Hearing Notes:

193ameeting_MDRiOTBmNTUtNDEzNy00MjlkLWEyZTYtMDk0MDQ5ZDUzNTJh40thread.context7b22Tid223a2220b4933b-

baad-433c-9c02-70edcc7559c6222c22Oid223a22df07d0d2-40a9-41d5-99b6-62215acbe0a9227c

Information for Hearing # 2

Hearing date: 08-20-2024 10:00 AM

[ADD TO YOUR CALENDAR](#)

Location: Office of the Treasurer

Address: 109 State Street, 4th Floor

City: Montpelier

State: VT

Zip: 05609

Hearing
Notes:

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary
Name: Becky Wasserman
Agency: Office of State Treasurer
Address: 109 State Street, Suite 4
City: Montpelier
State: VT
Zip: 05609
Telephone: 802-498-3466
Fax:
Email: becky.wasserman@vermont.gov

[SEND A COMMENT](#)

Website Address: <https://www.vermonttreasurer.gov/vt-saves>

[VIEW WEBSITE](#)

Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary
Name: Justin St. James
Agency: Office of State Treasurer
Address: 109 State Street
City: Montpelier
State: VT
Zip: 05609
Telephone: 802-828-7190
Fax:
Email: justin.stjames@vermont.gov

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Keyword Information

Keywords:

Retirement
Vermont Saves
VT Saves
IRA

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	Times Argus / Rutland Herald Classified Ads (classified.ads@rutlandherald.com)	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
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	St. Albans Messenger Legals (legals@samessenger.com ; cfoley@orourkemediagroup.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Legals
	The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA

Date of Fax: July 16, 2024

RE: The "Proposed State Rules " ad copy to run on

July 25, 2024

PAGES INCLUDING THIS COVER MEMO:

2

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/> . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Technical Service Provider Certification Rule.

Vermont Proposed Rule: 24P027

AGENCY: Vermont Agency of Agriculture, Food and Markets

CONCISE SUMMARY: Technical Service Providers (TSPs) provide nutrient management and water quality permit consulting to Vermont farmers for water quality regulations. This rule is intended to ensure farmers receive professional technical services from TSPs that meet a minimum standard of quality assurance related to agricultural water quality nutrient management planning and permitting/certification regulations. The proposed rule will ensure TSPs are held accountable for understanding the rules, regulations, and requirements related to nutrient management planning and permitting/certification services they provide. The rule will also enable enforcement on TSPs if the services they provide are out of compliance with water quality regulations. Currently, farms and the state lack recourse outside of enforcement on farms for work products provided by TSP's that are non-compliant.

FOR FURTHER INFORMATION, CONTACT: Laura DiPietro, Vermont Agency of Agriculture, Food and Markets, 116 State St. Montpelier, VT 05620 Tel: 802-595-1990 E-mail: laura.dipietro@vermont.gov URL: <https://agriculture.vermont.gov/TSPRule>.

FOR COPIES: Nate Sands, Vermont Agency of Agriculture, Food and Markets, 116 State St. Montpelier, VT 05620 Tel: 802-224-6850 E-Mail: nathaniel.sands@vermont.gov.

Best Management Practices Rule.

Vermont Proposed Rule: 24P028

AGENCY: Vermont Agency of Agriculture, Food and Markets

CONCISE SUMMARY: The Best Management Practice Program provides technical assistance and financial assistance to Vermont farmers to support construction of on-farm improvements designed to abate water quality risks from agricultural pollution. This rulemaking corrects findings from a 2018 audit that found the rule misaligned with current statute and practice. Updates reflect current terminology, statutes, process and procedures for project prioritization, operation and maintenance requirements, as well as the petition process that have evolved since the last filing in 1996.

FOR FURTHER INFORMATION, CONTACT: Laura DiPietro, Vermont Agency of Agriculture, Food and Markets, 116 State St. Montpelier, VT 05620 Tel: 802-595-1990 Fax: 802-828-2361 E-mail:

laura.dipietro@vermont.gov URL: <https://agriculture.vermont.gov/BMPRule>.

FOR COPIES: Nina Gage, Vermont Agency of Agriculture, Food and Markets, 116 State St. Montpelier, VT 05620 Tel: 802-622-4098 Fax: 802-828-2361 E-mail: Nina.Gage@Vermont.gov.

Vermont Saves Program Rule.

Vermont Proposed Rule: 24P029

AGENCY: Office of the Treasurer

CONCISE SUMMARY: The Vermont Saves Program Rule proposes to implement 3 V.S.A. Chapter 18, consistent with the legislative intent to establish a State auto-IRA program for “the purpose of increasing financial security for Vermonters by providing access to an IRA for Vermont employees of companies that do not currently offer a retirement savings program.” The rule is intended to ensure the Program is designed to meet the Legislature’s requirements that the Program facilitate portability of participant benefits through withdrawals, rollovers, and direct transfers and minimize costs by achieving economies of scale and other efficiencies. Among other things, the rule addresses program eligibility requirements and mandates, employer registration and exemption certification, the participant opt out process, portability (including rollovers and distributions), fund withdrawals, contributions, default contribution rates and investments options, payroll deductions, and the auto-escalation process. The rule also ensures the Program is compliant with all applicable State and federal laws and regulations.

FOR FURTHER INFORMATION, CONTACT: Becky Wasserman, Office of the State Treasurer, 109 State Street, Suite 4, Montpelier VT 05609 Tel: 802-498-3466 E-Mail: becky.wasserman@vermont.gov URL: <https://www.vermonttreasurer.gov/vt-saves>.

FOR COPIES: Justin St. James, Office of the State Treasurer, 109 State Street, Suite 4, Montpelier VT 05609 Tel: 802-828-7190 E-Mail: justin.stjames@vermont.gov.

(802) 828-2863

MEMORANDUM

OFFICE OF THE SECRETARY OF STATE

Primary Contact: Kaitlynn Levine, Vermont Agency of Agriculture, Food & Markets, 116 State Street, Montpelier, VT 05620,
Tel: 802-636-7144 Email: AGR.FSCPRule@vermont.gov

Secondary Contact: Kristin Haas, Vermont Agency of Agriculture, Food & Markets, 116 State Street, Montpelier, VT 05620, Tel:
802-522-7326 Email: AGR.FSCPRule@vermont.gov.

URL: <https://agriculture.vermont.gov/rule-governing-importation-livestock-and-poultry-rule-98074>

From: APA Coordinator, VSARA

RE: Rules Governing the Importation of Domestic Animals, Including
Livestock and Poultry.

Date 06/20/2024

We received Proposed Rule on 01/19/2024
Final Proposed Rule on 04/11/2024
Adopted Rule on 06/19/2024

We have assigned the following rule number(s):

Proposed Rule Number: 24P004

Adopted Rule Number: 24-023

(Final Proposals are not assigned a new number; they retain
the Proposed Rule Number.)

The following problems were taken care of by phone/should be
taken care of immediately:

Adopted Filing: The effective date was 1
day short of complying with 3 V.S.A.
§845(d), the date has been adjusted to
comply with statute, no further action
required.

We cannot accept this filing until the following problems
are taken care of:

The notice for this proposed rule appeared/will appear
online on: 1/24/2024 and in the newspapers of record on 2/1/2024.

This rule takes effect on 07/04/2024

Adoption Deadline: 09/19/2024

Please note:

If you have any questions, please call me at 828-2863. OR
E-Mail me at: sos.statutoryfilings@vermont.gov

cc: Charlene Dindo