

Senate File 2088 - Introduced

SENATE FILE 2088

BY BOULTON

A BILL FOR

1 An Act establishing a retirement savings plan trust, making
2 appropriations, and including contingent implementation and
3 effective date provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 12K.1 Purpose and definitions.

2 1. The general assembly finds that the general welfare and
3 well-being of the state are directly related to the ability
4 of the citizens of the state to save for their retirement
5 years, and that a vital and valid public purpose is served by
6 the creation and implementation of programs which encourage
7 and make possible the attainment of financial security by
8 the greatest number of citizens of the state. In order to
9 make available to the citizens of the state an opportunity to
10 fund future retirement savings needs, it is necessary that a
11 public trust be established in which moneys may be invested for
12 retirement.

13 2. As used in this chapter, unless the context otherwise
14 requires:

15 a. *"Administrative fund"* means the administrative fund
16 established under section 12K.4.

17 b. *"Employer"* means a person or entity engaged in a
18 business, industry, profession, trade, or other enterprise in
19 Iowa.

20 c. *"Internal Revenue Code"* means the same as defined in
21 section 422.3.

22 d. *"Iowa retirement savings plan trust"* or *"trust"* means the
23 trust created under section 12K.2.

24 e. *"Participant"* means an individual who has entered into a
25 participation agreement under this chapter to contribute to an
26 Iowa retirement savings plan.

27 f. *"Participation agreement"* means an agreement between a
28 participant and the trust entered into under this chapter.

29 g. *"Program fund"* means the program fund established under
30 section 12K.4.

31 Sec. 2. NEW SECTION. 12K.2 Creation of the Iowa retirement
32 savings plan trust.

33 An Iowa retirement savings plan trust as allowed by the
34 Internal Revenue Code is created for the purpose of helping
35 Iowans save for retirement. The treasurer of state is the

1 trustee of the trust, and has all powers necessary to carry out
2 and effectuate the purposes, objectives, and provisions of this
3 chapter pertaining to the trust, including the power to do all
4 of the following:

- 5 1. Make and enter into contracts necessary for the
6 administration of the trust.
- 7 2. Enter into agreements with any financial institution,
8 the state, or any federal or other state agency, or other
9 entity as required to implement this chapter.
- 10 3. Carry out the duties and obligations of the trust
11 pursuant to this chapter.
- 12 4. Accept any grants, gifts, legislative appropriations,
13 and other moneys from the state, any unit of federal, state, or
14 local government, or any other person, firm, partnership, or
15 corporation which the treasurer of state shall deposit into the
16 administrative fund or the program fund.
- 17 5. Carry out studies and projections so the treasurer of
18 state may advise participants regarding present and estimated
19 future retirement needs and levels of financial participation
20 in the trust required in order to enable participants to
21 achieve their retirement funding objectives.
- 22 6. Participate in any federal, state, or local governmental
23 program for the benefit of the trust.
- 24 7. Procure insurance against any loss in connection with the
25 property, assets, or activities of the trust.
- 26 8. Enter into agreements with participants and employers.
- 27 9. Make distributions and refunds to participants pursuant
28 to participation agreements as prescribed by the Internal
29 Revenue Code.
- 30 10. Invest moneys from the program fund in any investments
31 which are determined by the treasurer of state to be
32 appropriate.
- 33 11. Engage investment advisors, if necessary, to assist in
34 the investment of trust assets.
- 35 12. Contract for goods and services and engage personnel

1 as necessary, including consultants, actuaries, managers,
2 legal counsel, and auditors for the purpose of rendering
3 professional, managerial, and technical assistance and advice
4 to the treasurer of state regarding trust administration and
5 operation.

6 13. Establish, impose, and collect administrative fees
7 and charges in connection with transactions of the trust, and
8 provide for reasonable service charges, including penalties for
9 cancellations and late payments with respect to participation
10 agreements.

11 14. Administer the funds of the trust.

12 15. Adopt rules pursuant to chapter 17A for the
13 administration of the trust.

14 Sec. 3. NEW SECTION. 12K.3 **Limitation of liability.**

15 The trust, the treasurer of state, and the state of Iowa may
16 not guarantee any rate of return or any interest rate on any
17 contribution to the trust. The trust, treasurer of state, and
18 the state of Iowa are not liable for any loss incurred by any
19 person as a result of participating in the trust.

20 Sec. 4. NEW SECTION. 12K.4 **Program and administrative funds**
21 **— investment and payments.**

22 1. The treasurer of state shall segregate moneys received
23 by the trust into two funds: the program fund and the
24 administrative fund.

25 2. All moneys paid by participants in connection with
26 participation agreements shall be deposited as received into
27 separate accounts within the program fund.

28 3. Contributions to the trust made by participants may only
29 be made in the form of cash.

30 Sec. 5. NEW SECTION. 12K.5 **Cancellation of agreements.**

31 A participant may cancel a participation agreement at will.
32 Upon cancellation of a participation agreement, a participant
33 shall be entitled to the return of the participant's account
34 balance subject to penalties prescribed by the Internal Revenue
35 Code.

1 Sec. 6. NEW SECTION. 12K.6 Annual audited financial report
2 to governor and general assembly.

3 1. The treasurer of state shall submit an annual audited
4 financial report, prepared in accordance with generally
5 accepted accounting principles, on the operations of the trust
6 by January 1 to the governor and the general assembly.

7 2. The annual audit shall be made either by the auditor
8 of state or by an independent certified public accountant
9 designated by the auditor of state and shall include direct and
10 indirect costs attributable to the use of outside consultants,
11 independent contractors, and any other persons who are not
12 state employees.

13 3. The annual audit shall be supplemented by all of the
14 following information prepared by the treasurer of state:

15 a. Any related studies or evaluations prepared in the
16 preceding year.

17 b. A summary of the benefits provided by the trust including
18 the number of participants in the trust.

19 c. Any other information which is relevant in order to make
20 a full, fair, and effective disclosure of the operations of the
21 trust.

22 Sec. 7. NEW SECTION. 12K.7 Tax considerations.

23 For federal tax purposes, the Iowa retirement savings plan
24 trust shall conform to the requirements established by the
25 Internal Revenue Code to be able to operate as a retirement
26 plan. The plan may conform to the requirements under section
27 401(a), section 408, or another section of the Internal Revenue
28 Code which allows Iowans the best retirement option under the
29 trust as determined by the treasurer of state.

30 Sec. 8. NEW SECTION. 12K.8 Property rights to assets in
31 trust.

32 1. The assets of the trust shall at all times be preserved,
33 invested, and expended solely and only for the purposes of the
34 trust and shall be held in trust for the participants.

35 2. No property rights in the trust shall exist in favor of

1 the state.

2 3. The assets of the trust shall not be transferred or used
3 by the state for any purposes other than the purposes of the
4 trust.

5 Sec. 9. NEW SECTION. 12K.9 Construction.

6 This chapter shall be liberally construed to effectuate its
7 purpose.

8 Sec. 10. TREASURER OF STATE — IOWA RETIREMENT SAVINGS PLAN
9 TRUST APPROPRIATION. There is appropriated from the general
10 fund of the state to the treasurer of state for the fiscal year
11 beginning July 1, 2018, and ending June 30, 2019, the following
12 amount, or so much thereof as is necessary, to be used for the
13 purposes designated:

14 For establishing and managing an Iowa retirement savings
15 plan trust, including salaries, support, maintenance, and
16 miscellaneous purposes:

17 \$ 1,500,000

18 Notwithstanding section 8.33, moneys appropriated in this
19 section that remain unencumbered or unobligated at the close of
20 the fiscal year shall not revert but shall remain available for
21 expenditure for the purposes designated until the close of the
22 fiscal year that begins July 1, 2019.

23 Sec. 11. CONTINGENT IMPLEMENTATION PROVISION. The
24 treasurer of state shall provide that when chapter 12K takes
25 effect, individuals may begin making contributions to the Iowa
26 retirement savings plan trust, as created by section 12K.2, as
27 enacted in this Act, no earlier than July 1, 2020.

28 Sec. 12. CONTINGENT EFFECTIVE DATE.

29 1. This Act takes effect, but in no event earlier than
30 July 1, 2019, on the date that the treasurer of state notifies
31 the Code editor that both of the following contingencies have
32 occurred:

33 a. An amount of no less than one million five hundred
34 thousand dollars has been appropriated to the treasurer of
35 state for the purpose of establishing and managing an Iowa

1 retirement savings plan trust.

2 b. The treasurer of state has determined, at the sole
3 discretion of the treasurer of state, that establishing an Iowa
4 retirement savings plan trust is feasible and that applicable
5 federal requirements make establishing a private retirement
6 plan favorable for Iowans contributing to the trust.

7 2. The treasurer of state shall notify the Code editor in
8 writing whether the contingencies in subsection 1 have occurred
9 or will not occur.

10

EXPLANATION

11 The inclusion of this explanation does not constitute agreement with
12 the explanation's substance by the members of the general assembly.

13 This bill creates the Iowa retirement savings plan trust
14 under the office of treasurer of state for the purpose of
15 helping Iowans save for retirement. The bill provides that
16 the trust be operated so that it meets the requirements of a
17 retirement plan as provided by the Internal Revenue Code.

18 The treasurer of state is the trustee of the trust and has
19 numerous powers, as specified in the bill, for the purpose of
20 carrying out the purpose of the trust. Powers granted the
21 treasurer of state to effectuate the purpose of the trust
22 include entering into agreements with trust participants and
23 employers, investing moneys in the trust, and entering into any
24 agreements or contracts necessary to carry out the purposes of
25 the trust.

26 The bill provides that the state, the treasurer of state,
27 and the trust may not guarantee any rate of return on any
28 contributions to the trust and are not liable for any loss
29 incurred by any person as a result of participating in the
30 trust. The bill requires the treasurer of state to submit
31 to the governor and the general assembly an annual audited
32 financial report on the operations of the trust.

33 The bill provides an appropriation to the treasurer of state
34 for FY 2018-2019 for the purposes of establishing and managing
35 the Iowa retirement savings plan trust.

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1 The bill provides that when the bill takes effect, the
2 treasurer of state shall not allow individuals to make
3 contributions to the trust earlier than July 1, 2020.

4 The bill provides that the bill takes effect no earlier
5 than July 1, 2019, and only on the date the treasurer of state
6 notifies the Code editor, in writing, that no less than \$1.5
7 million has been appropriated to the treasurer of state for the
8 purpose of the bill and that establishing an Iowa retirement
9 savings plan trust is feasible and that applicable federal
10 requirements make establishing the trust favorable for Iowans
11 contributing to the trust.