

HB1298_L.003

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Business Affairs and Labor.

HB18-1298 be amended as follows:

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.

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

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

31 (h) Colorado's younger workers are disproportionately affected,
32 with forty-nine percent of workers between the age of twenty-five and
33 twenty-nine, forty-five percent of workers between the age of thirty and
34 thirty-four, and forty-eight percent of workers between the age of
35 thirty-five and thirty-nine, lacking access to a retirement plan at work;

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

40 (j) Colorado's lowest wage workers are also less likely to have

1 access to a workplace retirement savings plan. Seventy-six percent of
2 Colorado's workers in the lowest income quintile and fifty-two percent of
3 Colorado's workers in the second lowest income quintile have no access
4 to a retirement plan at work.

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

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

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

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

24 (o) Coloradans have a history of creating unique solutions to the
25 challenges that the state faces. The state has an opportunity to craft a plan
26 for the future that can ensure all Coloradans have the ability to save for
27 retirement.

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

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

34 **ARTICLE 54.3**

35 **Colorado Secure Savings Plan Study Act**

36 **24-54.3-101. Short title.** THE SHORT TITLE OF THIS ARTICLE 54.3
37 IS THE "COLORADO SECURE SAVINGS PLAN STUDY ACT".

38 **24-54.3-102. Definitions.** AS USED IN THIS ARTICLE 54.3, UNLESS
39 THE CONTEXT OTHERWISE REQUIRES:

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

42 (2) "EMPLOYEE" MEANS ANY INDIVIDUAL WHO IS EIGHTEEN YEARS
43 OR OLDER, WHO IS EMPLOYED BY AN EMPLOYER FOR AT LEAST ONE

1 HUNDRED TWENTY DAYS, AND WHO EARNS WAGES SUBJECT TO INCOME
2 TAX PURSUANT TO SECTION 39-22-104.

3 (3) "EMPLOYER" MEANS A PERSON OR ENTITY ENGAGED IN A
4 BUSINESS, INDUSTRY, PROFESSION, TRADE, OR OTHER ENTERPRISE IN THE
5 STATE, WHETHER FOR PROFIT OR NOT-FOR-PROFIT, THAT EMPLOYS FIVE OR
6 MORE EMPLOYEES AT ANY TIME DURING THE PREVIOUS CALENDAR YEAR,
7 HAS BEEN IN BUSINESS AT LEAST TWO YEARS, AND HAS NOT OFFERED A
8 QUALIFIED RETIREMENT PLAN TO ANY EMPLOYEES, INCLUDING, BUT NOT
9 LIMITED TO, A PLAN QUALIFIED UNDER SECTIONS 401 (a), 401 (k), 403 (a),
10 403 (b), 408 (k), 408 (p), OR 457 (b) OF THE INTERNAL REVENUE CODE IN
11 THE PRECEDING TWO YEARS.

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

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

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

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

23 **24-54.3-103. Colorado secure savings plan board - creation -**
24 **composition.** (1) THERE IS HEREBY CREATED IN THE OFFICE OF THE
25 GOVERNOR, THE COLORADO SECURE SAVINGS PLAN BOARD TO STUDY THE
26 FEASIBILITY OF CREATING THE COLORADO SECURE SAVINGS PLAN AS WELL
27 AS OTHER APPROACHES SPECIFIED IN SECTION 24-54.3-104 TO INCREASE
28 THE AMOUNT OF RETIREMENT SAVINGS BY COLORADO'S PRIVATE SECTOR
29 WORKERS.

30 (2) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS:

31 (a) THE DIRECTOR OF THE GOVERNOR'S OFFICE OF STATE PLANNING
32 AND BUDGETING OR HIS OR HER DESIGNEE; AND

33 (b) EIGHT MEMBERS APPOINTED BY THE GOVERNOR AND
34 CONFIRMED BY THE SENATE AS FOLLOWS:

35 (I) FOUR PUBLIC REPRESENTATIVES WITH EXPERTISE IN
36 INVESTMENT OR RETIREMENT SAVINGS PLAN ADMINISTRATION, INCLUDING
37 THE DAY-TO-DAY OPERATIONS OF PLANS, MAINTAINING INDIVIDUAL
38 ACCOUNTS, INVESTING ASSETS IN A RETIREMENT SAVINGS PLAN, AND
39 INDIVIDUAL FINANCIAL PLANNING;

40 (II) A REPRESENTATIVE OF EMPLOYERS;

41 (III) A REPRESENTATIVE OF EMPLOYEES;

42 (IV) A RETIRED COLORADO RESIDENT; AND

43 (V) A REPRESENTATIVE OF LOCAL GOVERNMENT.

1 (3) IN MAKING APPOINTMENTS TO THE BOARD, THE GOVERNOR
2 SHALL MAKE A CONCERTED EFFORT TO INCLUDE MEMBERS OF DIVERSE
3 POLITICAL, RACIAL, CULTURAL, INCOME, AND ABILITY GROUPS AND
4 MEMBERS FROM URBAN AND RURAL AREAS OF THE STATE. THE GOVERNOR
5 SHALL APPOINT BOARD MEMBERS AS SOON AS PRACTICABLE.

6 (4) THE MEMBERS SHALL ELECT FROM AMONG THEMSELVES A
7 CHAIRPERSON AND ANY OTHER OFFICERS AS MAY BE NECESSARY FOR THE
8 BOARD TO CARRY OUT ITS DUTIES AND RESPONSIBILITIES.

9 (5) A VACANCY IN THE TERM OF AN APPOINTED BOARD MEMBER
10 SHALL BE FILLED FOR THE BALANCE OF THE UNEXPIRED TERM IN THE SAME
11 MANNER AS THE ORIGINAL APPOINTMENT.

12 (6) MEMBERS OF THE BOARD SHALL SERVE WITHOUT
13 COMPENSATION BUT MAY BE REIMBURSED FOR NECESSARY TRAVEL
14 EXPENSES INCURRED IN CONNECTION WITH THEIR BOARD DUTIES.

15 (7) MEMBERS SHALL SERVE FOR A MINIMUM OF TWO YEARS OR
16 UNTIL THE BOARD COMPLETES ITS REPORT TO THE GOVERNOR AND
17 GENERAL ASSEMBLY AS DESCRIBED IN SECTION 24-54.3-105.

18 (8) AN INDIVIDUAL SHALL NOT BE OR CONTINUE TO BE A MEMBER
19 OF THE BOARD IF THAT INDIVIDUAL HAS BEEN ADJUDICATED OF VIOLATING
20 ANY PROVISIONS OF THIS ARTICLE 54.3 OR HAS BEEN CONVICTED OF A
21 FELONY OR CRIME INVOLVING THE MISAPPROPRIATION OF FUNDS.

22 (9) THE MEMBERS OF THE BOARD, ANY OTHER AGENTS APPOINTED
23 OR ENGAGED BY THE BOARD, AND ALL PERSONS SERVING AS STAFF, SHALL
24 DISCHARGE THEIR DUTIES WITH RESPECT TO THE ANALYSES SOLELY IN THE
25 INTEREST OF THE STATE AND SHALL NOT ENGAGE IN ANY ACTIVITIES THAT
26 MIGHT RESULT IN A CONFLICT OF INTEREST WITH THEIR DUTIES AS
27 MEMBERS OF THE BOARD.

28 **24-54.3-104. Colorado secure savings plan - small business**
29 **marketplace plan.** (1) THE BOARD SHALL CONDUCT OR CAUSE TO BE
30 CONDUCTED DETAILED MARKET AND FINANCIAL ANALYSES TO DETERMINE
31 THE FINANCIAL FEASIBILITY AND EFFECTIVENESS OF CREATING A
32 RETIREMENT SAVINGS PLAN IN THE FORM OF AN AUTOMATIC ENROLLMENT
33 PAYROLL DEDUCTION IRA, TO BE KNOWN AS THE COLORADO SECURE
34 SAVINGS PLAN. FOR PURPOSES OF THE ANALYSES SPECIFIED IN THIS
35 SUBSECTION (1), THE PLAN WOULD NOT BE A DEFINED BENEFIT PLAN. THE
36 PLAN WOULD BE DESIGNED TO PROMOTE GREATER RETIREMENT SAVINGS
37 FOR PRIVATE SECTOR EMPLOYEES IN A CONVENIENT, LOW-COST, AND
38 PORTABLE MANNER AND WOULD ACHIEVE THE FOLLOWING:

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

41 (b) AUTOMATICALLY ENROLL EMPLOYEES IN THE PLAN WITH A
42 CONTRIBUTION LEVEL OF FIVE PERCENT OF THEIR WAGES. EMPLOYEES MAY
43 OPT NOT TO PARTICIPATE IN THE PLAN OR MAY SELECT A DIFFERENT LEVEL

1 OF CONTRIBUTION.

2 (c) POOL INVESTMENT FUNDS, INVEST MONEY IN THE PLAN TO
3 ACHIEVE COST SAVINGS THROUGH EFFICIENCIES AND ECONOMIES OF
4 SCALE, AND MAKE OR ENTER INTO CONTRACTS WITH INVESTMENT
5 MANAGERS, PRIVATE FINANCIAL INSTITUTIONS, AND OTHER SERVICE
6 PROVIDERS TO INVEST FUNDS AND ADMINISTER THE PLAN;

7 (d) USE UP TO ONE PERCENT OF THE MONEY IN THE FUND FOR THE
8 FIRST FIVE YEARS OF OPERATIONS TO PAY FOR THE TOTAL COSTS INCURRED
9 IN STARTING UP AND OPERATING THE PLAN. IN THE SIXTH YEAR OF
10 OPERATION AND EACH YEAR THEREAFTER, USE UP TO THREE-QUARTERS OF
11 ONE PERCENT OF THE MONEY IN THE FUND TO PAY FOR THE COSTS OF
12 OPERATING THE FUND.

13 (e) IMPLEMENT PROCESSES THAT REDUCE THE ACTIONS REQUIRED
14 BY EMPLOYERS AND PROVIDE PAYMENT TO EMPLOYERS TO PAY FOR THE
15 INITIAL AND ONGOING ADMINISTRATIVE COSTS RELATED TO
16 IMPLEMENTING THE PLAN.

17 (2) (a) THE BOARD SHALL CONDUCT OR CAUSE TO BE CONDUCTED
18 DETAILED MARKET AND FINANCIAL ANALYSES TO DETERMINE THE
19 FINANCIAL FEASIBILITY AND EFFECTIVENESS OF A SMALL BUSINESS
20 MARKETPLACE PLAN TO INCREASE THE NUMBER OF COLORADO BUSINESSES
21 THAT OFFER RETIREMENT SAVINGS PLANS FOR THEIR EMPLOYEES. FOR
22 PURPOSES OF THE ANALYSES SPECIFIED IN THIS SUBSECTION (2), THE
23 MARKETPLACE PLAN WOULD BE VOLUNTARY FOR BOTH EMPLOYERS AND
24 EMPLOYEES, OPEN TO ALL EMPLOYEES AND EMPLOYERS WITH FEWER THAN
25 ONE HUNDRED EMPLOYEES, AND ADMINISTERED BY THE STATE
26 DEPARTMENT OF LABOR AND EMPLOYMENT.

27 (b) THE STATE DEPARTMENT OF LABOR AN EMPLOYMENT WOULD
28 BE REQUIRED TO DO THE FOLLOWING IN CONNECTION WITH THE
29 MARKETPLACE PLAN:

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

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

36 (III) PROHIBIT FIRMS LISTING THEIR PRODUCTS ON THE
37 MARKETPLACE FROM CHARGING EMPLOYERS ANY ADMINISTRATIVE FEES
38 AND LIMIT THE FEES THEY CAN CHARGE EMPLOYEES ENROLLED IN THE
39 PLANS PURCHASED THROUGH THE MARKETPLACE TO NO MORE THAN ONE
40 PERCENT IN TOTAL ANNUAL ADMINISTRATIVE FEES.

41 (c) THE ANALYSES SPECIFIED IN THIS SUBSECTION (2) WOULD
42 INCLUDE:

43 (I) THE NUMBER OF EMPLOYERS LIKELY TO PURCHASE RETIREMENT

- 1 PLANS THROUGH THE MARKETPLACE;
- 2 (II) THE NUMBER OF EMPLOYEES LIKELY TO PARTICIPATE IN A
3 WORKPLACE RETIREMENT SAVINGS PLAN EITHER THROUGH A PLAN THEIR
4 EMPLOYER PURCHASES THROUGH THE MARKETPLACE OR A PLAN THEY
5 PURCHASE THROUGH THE MARKETPLACE INCLUDING INFORMATION ON:
- 6 (A) THE NUMBER OF EMPLOYEES WORKING FOR THE EMPLOYER
7 WHERE THE EMPLOYEE WORKS;
- 8 (B) THE INCOME OF THE EMPLOYEES PARTICIPATING IN THE PLANS
9 PURCHASED THROUGH THE MARKETPLACE; AND
- 10 (C) THE DEMOGRAPHICS OF THE EMPLOYEES PARTICIPATING IN THE
11 PLANS PURCHASED THROUGH THE MARKETPLACE.
- 12 (3) THE BOARD SHALL CONDUCT OR CAUSE TO BE CONDUCTED AN
13 ASSESSMENT OF THE EFFECTS THAT GREATER FINANCIAL EDUCATION
14 AMONG COLORADO RESIDENTS WOULD HAVE ON INCREASING THEIR
15 RETIREMENT SAVINGS INCLUDING:
- 16 (a) THE NUMBER OF COLORADANS THAT WOULD INCREASE THE
17 AMOUNT OF THEIR RETIREMENT SAVINGS AND THE AMOUNT OF INCREASE
18 IN RETIREMENT SAVINGS RELATED TO THE EFFECTS OF GREATER FINANCIAL
19 EDUCATION;
- 20 (b) THE DEMOGRAPHICS OF THE COLORADANS THAT WOULD
21 INCREASE THE AMOUNT OF THEIR RETIREMENT SAVINGS RELATED TO THE
22 EFFECTS OF GREATER FINANCIAL EDUCATION;
- 23 (c) THE TYPE OF FINANCIAL EDUCATION THAT IS MOST LIKELY TO
24 RESULT IN AN INCREASE IN THE AMOUNT OF COLORADANS' RETIREMENT
25 SAVINGS; AND
- 26 (d) THE PROVIDERS OF FINANCIAL EDUCATION THAT ARE MOST
27 LIKELY TO HAVE THE GREATEST EFFECT ON INCREASING THE AMOUNT OF
28 COLORADANS' RETIREMENT SAVINGS.
- 29 (4) THE BOARD SHALL CONDUCT OR CAUSE TO BE CONDUCTED AN
30 ANALYSIS ASSESSING THE EFFECTS THAT NOT INCREASING COLORADANS'
31 RETIREMENT SAVINGS WOULD HAVE ON CURRENT AND FUTURE STATE AND
32 LOCAL GOVERNMENT EXPENDITURES.

33 **24-54.3-105. Reports to the general assembly.** (1) THE BOARD
34 SHALL CONDUCT OR CAUSE TO BE CONDUCTED THE STUDIES AND
35 ANALYSES DESCRIBED IN SECTION 24-54.3-104, WITHIN TWO YEARS OF THE
36 APPOINTMENT OF THE BOARD'S MEMBERSHIP. THE BOARD SHALL SUBMIT
37 A PROGRESS REPORT TO THE GOVERNOR AND THE BUSINESS AFFAIRS AND
38 LABOR COMMITTEE IN THE HOUSE OF REPRESENTATIVES AND BUSINESS
39 AFFAIRS AND TECHNOLOGY COMMITTEE IN THE SENATE OR THEIR
40 SUCCESSOR COMMITTEES WITHIN ONE YEAR OF ITS CREATION.

41 (2) THE BOARD MAY ACCEPT ANY GIFTS, GRANTS, AND DONATIONS,
42 OR ANY MONEY FROM THE STATE, ANY UNIT OF FEDERAL, STATE, OR LOCAL
43 GOVERNMENT, OR ANY OTHER PERSON, FIRM, PARTNERSHIP, OR

1 CORPORATION THAT HAS OPERATIONS IN THE STATE TO PAY FOR THE COSTS
2 OF THE STUDIES DESCRIBED IN THIS ARTICLE 54.3.

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

7 (4) IF AFTER CONDUCTING OR CAUSING TO BE CONDUCTED THE
8 STUDIES DESCRIBED IN THIS ARTICLE 54.3 THE BOARD FINDS AND
9 DETERMINES THAT THERE ARE APPROACHES TO INCREASING RETIREMENT
10 SAVINGS FOR PRIVATE-SECTOR EMPLOYEES IN A CONVENIENT, LOW-COST,
11 AND PORTABLE MANNER, THAT ARE FINANCIALLY FEASIBLE AND
12 SELF-SUSTAINING, THE BOARD SHALL RECOMMEND TO THE GOVERNOR AND
13 GENERAL ASSEMBLY A PLAN TO IMPLEMENT ITS FINDINGS.

14 **SECTION 3. Act subject to petition - effective date.** This act
15 takes effect at 12:01 a.m. on the day following the expiration of the
16 ninety-day period after final adjournment of the general assembly (August
17 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a
18 referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within such period, then the act, item, section, or part will not take effect
21 unless approved by the people at the general election to be held in
22 November 2018 and, in such case, will take effect on the date of the
23 official declaration of the vote thereon by the governor."

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