

House File 2632 - Introduced

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A BILL FOR

1 An Act establishing a retirement savings plan trust, providing
2 penalties, and including implementation provisions.

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

1 Section 1. NEW SECTION. 12L.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 12L.10.

17 b. "*Employee*" means an individual who is eighteen years of
18 age or older, who is employed by an employer for at least one
19 hundred twenty days, and who is employed for compensation in
20 this state.

21 c. "*Employer*" means a person or entity engaged in a
22 business, industry, profession, trade, or other enterprise
23 in Iowa for at least two years that employed five or more
24 employees at any time during the previous calendar year.

25 d. "*Internal Revenue Code*" means the same as defined in
26 section 422.3.

27 e. "*Iowa retirement savings plan trust*" or "*trust*" means the
28 trust created under section 12L.2.

29 f. "*Participant*" means an individual that has entered into a
30 participation agreement under this chapter to contribute to an
31 Iowa retirement savings plan.

32 g. "*Participation agreement*" means an agreement between a
33 participant and the trust entered into under this chapter.

34 h. "*Program fund*" means the program fund established under
35 section 12L.10.

1 Sec. 2. NEW SECTION. **12L.2 Creation of the Iowa retirement**
2 **savings plan trust.**

3 An Iowa retirement savings plan trust for persons employed
4 for compensation in this state, as allowed by the Internal
5 Revenue Code, is created for the purpose of helping Iowans
6 save for retirement. The treasurer of state is the trustee
7 of the trust, and has all powers necessary to carry out and
8 effectuate the purposes, objectives, and provisions of this
9 chapter pertaining to the trust, including the power to do all
10 of the following:

11 1. Make and enter into contracts necessary for the
12 administration of the trust.

13 2. Enter into agreements with any financial institution,
14 the state, or any federal or other state agency, or other
15 entity as required to implement this chapter.

16 3. Carry out the duties and obligations of the trust
17 pursuant to this chapter.

18 4. Accept any grants, gifts, legislative appropriations,
19 and other moneys from the state, any unit of federal, state, or
20 local government, or any other person, firm, partnership, or
21 corporation which the treasurer of state shall deposit into the
22 administrative fund or the program fund.

23 5. Carry out studies and projections so the treasurer of
24 state may advise participants regarding present and estimated
25 future retirement needs and levels of financial participation
26 in the trust required in order to enable participants to
27 achieve their retirement funding objectives.

28 6. Participate in any federal, state, or local governmental
29 program for the benefit of the trust.

30 7. Procure insurance against any loss in connection with the
31 property, assets, or activities of the trust.

32 8. Enter into agreements with participants and employers.

33 9. Make distributions and refunds to participants pursuant
34 to participation agreements as prescribed by the Internal
35 Revenue Code.

1 10. Invest moneys from the program fund in any investments
2 which are determined by the treasurer of state to be
3 appropriate.

4 11. Engage investment advisors, if necessary, to assist in
5 the investment of trust assets.

6 12. Contract for goods and services and engage personnel
7 as necessary, including consultants, actuaries, managers,
8 legal counsel, and auditors, for the purpose of rendering
9 professional, managerial, and technical assistance and advice
10 to the treasurer of state regarding trust administration and
11 operation.

12 13. Establish, impose, and collect administrative fees
13 and charges in connection with transactions of the trust, and
14 provide for reasonable service charges, including penalties for
15 cancellations and late payments with respect to participation
16 agreements.

17 14. Administer the funds of the trust.

18 15. Design and establish the process for enrollment,
19 including the process by which an employee can opt out of the
20 trust, select a contribution level, and select an investment
21 option.

22 16. Set minimum, maximum, and default contribution rates
23 in accordance with limits established by the Internal Revenue
24 Code.

25 17. Facilitate education and outreach to employers and
26 employees.

27 18. Determine any nominal and reasonable assistance that
28 businesses may receive from moneys in the fund to offset the
29 initial costs of enrolling employees in the trust and complying
30 with implementation of the trust.

31 19. Adopt rules pursuant to chapter 17A for the
32 administration of the trust.

33 Sec. 3. NEW SECTION. 12L.3 Enrollment and contributions.

34 1. An employer shall establish a payroll deposit retirement
35 savings arrangement to allow employees to participate in the

1 trust, automatically enroll in the trust each employee who
2 has not opted out of participation in the trust, and deposit
3 on behalf of a participating employee the money deducted
4 into the trust. An employer may at any time establish an
5 employer-sponsored retirement plan instead of participating in
6 the trust.

7 2. An employer shall automatically enroll a participant
8 with a default contribution rate set by the treasurer of state
9 so long as such contributions will not cause the participant's
10 total contributions to individual retirement accounts for the
11 year to exceed the deductible amount for the participant's
12 taxable year under section 219(b)(1)(A) of the Internal Revenue
13 Code. A participant may at any time opt out of the trust
14 or select an alternate level of contribution or an alternate
15 investment option from section 12L.4.

16 3. Following implementation of the trust, at least once
17 each year, a participating employer shall designate an open
18 enrollment period during which an employee who previously opted
19 out of the trust may enroll in the trust.

20 Sec. 4. NEW SECTION. 12L.4 Investment options.

21 1. The treasurer of state may establish a low-risk
22 investment portfolio and a target date fund as investment
23 options.

24 2. The target date fund is the default investment option for
25 a participant who fails to elect an investment option unless
26 the treasurer of state designates by rule a new investment
27 option as the default. In making the determination, the
28 treasurer of state shall consider the cost, risk profile,
29 benefit level, and ease of enrollment in the alternate
30 investment option.

31 Sec. 5. NEW SECTION. 12L.5 Employer and employee
32 information packets.

33 1. The treasurer of state shall design and disseminate
34 to employers an employer information packet and an employee
35 information packet, which must include background information

1 on the trust and appropriate disclosures for employees. The
2 employee information packet must explain all of the following:

- 3 a. The benefits and risks associated with making
4 contributions to the trust.
- 5 b. The mechanics of how to make contributions to the trust.
- 6 c. How to opt out of the trust.
- 7 d. The process to withdraw retirement savings.
- 8 e. How to obtain additional information about the trust.
- 9 f. That an employee seeking financial advice should contact
10 a financial advisor, that a participating employer is not in a
11 position to provide financial advice, and that a participating
12 employer is not liable for decisions of an employee regarding
13 participation in the trust.
- 14 g. That the trust is not an employer-sponsored retirement
15 trust.
- 16 h. That investments are not guaranteed by the state.
- 17 i. Financial education information concerning the importance
18 of saving and planning for retirement.
- 19 j. Any other information deemed necessary by the treasurer
20 of state.

21 2. The employee information packet must include a form for
22 an employee to opt out of participation in the trust or elect
23 to participate with a contribution rate other than the default
24 contribution rate.

25 3. A participating employer shall supply the employee
26 information packet to an employee who is eligible for
27 participation in the trust.

28 **Sec. 6. NEW SECTION. 12L.6 Fiduciary duty.**

29 1. The treasurer of state, an agent of the treasurer
30 of state, and persons serving as staff for the trust shall
31 discharge their duties with respect to the trust solely in the
32 interest of the trust's participants and beneficiaries for
33 the exclusive purposes of providing benefits to participants
34 and beneficiaries and defraying reasonable expenses of
35 administering the trust and by investing with the care, skill,

1 prudence, and diligence under the prevailing circumstances that
2 a prudent person acting in a like capacity and familiar with
3 relevant matters would use in the conduct of an enterprise of a
4 like character and with like aims.

5 2. A participating employer is not a fiduciary of the trust
6 and is not liable with regard to investment returns, benefits
7 paid to a participant, an employee's decision to participate
8 in the trust, or the investment decisions of the treasurer of
9 state or a participant.

10 Sec. 7. NEW SECTION. 12L.7 Participant reports.

11 1. The treasurer of state shall provide reports on the
12 status of trust accounts to participants at least annually.

13 2. The treasurer of state shall provide annual reports
14 to participating employers, including the name of each
15 participating employee of the employer and the contribution
16 amounts made by the employer.

17 Sec. 8. NEW SECTION. 12L.8 Confidentiality of account
18 information.

19 Except to the extent necessary to administer the trust,
20 a participant's account information for accounts in the
21 trust, including but not limited to names, addresses,
22 telephone numbers, personal identification information,
23 amounts contributed, and earnings on amounts contributed,
24 is confidential. The treasurer of state shall maintain the
25 information as confidential unless the person who provides the
26 information or is the subject of the information expressly
27 agrees in writing that the information may be disclosed.

28 Sec. 9. NEW SECTION. 12L.9 Limitation of liability.

29 The trust, the treasurer of state, and the state of Iowa may
30 not guarantee any rate of return or any interest rate on any
31 contribution to the trust. The trust, treasurer of state, and
32 the state of Iowa are not liable for any loss incurred by any
33 person as a result of participating in the trust.

34 Sec. 10. NEW SECTION. 12L.10 Program and administrative
35 funds — investment and payments.

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

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

7 3. Contributions to the trust made by participants shall
8 only be made in the form of cash.

9 Sec. 11. NEW SECTION. 12L.11 **Cancellation of agreements.**

10 A participant may cancel a participation agreement at will.
11 Upon cancellation of a participation agreement, a participant
12 shall be entitled to the return of the participant's account
13 balance subject to penalties prescribed by the Internal Revenue
14 Code.

15 Sec. 12. NEW SECTION. 12L.12 **Annual audited financial**
16 **report.**

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

21 2. The annual audit shall be made either by the auditor
22 of state or by an independent certified public accountant
23 designated by the auditor of state and must include direct and
24 indirect costs attributable to the use of outside consultants,
25 independent contractors, and any other persons who are not
26 state employees.

27 3. The annual audit must be supplemented by all of the
28 following information prepared by the treasurer of state:

29 a. Any related studies or evaluations prepared in the
30 preceding year.

31 b. A summary of the benefits provided by the trust,
32 including the number of participants in the trust.

33 c. Any other information which is relevant in order to make
34 a full, fair, and effective disclosure of the operations of the
35 trust.

1 Sec. 13. NEW SECTION. 12L.13 **Tax considerations.**

2 For federal tax purposes, the Iowa retirement savings plan
3 trust shall conform to the requirements established by the
4 Internal Revenue Code to be able to operate as a retirement
5 plan. The plan may conform to the requirements under section
6 401(a), section 408, or another section of the Internal Revenue
7 Code which allows Iowans the best retirement option under the
8 trust as determined by the treasurer of state.

9 Sec. 14. NEW SECTION. 12L.14 **Property rights to assets in**
10 **trust.**

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

14 2. No property rights in the trust shall exist in favor of
15 the state.

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

19 Sec. 15. NEW SECTION. 12L.15 **Interstate agreements.**

20 The treasurer of state may enter into agreements with other
21 states for the cooperative or joint administration of the trust
22 if the treasurer of state finds that doing so will facilitate
23 the purposes of the trust.

24 Sec. 16. NEW SECTION. 12L.16 **Penalties.**

25 1. An employer who fails, without reasonable cause, to
26 enroll an employee in the trust shall receive a warning
27 for the initial offense. For subsequent violations, an
28 employer is subject to a civil penalty in an amount not to
29 exceed two hundred fifty dollars for each employee for each
30 calendar year or portion of a calendar year during which the
31 employee was neither enrolled in the trust nor had opted out
32 of participating in the trust. In determining the amount of
33 the penalty, the treasurer of state shall consider the number
34 and nature of the violations. Penalties collected under this
35 section shall be deposited in the general fund of the state.

1 2. The treasurer of state shall develop a process for an
2 employee to report employer noncompliance with the provisions
3 of this chapter. An employer shall not take disciplinary
4 action or otherwise retaliate against an employee who makes a
5 report under this section.

6 Sec. 17. NEW SECTION. 12L.17 **Construction.**

7 This chapter shall be construed liberally in order to
8 effectuate its purpose.

9 Sec. 18. **IMPLEMENTATION PROVISION.**

10 1. The treasurer of state shall provide that when the
11 requirements of chapter 12L are enacted, individuals may begin
12 making contributions to the Iowa retirement savings plan trust,
13 as created by section 12L.2, as enacted in this Act, no earlier
14 than July 1, 2025.

15 2. For the first year of the trust's operation, this Act
16 applies to an employer with one hundred or more employees at
17 any time during the previous calendar year. For the second
18 year of the trust's operation, this Act applies to an employer
19 with fifty or more employees at any time during the previous
20 calendar year. For the third year of the trust's operation and
21 for each year thereafter, this Act applies to an employer with
22 five or more employees at any time during the previous calendar
23 year as provided in chapter 12L.

24 3. a. An employer that employs one hundred or more
25 employees at any time during the calendar year preceding the
26 year in which the trust is operating shall establish a payroll
27 deposit retirement savings arrangement within nine months after
28 the implementation date of the trust.

29 b. An employer that employs fifty or more employees at any
30 time during the calendar year preceding the second year in
31 which the trust is operating shall establish a payroll deposit
32 retirement savings arrangement within one year and nine months
33 after the implementation date of the trust.

34 c. An employer that employs five or more employees at any
35 time during the calendar year preceding the third year in

1 which the trust is operating shall establish a payroll deposit
2 retirement savings arrangement within two years and nine months
3 after the implementation date of the trust.

4

EXPLANATION

5

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

7

This bill creates the Iowa retirement savings plan trust
8 under the office of treasurer of state for the purpose of
9 helping Iowans save for retirement. The bill provides that
10 the trust be operated so that, for federal tax purposes, it
11 meets the requirements of a retirement plan as provided by the
12 Internal Revenue Code.

13

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

21

The bill provides that individuals who are employed for
22 compensation in this state must be automatically enrolled
23 in the trust by the individual's employer with a default
24 contribution rate set by the treasurer of state. A participant
25 may opt out of the trust at any time and may at any time choose
26 a different contribution rate or investment option. The bill
27 requires employers to designate an open enrollment period for
28 the trust at least once per year.

29

The bill permits the treasurer of state to establish a
30 low-risk investment portfolio and a target date portfolio,
31 which is the default investment option. The treasurer of
32 state must distribute informational packets to employers and
33 employees about the trust and provide participating employers
34 and participants with reports on the trust fund at least once
35 per year. The bill also requires that all participant account

1 information be maintained as confidential, except as necessary
2 to administer the trust or as agreed to in writing by the
3 person who provides the information or is the subject of the
4 information.

5 The bill allows the treasurer of state to enter into
6 agreements with other states for the administration of the
7 trust.

8 The bill creates civil penalties for employers who fail
9 to enroll an employee in the trust without reasonable cause,
10 enforced by the treasurer of state. A penalty shall not exceed
11 \$250 for each employee that an employer fails to enroll each
12 year. Civil penalties collected under the bill are deposited
13 in the general fund of the state.

14 The bill provides that the state, the treasurer of state,
15 and the trust may not guarantee any rate of return on any
16 contributions to the trust and are not liable for any loss
17 incurred by any person as a result of participating in the
18 trust. The bill requires the treasurer to submit an annual
19 audited financial report on the operations of the trust.

20 The bill provides that when the requirements of the bill
21 are enacted, the treasurer shall not allow individuals to make
22 contributions to the trust earlier than July 1, 2025. During
23 the first year of the trust's operation, the bill applies to
24 employers that employed 100 or more employees at any time
25 during the prior year. In the second year, the bill applies to
26 employers that employed 50 or more employees at any time during
27 the prior year. After the second year, the bill applies to all
28 employers with five or more employees during the prior calendar
29 year.