

HOUSE BILL NO. 768

INTRODUCED BY T. WINTER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA SAVES PROGRAM AS A
5 STATEWIDE PROGRAM FOR EMPLOYEES IN THE PRIVATE SECTOR TO SAVE FOR RETIREMENT;
6 PROVIDING THAT ENROLLED EMPLOYEES CONTRIBUTE TO AND MANAGE AN INDIVIDUAL RETIREMENT
7 ACCOUNT; PROVIDING THAT PRIVATE-SECTOR EMPLOYERS FACILITATE EMPLOYEE ENROLLMENT
8 AND CONTRIBUTIONS THROUGH PAYROLL DEDUCTIONS; PROVIDING FOR PROGRAM
9 ADMINISTRATION; SPECIFYING DUTIES AND RESPONSIBILITIES; PROVIDING RULEMAKING AUTHORITY;
10 PROVIDING FOR IMPLEMENTATION AND REPORTING; PROVIDING FOR AN ADMINISTRATIVE FUND AND
11 A TRANSFER OF GENERAL FUND MONEY FOR STARTUP COSTS; PROVIDING A STATUTORY
12 APPROPRIATION; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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16 NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Montana Saves
17 Program".

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19 NEW SECTION. **Section 2. Purpose and intent.** It is the intent of the legislature:

20 (1) to assist Montanans working in the private sector, including self-employed individuals, to save for
21 retirement;

22 (2) that employers who do not offer an employer-sponsored qualified retirement plan shall facilitate the
23 enrollment of their employees in the statewide Montana saves program; and

24 (3) that the program be a voluntary, opt-out program that provides employees with a way to contribute
25 to and manage a flexible and portable individual retirement account.

26
27 NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 10], the following definitions
28 apply:

29 (1) "Board" means the board of investments established in 2-15-1808.

30 (2) "Department" means the department of commerce established in 2-15-1801.

1 (3) "Program" means the Montana saves program established by the board pursuant to [sections 2
2 through 11].

3 (4) "Qualified retirement plan" means a retirement plan qualified under Title 26, U.S.C., the Internal
4 Revenue Code.

5
6 **NEW SECTION. Section 4. Montana saves program -- board powers and duties -- rulemaking.** (1)

7 The board shall establish and administer a statewide Montana saves program that provides investment options
8 for enrolled employees.

9 (2) The board shall:

10 (a) determine the investment options offered in the statewide program for enrolled employees and
11 establish default options. The investment options must provide at least a basic range of asset classes for
12 participants. The board shall exercise the judgment and care then prevailing that persons of prudence, discretion,
13 and intelligence exercise in the management of their own affairs with due regard to the probable income and level
14 of risk from certain types of investments.

15 (b) charge and collect an asset-based administrative fee on individual accounts to defray investment and
16 administrative costs. The fee must be deposited to the account established in [section 8].

17 (c) make and enter into contracts, agreements, or arrangements for services considered necessary or
18 desirable for carrying out the purposes of [sections 1 through 10], including but not limited to:

19 (i) services of financial institutions, depositories, consultants, investment advisers, investment
20 administrators, and third-party administrators;

21 (ii) research, technical, and other services; and

22 (iii) services of other state agencies to assist the board in its duties;

23 (d) evaluate the need for, and procure as needed, pooled private insurance for the program; and

24 (e) develop and implement an outreach plan to provide employers and employees with information
25 regarding the program and the benefits of retirement savings in general.

26 (3) The board shall adopt rules necessary to implement the provisions of [sections 1 through 10].

27
28 **NEW SECTION. Section 5. Program requirements and restrictions.** (1) The board, with the
29 assistance of other appropriate state agencies pursuant to [section 10], shall ensure that the program:

30 (a) provides that any employer in Montana that does not offer a qualified retirement plan to its employees

- 1 shall facilitate the automatic enrollment of its employees in the program through payroll deductions;
- 2 (b) allows employees to opt out of participating in the program;
- 3 (c) provides for a default contribution rate set by board rule;
- 4 (d) within the limits allowed by the Internal Revenue Code, provides for a default escalation of
- 5 contribution levels, allows account owners to increase or decrease payroll deductions for contribution amounts,
- 6 and allows nonpayroll contributions;
- 7 (e) provides for contributions to be deposited directly with the investment administrator for the program;
- 8 (f) whenever possible, uses existing employer and public infrastructure to facilitate contributions to the
- 9 program and for recordkeeping and outreach;
- 10 (g) requires the maintenance of separate records and accounting for each individual's account;
- 11 (h) allows for account owners to maintain an account regardless of place of employment and to roll over
- 12 funds into other qualified retirement plans to the extent allowed under the Internal Revenue Code;
- 13 (i) provides for at least annual reports to individual account owners on the status of their individual
- 14 retirement accounts;
- 15 (j) provides for the professional management of investments;
- 16 (k) provides that the investment administrator for the program is the trustee of all contributions and
- 17 investment earnings on amounts contributed to the individual retirement accounts established under the program;
- 18 (l) keeps administration fees as low as possible;
- 19 (m) allows the use of private-sector partnerships to administer and invest employee contributions under
- 20 the supervision and guidance of the board; and
- 21 (n) allows an employer to establish a qualified retirement plan for some or all of its employees in order
- 22 to exempt the employer from being required to enroll employees in the program under [sections 1 through 10].
- 23 (2) The program may not:
- 24 (a) require employer contributions to employee accounts;
- 25 (b) impose on employers facilitating employee participation in the program any duties under the
- 26 Employee Retirement Income Security Act of 1974, 29 U.S.C. 1001, et seq.;
- 27 (c) guarantee any rate of return on investments or any interest on contributions; or
- 28 (d) accept responsibility for investment losses.
- 29 (3) A board member or participating employer may not have a proprietary interest with respect to
- 30 contributions to or investments under the program that would constitute a conflict of interest.

1
2 **NEW SECTION. Section 6. Information and education.** The board shall develop and implement an
3 information campaign that includes but is not limited to providing information and education about the following:

- 4 (1) how an employer may obtain an exemption from offering employee enrollment in the program if the
5 employer offers a qualified retirement plan to employees;
- 6 (2) the contents and frequency of required disclosures to employees, employers, and other entities
7 involved in providing for the program;
- 8 (3) the benefits and risks associated with investments;
- 9 (4) how an employee may opt out of the program;
- 10 (5) how an employee may set and change the employee's contribution rate and choose a contribution
11 rate other than the default rate;
- 12 (6) how an employee may manage the participant's investments, including how to designate one or more
13 beneficiaries, make withdrawals, or roll over account balances;
- 14 (7) how to obtain additional information about the program;
- 15 (8) that employees seeking financial advice should contact financial advisers, that participating
16 employers are not in a position to provide financial advice, and that the state, the board, and participating
17 employers are not liable for employee decisions concerning the program;
- 18 (9) that the program is not an employer-sponsored retirement plan; and
- 19 (10) that the rate of return on investments is not guaranteed by the state, the board, or the employer.

20
21 **NEW SECTION. Section 7. Confidentiality of individual and account information.** Individual account
22 information under the program, including but not limited to names, addresses, telephone numbers, personal
23 identification information, amounts contributed, and earnings on amounts contributed, is confidential information
24 and must be maintained as confidential unless the person who provides the information or is the subject of the
25 information expressly agrees in writing that the information may be disclosed.

26
27 **NEW SECTION. Section 8. Administrative account -- statutory appropriation.** (1) There is an
28 account in the state special revenue fund to the credit of the department for program administration.
29 (2) Money in the account consists of:
30 (a) administrative fees collected pursuant to [section 5(2)(b)];

1 (b) any funds transferred to the account for the purposes of program administration;

2 (c) other money paid to the board for program administration;

3 (d) any gifts or donations made for deposit to the account; and

4 (e) interest earned on money in the account.

5 (3) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the
6 purposes of administering the provisions of [sections 1 through 10].

7
8 **NEW SECTION. Section 9. Biennial report.** The board shall provide to the governor and to the
9 legislature pursuant to 5-11-210 a biennial report detailing the activities of the board and the status of the
10 program.

11
12 **NEW SECTION. Section 10. Other state agencies to assist.** Other state agencies, including but not
13 limited to the following agencies, shall assist in the implementation and operation of the program upon the board's
14 request:

15 (1) the secretary of state;

16 (2) the department of revenue;

17 (3) the department of labor and industry; and

18 (4) the department of justice.

19
20 **Section 11.** Section 17-7-502, MCA, is amended to read:

21 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
22 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
23 need for a biennial legislative appropriation or budget amendment.

24 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
25 of the following provisions:

26 (a) The law containing the statutory authority must be listed in subsection (3).

27 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
28 appropriation is made as provided in this section.

29 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
30 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;

1 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110;
2 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222;
3 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604;
4 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622;
5 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409;
6 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503; [section
7 8]; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113;
8 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214;
9 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
10 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505;
11 [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

12 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
13 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
14 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
15 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
16 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
17 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
18 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
19 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
20 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
21 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
22 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion
23 of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112
24 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,
25 the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of
26 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates
27 June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of
28 contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant
29 to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec.
30 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457,

1 L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the
2 inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304
3 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates
4 June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant
5 to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023;
6 pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2,
7 Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10,
8 Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

9
10 **NEW SECTION. Section 12. Implementation.** (1) Before establishing the Montana saves program,
11 the board shall consult with other states exploring or implementing similar retirement savings programs.

12 (2) On or before August 1, 2020:

13 (a) the board and each agency assisting the board under [section 10] shall develop an implementation
14 plan, which may include a timeline for a phased-in implementation; and

15 (b) the board shall provide to the economic affairs interim committee a progress report on implementation
16 and any recommendations to the legislature about any statutory changes needed to refine or improve the
17 Montana saves program and ways to increase the financial literacy of Montanans.

18 (3) The board shall establish the program so that individuals may begin making contributions by no later
19 than July 1, 2021.

20
21 **NEW SECTION. Section 13. Transfer from general fund.** There is transferred from the general fund
22 to the account established in [section 8] \$75,000 for the administrative startup costs of the Montana saves
23 program.

24
25 **NEW SECTION. Section 14. Codification instruction.** [Sections 1 through 10] are intended to be
26 codified as an integral part of Title 30, and the provisions of Title 30 apply to [sections 1 through 10].

27
28 **NEW SECTION. Section 15. Effective date.** [This act] is effective July 1, 2019.

29 - END -