

HOUSE COMMITTEE OF REFERENCE REPORT

Chairman of Committee

April 19, 2018
Date

Committee on Business Affairs and Labor.

After consideration on the merits, the Committee recommends the following:

HB18-1298 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly hereby finds and declares that:

5 (a) Nearly half of all families in the United States have no
6 retirement assets. Even among those families who are nearing retirement,
7 four out of ten have no retirement assets.

8 (b) Middle-class working-age families whose incomes are at the
9 fiftieth percentile have, on average, only five thousand dollars saved in
10 retirement accounts. The average for families with incomes at the
11 ninetieth percentile is two hundred seventy-four thousand dollars.

12 (c) Only three in ten women aged sixty-five and older and slightly
13 more than four in ten men aged sixty-five and older receive any income
14 from pensions or retirement savings;

15 (d) Most African-American and Hispanic families have no
16 retirement savings. About four out of ten African-American families and
17 one out of four Hispanic families have retirement savings. The median
18 white family with retirement savings has over three times as much saved
19 as the median African-American or median Hispanic family.

20 (e) Coloradans are less prepared for retirement today than in
21 previous decades. Eighty-two percent of Coloradans agree that the nation
22 faces a retirement crisis and seventy-eight percent of Coloradans say that
23 it is getting harder to prepare for retirement.

1 (f) Older workers are working longer and delaying their
2 retirement. Many of today's seniors rely on their children, who are already
3 struggling to raise their own families, or on other social services that are
4 underfunded.

5 (g) Almost five out of ten Coloradans, aged twenty-five to
6 sixty-four, working in the private sector lack access to a retirement plan
7 at work;

8 (h) Colorado's younger workers are disproportionately affected,
9 with forty-nine percent of workers between the age of twenty-five and
10 twenty-nine, forty-five percent of workers between the age of thirty and
11 thirty-four, and forty-eight percent of workers between the age of
12 thirty-five and thirty-nine, lacking access to a retirement plan at work;

13 (i) Minority workers in Colorado are also disproportionately
14 affected, with forty-nine percent of African-American workers and
15 fifty-six percent of Hispanic workers lacking access to a retirement plan
16 at work;

17 (j) Colorado's lowest wage workers are also less likely to have
18 access to a workplace retirement savings plan. Seventy-six percent of
19 Colorado's workers in the lowest income quintile and fifty-two percent of
20 Colorado's workers in the second lowest income quintile have no access
21 to a retirement plan at work.

22 (k) The major reason why many workers do not participate in
23 retirement savings plans is their employers do not offer them. Experts on
24 retirement recommend that the best way to increase retirement savings is
25 to offer a workplace savings plan to all workers and enroll them
26 automatically with the right to opt out.

27 (l) For decades, Americans have built their retirement with
28 traditional pensions, social security, and individual savings, but America's
29 retirement system has unraveled. About half of Colorado workers in the
30 private sector do not have any type of employer-sponsored retirement
31 plan, and individual savings plans are not filling the gap and have proved
32 risky and unreliable.

33 (m) The future of Colorado's economic growth relies on our aging
34 population having sufficient income in retirement so they can afford to
35 live independently and have quality healthcare. Our seniors contribute
36 significantly to local economies throughout the state, and their retirement
37 investment spending provides stability to those communities.

38 (n) Colorado needs a remedy to the retirement security crisis so
39 that Coloradans can look forward to a retirement free from financial
40 anxiety or hardship; and

41 (o) Coloradans have a history of creating unique solutions to the

1 challenges that the state faces. The state has an opportunity to craft a plan
2 for the future that can ensure all Coloradans have the ability to save for
3 retirement.

4 (2) The general assembly further finds and declares that it is
5 therefore in the best interest of the state to study the feasibility of creating
6 the Colorado secure savings plan to provide a workplace savings plan for
7 all Colorado workers whose employers do not provide such a plan.

8 **SECTION 2.** In Colorado Revised Statutes, **add** article 54.3 to
9 title 24 as follows:

10 **ARTICLE 54.3**

11 **Colorado Secure Savings Plan Study Act**

12 **24-54.3-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 54.3
13 IS THE "COLORADO SECURE SAVINGS PLAN STUDY ACT".

14 **24-54.3-102. Definitions.** AS USED IN THIS ARTICLE 54.3, UNLESS
15 THE CONTEXT OTHERWISE REQUIRES:

16 (1) "BOARD" MEANS THE COLORADO SECURE SAVINGS PLAN
17 BOARD ESTABLISHED IN SECTION 24-54.3-103.

18 (2) "EMPLOYEE" MEANS ANY INDIVIDUAL WHO IS EIGHTEEN YEARS
19 OR OLDER, WHO IS EMPLOYED BY AN EMPLOYER FOR AT LEAST ONE
20 HUNDRED TWENTY DAYS, AND WHO EARNS WAGES SUBJECT TO INCOME
21 TAX PURSUANT TO SECTION 39-22-104.

22 (3) "EMPLOYER" MEANS A PERSON OR ENTITY ENGAGED IN A
23 BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE
24 STATE, WHETHER FOR PROFIT OR NOT-FOR-PROFIT, THAT EMPLOYS FIVE OR
25 MORE EMPLOYEES AT ANY TIME DURING THE PREVIOUS CALENDAR YEAR,
26 HAS BEEN IN BUSINESS AT LEAST TWO YEARS, AND HAS NOT OFFERED A
27 QUALIFIED RETIREMENT PLAN TO ANY EMPLOYEES, INCLUDING, BUT NOT
28 LIMITED TO, A PLAN QUALIFIED UNDER SECTIONS 401 (a), 401 (k), 403 (a),
29 403 (b), 408 (k), 408 (p), OR 457 (b) OF THE INTERNAL REVENUE CODE IN
30 THE PRECEDING TWO YEARS.

31 (4) "INTERNAL REVENUE CODE" MEANS THE FEDERAL "INTERNAL
32 REVENUE CODE OF 1986", AS AMENDED, OR ANY SUCCESSOR LAW.

33 (5) "IRA" MEANS A ROTH INDIVIDUAL RETIREMENT ACCOUNT
34 AUTHORIZED PURSUANT TO SECTION 408A OF THE INTERNAL REVENUE
35 CODE OR A TRADITIONAL INDIVIDUAL RETIREMENT ACCOUNT.

36 (6) "PAYROLL DEPOSIT RETIREMENT SAVINGS ARRANGEMENT"
37 MEANS AN ARRANGEMENT BY WHICH A PARTICIPATING EMPLOYER ALLOWS
38 EMPLOYEES TO REMIT PAYROLL DEDUCTION CONTRIBUTIONS TO AN IRA.

39 (7) "WAGES" MEANS ANY COMPENSATION WITHIN THE MEANING
40 OF SECTION 219 (f)(1) OF THE INTERNAL REVENUE CODE THAT IS RECEIVED
41 BY AN EMPLOYEE FROM AN EMPLOYER DURING THE CALENDAR YEAR.

1 **24-54.3-103. Colorado secure savings plan board - creation -**
2 **composition.** (1) THERE IS HEREBY CREATED IN THE OFFICE OF THE
3 GOVERNOR, THE COLORADO SECURE SAVINGS PLAN BOARD TO STUDY THE
4 FEASIBILITY OF CREATING THE COLORADO SECURE SAVINGS PLAN AS WELL
5 AS OTHER APPROACHES SPECIFIED IN SECTION 24-54.3-104 TO INCREASE
6 THE AMOUNT OF RETIREMENT SAVINGS BY COLORADO'S PRIVATE SECTOR
7 WORKERS.
8 (2) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:
9 (a) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF STATE PLANNING
10 AND BUDGETING OR HIS OR HER DESIGNEE; AND
11 (b) EIGHT MEMBERS APPOINTED BY THE GOVERNOR AND
12 CONFIRMED BY THE SENATE AS FOLLOWS:
13 (I) FOUR PUBLIC REPRESENTATIVES WITH EXPERTISE IN
14 INVESTMENT OR RETIREMENT SAVINGS PLAN ADMINISTRATION, INCLUDING
15 THE DAY-TO-DAY OPERATIONS OF PLANS, MAINTAINING INDIVIDUAL
16 ACCOUNTS, INVESTING ASSETS IN A RETIREMENT SAVINGS PLAN, AND
17 INDIVIDUAL FINANCIAL PLANNING;
18 (II) A REPRESENTATIVE OF EMPLOYERS;
19 (III) A REPRESENTATIVE OF EMPLOYEES;
20 (IV) A RETIRED COLORADO RESIDENT; AND
21 (V) A REPRESENTATIVE OF LOCAL GOVERNMENT.
22 (3) IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR
23 SHALL MAKE A CONCERTED EFFORT TO INCLUDE MEMBERS OF DIVERSE
24 POLITICAL, RACIAL, CULTURAL, INCOME, AND ABILITY GROUPS AND
25 MEMBERS FROM URBAN AND RURAL AREAS OF THE STATE. THE GOVERNOR
26 SHALL APPOINT BOARD MEMBERS AS SOON AS PRACTICABLE.
27 (4) THE MEMBERS SHALL ELECT FROM AMONG THEMSELVES A
28 CHAIRPERSON AND ANY OTHER OFFICERS AS MAY BE NECESSARY FOR THE
29 BOARD TO CARRY OUT ITS DUTIES AND RESPONSIBILITIES.
30 (5) A VACANCY IN THE TERM OF AN APPOINTED BOARD MEMBER
31 SHALL BE FILLED FOR THE BALANCE OF THE UNEXPIRED TERM IN THE SAME
32 MANNER AS THE ORIGINAL APPOINTMENT.
33 (6) MEMBERS OF THE BOARD SHALL SERVE WITHOUT
34 COMPENSATION BUT MAY BE REIMBURSED FOR NECESSARY TRAVEL
35 EXPENSES INCURRED IN CONNECTION WITH THEIR BOARD DUTIES.
36 (7) MEMBERS SHALL SERVE FOR A MINIMUM OF TWO YEARS OR
37 UNTIL THE BOARD COMPLETES ITS REPORT TO THE GOVERNOR AND
38 GENERAL ASSEMBLY AS DESCRIBED IN SECTION 24-54.3-105.
39 (8) AN INDIVIDUAL SHALL NOT BE OR CONTINUE TO BE A MEMBER
40 OF THE BOARD IF THAT INDIVIDUAL HAS BEEN ADJUDICATED OF VIOLATING
41 ANY PROVISIONS OF THIS ARTICLE 54.3 OR HAS BEEN CONVICTED OF A

1 FELONY OR CRIME INVOLVING THE MISAPPROPRIATION OF FUNDS.

2 (9) THE MEMBERS OF THE BOARD, ANY OTHER AGENTS APPOINTED
3 OR ENGAGED BY THE BOARD, AND ALL PERSONS SERVING AS STAFF, SHALL
4 DISCHARGE THEIR DUTIES WITH RESPECT TO THE ANALYSES SOLELY IN THE
5 INTEREST OF THE STATE AND SHALL NOT ENGAGE IN ANY ACTIVITIES THAT
6 MIGHT RESULT IN A CONFLICT OF INTEREST WITH THEIR DUTIES AS
7 MEMBERS OF THE BOARD.

8 **24-54.3-104. Colorado secure savings plan - small business**
9 **marketplace plan.** (1) THE BOARD SHALL CONDUCT OR CAUSE TO BE
10 CONDUCTED DETAILED MARKET AND FINANCIAL ANALYSES TO DETERMINE
11 THE FINANCIAL FEASIBILITY AND EFFECTIVENESS OF CREATING A
12 RETIREMENT SAVINGS PLAN IN THE FORM OF AN AUTOMATIC ENROLLMENT
13 PAYROLL DEDUCTION IRA, TO BE KNOWN AS THE COLORADO SECURE
14 SAVINGS PLAN. FOR PURPOSES OF THE ANALYSES SPECIFIED IN THIS
15 SUBSECTION (1), THE PLAN WOULD NOT BE A DEFINED BENEFIT PLAN. THE
16 PLAN WOULD BE DESIGNED TO PROMOTE GREATER RETIREMENT SAVINGS
17 FOR PRIVATE SECTOR EMPLOYEES IN A CONVENIENT, LOW-COST, AND
18 PORTABLE MANNER AND WOULD ACHIEVE THE FOLLOWING:

19 (a) AUTOMATICALLY ENROLL PRIVATE SECTOR EMPLOYEES WHO
20 WORK FOR EMPLOYERS AS DEFINED IN SECTION 24-54.3-102 (3);

21 (b) AUTOMATICALLY ENROLL EMPLOYEES IN THE PLAN WITH A
22 CONTRIBUTION LEVEL OF FIVE PERCENT OF THEIR WAGES. EMPLOYEES MAY
23 OPT NOT TO PARTICIPATE IN THE PLAN OR MAY SELECT A DIFFERENT LEVEL
24 OF CONTRIBUTION.

25 (c) POOL INVESTMENT FUNDS, INVEST MONEY IN THE PLAN TO
26 ACHIEVE COST SAVINGS THROUGH EFFICIENCIES AND ECONOMIES OF
27 SCALE, AND MAKE OR ENTER INTO CONTRACTS WITH INVESTMENT
28 MANAGERS, PRIVATE FINANCIAL INSTITUTIONS, AND OTHER SERVICE
29 PROVIDERS TO INVEST FUNDS AND ADMINISTER THE PLAN;

30 (d) USE UP TO ONE PERCENT OF THE MONEY IN THE FUND FOR THE
31 FIRST FIVE YEARS OF OPERATIONS TO PAY FOR THE TOTAL COSTS INCURRED
32 IN STARTING UP AND OPERATING THE PLAN. IN THE SIXTH YEAR OF
33 OPERATION AND EACH YEAR THEREAFTER, USE UP TO THREE-QUARTERS OF
34 ONE PERCENT OF THE MONEY IN THE FUND TO PAY FOR THE COSTS OF
35 OPERATING THE FUND.

36 (e) IMPLEMENT PROCESSES THAT REDUCE THE ACTIONS REQUIRED
37 BY EMPLOYERS AND PROVIDE PAYMENT TO EMPLOYERS TO PAY FOR THE
38 INITIAL AND ONGOING ADMINISTRATIVE COSTS RELATED TO
39 IMPLEMENTING THE PLAN.

40 (2) (a) THE BOARD SHALL CONDUCT OR CAUSE TO BE CONDUCTED
41 DETAILED MARKET AND FINANCIAL ANALYSES TO DETERMINE THE

1 FINANCIAL FEASIBILITY AND EFFECTIVENESS OF A SMALL BUSINESS
2 MARKETPLACE PLAN TO INCREASE THE NUMBER OF COLORADO BUSINESSES
3 THAT OFFER RETIREMENT SAVINGS PLANS FOR THEIR EMPLOYEES. FOR
4 PURPOSES OF THE ANALYSES SPECIFIED IN THIS SUBSECTION (2), THE
5 MARKETPLACE PLAN WOULD BE VOLUNTARY FOR BOTH EMPLOYERS AND
6 EMPLOYEES, OPEN TO ALL EMPLOYEES AND EMPLOYERS WITH FEWER THAN
7 ONE HUNDRED EMPLOYEES, AND ADMINISTERED BY THE STATE
8 DEPARTMENT OF LABOR AND EMPLOYMENT.

9 (b) THE STATE DEPARTMENT OF LABOR AND EMPLOYMENT WOULD
10 BE REQUIRED TO DO THE FOLLOWING IN CONNECTION WITH THE
11 MARKETPLACE PLAN:

12 (I) CONTRACT WITH A PRIVATE FIRM TO CREATE AND OPERATE THE
13 MARKETPLACE WEBSITE;

14 (II) LIST PRODUCTS FROM PARTICIPATING FINANCIAL FIRMS ON THE
15 MARKETPLACE PROVIDED THEY OFFER AT LEAST ONE TARGET DATE FUND
16 AND ONE BALANCED FUND AND ARE APPROVED BY THE DIRECTOR OF THE
17 DEPARTMENT OF LABOR AND EMPLOYMENT; AND

18 (III) PROHIBIT FIRMS LISTING THEIR PRODUCTS ON THE
19 MARKETPLACE FROM CHARGING EMPLOYERS ANY ADMINISTRATIVE FEES
20 AND LIMIT THE FEES THEY CAN CHARGE EMPLOYEES ENROLLED IN THE
21 PLANS PURCHASED THROUGH THE MARKETPLACE TO NO MORE THAN ONE
22 PERCENT IN TOTAL ANNUAL ADMINISTRATIVE FEES.

23 (c) THE ANALYSES SPECIFIED IN THIS SUBSECTION (2) WOULD
24 INCLUDE:

25 (I) THE NUMBER OF EMPLOYERS LIKELY TO PURCHASE RETIREMENT
26 PLANS THROUGH THE MARKETPLACE;

27 (II) THE NUMBER OF EMPLOYEES LIKELY TO PARTICIPATE IN A
28 WORKPLACE RETIREMENT SAVINGS PLAN EITHER THROUGH A PLAN THEIR
29 EMPLOYER PURCHASES THROUGH THE MARKETPLACE OR A PLAN THEY
30 PURCHASE THROUGH THE MARKETPLACE INCLUDING INFORMATION ON:

31 (A) THE NUMBER OF EMPLOYEES WORKING FOR THE EMPLOYER
32 WHERE THE EMPLOYEE WORKS;

33 (B) THE INCOME OF THE EMPLOYEES PARTICIPATING IN THE PLANS
34 PURCHASED THROUGH THE MARKETPLACE; AND

35 (C) THE DEMOGRAPHICS OF THE EMPLOYEES PARTICIPATING IN THE
36 PLANS PURCHASED THROUGH THE MARKETPLACE.

37 (3) THE BOARD SHALL CONDUCT OR CAUSE TO BE CONDUCTED AN
38 ASSESSMENT OF THE EFFECTS THAT GREATER FINANCIAL EDUCATION
39 AMONG COLORADO RESIDENTS WOULD HAVE ON INCREASING THEIR
40 RETIREMENT SAVINGS INCLUDING:

41 (a) THE NUMBER OF COLORADANS THAT WOULD INCREASE THE

1 AMOUNT OF THEIR RETIREMENT SAVINGS AND THE AMOUNT OF INCREASE
2 IN RETIREMENT SAVINGS RELATED TO THE EFFECTS OF GREATER FINANCIAL
3 EDUCATION;

4 (b) THE DEMOGRAPHICS OF THE COLORADANS THAT WOULD
5 INCREASE THE AMOUNT OF THEIR RETIREMENT SAVINGS RELATED TO THE
6 EFFECTS OF GREATER FINANCIAL EDUCATION;

7 (c) THE TYPE OF FINANCIAL EDUCATION THAT IS MOST LIKELY TO
8 RESULT IN AN INCREASE IN THE AMOUNT OF COLORADANS' RETIREMENT
9 SAVINGS; AND

10 (d) THE PROVIDERS OF FINANCIAL EDUCATION THAT ARE MOST
11 LIKELY TO HAVE THE GREATEST EFFECT ON INCREASING THE AMOUNT OF
12 COLORADANS' RETIREMENT SAVINGS.

13 (4) THE BOARD SHALL CONDUCT OR CAUSE TO BE CONDUCTED AN
14 ANALYSIS ASSESSING THE EFFECTS THAT NOT INCREASING COLORADANS'
15 RETIREMENT SAVINGS WOULD HAVE ON CURRENT AND FUTURE STATE AND
16 LOCAL GOVERNMENT EXPENDITURES.

17 **24-54.3-105. Reports to the general assembly.** (1) THE BOARD
18 SHALL CONDUCT OR CAUSE TO BE CONDUCTED THE STUDIES AND
19 ANALYSES DESCRIBED IN SECTION 24-54.3-104, WITHIN TWO YEARS OF THE
20 APPOINTMENT OF THE BOARD'S MEMBERSHIP. THE BOARD SHALL SUBMIT
21 A PROGRESS REPORT TO THE GOVERNOR AND THE BUSINESS AFFAIRS AND
22 LABOR COMMITTEE IN THE HOUSE OF REPRESENTATIVES AND BUSINESS
23 AFFAIRS AND TECHNOLOGY COMMITTEE IN THE SENATE OR THEIR
24 SUCCESSOR COMMITTEES WITHIN ONE YEAR OF ITS CREATION.

25 (2) THE BOARD MAY ACCEPT ANY GIFTS, GRANTS, AND DONATIONS,
26 OR ANY MONEY FROM THE STATE, ANY UNIT OF FEDERAL, STATE, OR LOCAL
27 GOVERNMENT, OR ANY OTHER PERSON, FIRM, PARTNERSHIP, OR
28 CORPORATION THAT HAS OPERATIONS IN THE STATE TO PAY FOR THE COSTS
29 OF THE STUDIES DESCRIBED IN THIS ARTICLE 54.3.

30 (3) IF THE BOARD DOES NOT OBTAIN ADEQUATE MONEY TO
31 CONDUCT OR CAUSE TO BE CONDUCTED THE ANALYSES DESCRIBED IN
32 SECTION 24-54.3-104, THE BOARD MAY DELAY IMPLEMENTATION OF ONE
33 OR MORE OF THE ANALYSES.

34 (4) IF AFTER CONDUCTING OR CAUSING TO BE CONDUCTED THE
35 STUDIES DESCRIBED IN THIS ARTICLE 54.3 THE BOARD FINDS AND
36 DETERMINES THAT THERE ARE APPROACHES TO INCREASING RETIREMENT
37 SAVINGS FOR PRIVATE-SECTOR EMPLOYEES IN A CONVENIENT, LOW-COST,
38 AND PORTABLE MANNER, THAT ARE FINANCIALLY FEASIBLE AND
39 SELF-SUSTAINING, THE BOARD SHALL RECOMMEND TO THE GOVERNOR AND
40 GENERAL ASSEMBLY A PLAN TO IMPLEMENT ITS FINDINGS.

41 **SECTION 3. Act subject to petition - effective date.** This act

1 takes effect at 12:01 a.m. on the day following the expiration of the
2 ninety-day period after final adjournment of the general assembly (August
3 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within such period, then the act, item, section, or part will not take effect
7 unless approved by the people at the general election to be held in
8 November 2018 and, in such case, will take effect on the date of the
9 official declaration of the vote thereon by the governor."

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