State-Sponsored Retirement Programs:

A Majority of States Have Taken Action with Varying Approaches

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Background

Nationwide, only about 47.6 percent of permanent, traditional workers age 24-65 have access to retirement savings accounts through their employer. For contingent workers-- those who provide services on a short-term or temporary basis-- this number decreases by half, to 23.4 percent. There are also disparities in take-up between the two groups, with approximately 43.4 percent of eligible traditional workers choosing to participate in employer-sponsored plans and only 18.4 percent of contingent workers doing so.[1]

In general, lack of retirement savings shifts costs from the employer and employee to federal and state governments, as retirees without adequate savings rely on programs like Medicaid and Supplemental Social Security Income.[2] In fact, while poverty fell among people 18 and younger, and those between 18 and 64, it increased among those 65 and older between 2015 and 2016, using the Census Bureau's Supplemental Poverty Measure.[3]

Some states are looking to address inadequate access to retirement savings with state-sponsored retirement savings plans. Generally, these state plans aim to increase access to savings vehicles for individuals who previously lacked such access (e.g., employees of small businesses, nonprofit organizations who could not afford to provide employer-sponsored plans). Under President Barack Obama's administration, the Department of Labor exempted state-run IRA plans from Employee Retirement Income Security Act (ERISA), which sets standards for benefit plans offered by employers. In May 2017 following the election of Donald Trump, Congress repealed this rule with the Congressional Review Act, leaving states with less clarity regarding the legality of implementing such plans.[4]

Methodology

For this report, we examined the recent developments and trends in state efforts to expand retirement savings plans. Our methodology to gather information and relevant existing research includes:

- Research on state legislation using primary and secondary sources, including LexisNexis State Capital Database, AARP's Public Policy Institute, and Georgetown's Center for Retirement Initiatives
- Internet searches on state-sponsored plans in the implementation phase
- Interviews with issue experts such as Dr. Nari Rhee at University of California, Berkeley and Anna Petrini from National Conference of State Legislatures (NCSL)

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[1] Few in Temporary or Alternative Jobs Have Access to Employer-Provided Retirement Plans. (2018, August 8). Retrieved December 2, 2018, from https://pew.org/2OkBTth

[2] Ibid

[3] Semuels, A. (2018, February 22). This Is What Life Without Retirement Savings Looks Like. Retrieved December 2, 2018, from https://www.theatlantic.com/business/archive/2018/02/pensions-safety-net-california/553970/

[4] Lobosco, K. (2017, May 3). Congress reverses rule on state retirement plans. Retrieved December 2, 2018, from https://money.cnn.com/2017/05/03/retirement/state-retirement-plans-senate/index.html

- Institutional knowledge from Government Accountability Office's Senior Analysts Gustavo Fernandez and Anjali Tekchandani

National Trends

A majority of states have attempted to take action related to retirement security, varying from feasibility studies (introduced in 13 states) to introduction of programs (16 states) to passing and implementing programs (10 states). Only 8 states (Alabama, Alaska, Delaware, Florida, Idaho, Mississippi, Missouri, and South Dakota) lack any legislative activity on this issue, and only 3 states (Arkansas, North Dakota, and Montana -- defeated quickly after ERISA change) have defeated legislation.

Two options have gained traction among a majority of states: auto-IRAs and retirement marketplaces. Auto-IRAs, so-called because of a common provision requiring employers to automatically enroll employees in the program, have passed in Oregon, California, Illinois, among others, and have been introduced in several additional states, including Colorado, Ohio, and Iowa. These states chose to offer IRAs only[5], while other states chose to offer a variety of accounts. Retirement Marketplaces, passed in Washington and New Jersey, introduced in Maine and Nebraska, are state-facilitated marketplaces, which allow employers and employees to select from a range of private-sector retirement plans (including IRAs, 401(k)s[6]). A few states have explored options beyond the auto-IRA or marketplace, including Massachusetts's 401(k) Multiple Employer Plan (MEP[7]).

Table 1: States with Plans Passed as of 2018

Plans Passed	*Year passed*	*Year implemented*	*Name*	*Mandatory for employers?*	*Automatic enrollment?*	*Mechanism*
California	2012	2017	CalSavers	yes	yes	auto-IRA
Connecticut	2016	2019	Connecticut Retirement Security Program	yes	yes	auto-IRA
Illinois	2014	2018	Illinois Secure Choice Savings Program	yes	yes	auto-IRA

[5] IRAs are subject to federal retirement policies, including contribution limits of $5,500 per year, tax breaks, and prohibition of employer-matching. IRA savings can be Traditional (pre-tax earnings are saved and taxed when money is pulled out) or Roth (post-tax earnings are saved and not taxed again upon removal).
[6] 401(k)s are employer-sponsored retirement savings plans that let workers save a portion of their pre-tax paycheck (taxes aren't paid until the money is withdrawn from the account).
[7] Multiple Employer Plans allow independent, individual employers to buy into a retirement plan sponsored and administered by a third-party.

Maryland	2016	2019	Maryland Small Business Retirement Savings Program	yes	no	auto-IRA
Massachusetts	2012	2017	Massachusetts Defined Contribution CORE Plan	no	yes	MEP 401(k)
New Jersey	2016	2018	New Jersey Small Business Retirement Marketplace	no	no	Marketplace: IRA or 401(k)
New York	2015	2020	New York State Secure Choice Savings Plan	no	yes	voluntary IRA
Oregon	2015	2017	Oregon Saves	yes	yes	auto-IRA
Vermont	2014	2019	Vermont Green Mountain Secure Retirement Plan	no	yes	Multiple Employer Plan (MEP)
Washington	2015	2017	RetirementMarketplace	no	no	Marketplace: IRA or 401(k)

Table 2: States with Plans Introduced as of 2018

Plans Introduced	***Year introduced***	***Mandatory for employers?***	***Automatic enrollment?***	***Mechanism***
Arizona	2016	yes	yes	auto-IRA
Colorado	2016	yes	yes	auto-IRA
Indiana	2015	no	yes	Marketplace
Iowa	2016	yes	yes	auto-IRA
Kentucky	2015	no	yes	auto-IRA
Louisiana	2016	yes	yes	*
Maine	2015	yes	yes	auto-IRA
Michigan	2016	no	no	voluntary IRA

Nebraska	2017	no	no	voluntary IRA
Ohio	2013	yes	yes	auto-IRA
Oklahoma	2017	*	*	*
Pennsylvania	2017	no	yes	auto-IRA
Rhode Island	2015	yes	yes	auto-IRA
Tennessee	2017	no	no	voluntary IRA
Texas	2017	yes	yes	auto-IRA, MEP option
Utah	2015	no	yes	voluntary IRA

Table 3: States with Studies on Access and Feasibility as of 2018

Study Passed or Introduced	*Year*
Georgia	2016
Hawaii	2018
Kansas	2018
Minnesota	2014
Nevada	2017
New Hampshire	2015
New Mexico	2017
North Carolina	2015

South Carolina	*
Virginia	2015
West Virginia	2015
Wisconsin	2015
Wyoming	2018

*Uncertain

Case Studies

For a more in-depth review of different approaches, we selected Oregon, Washington, and Massachusetts, which have all begun implementing their state-sponsored programs. Each state represents a different program design. Oregon implemented an auto-IRA program; Washington implemented a state-facilitated Marketplace; and Massachusetts implemented a 401(k) Multiple Employer Plan.

OregonSaves

History

The Oregon Saves program focuses on helping small businesses provide greater access to their employees. Passed in July of 2017, HB 2960, or OregonSaves, was the first state-run retirement plan to go active in the United States. Under the program, any business in Oregon that does not currently offer an employer-sponsored retirement plan will be required to participate in the program.

Under the Oregon Saves program, any person 18 years of age and older who has a job would be considered eligible to participate. Any employer having 1 or more employees over 18 weeks in a calendar year or where the payroll amounts to $1,000 or more is required to participate.[8] The Oregon Saves program includes coverage for employees (employed for a minimum of 60 days) who may also be seasonal workers, gig workers, workers who live outside of the state of Oregon, or VISA holders.

Mechanism and Fees

Oregon Saves operates under an auto-IRA mechanism. The saver has full autonomy over the IRA, are allowed to roll it over into other Roth IRA account if so desired, and may opt-out at any

[8] “FAQs.” *Oregonsaves*, www.oregonsaves.com/home/overview/faqs.html.

time they choose. As a Roth IRA, contributions are made on a post-tax basis. Employees are allowed to take money out of their Roth IRAs without an administrative fee or penalty. The earnings are taxable and possibly subject to a 10 percent penalty if withdrawn before you are age 59½.

The program is overseen by the Oregon Retirement Savings Board, which has selected Ascensus as the program administrator and State Street Global Advisors as the program's investment manager. Ascensus is an experienced retirement and college savings services provider and acts as the Roth IRA trustee, manage account records, operate the website www.oregonsaves.com, receive and process retirement contributions and distributions, and provide customer service.

Although there is no employer contribution allowed under this plan, employees are required to pay an ongoing fee of 1 percent of assets per year. The program automatically enrolls participants at 5 percent of their gross income earned with the facilitating employer, and employee contribution rates automatically increase by 1 percent each year until it reaches 10 percent.[9] These contributions do have limits: for 2018, a participant can save up to $5,500 per year if younger than 50 or $6,500 per year if 50 or older. A traditional IRA will be offered as an option in 2019.

Benefits

According to AARP, The Oregon Saves plan will essentially help Oregon save nearly $98.9 million in public assistance programs from 2018 to 2032 if lower income retirees save enough to increase their retirement income by $1,000 or more per year.[10] The auto-IRA and payroll deductions attributed creates the means for more low income Oregonians to participate in savings.

Limitations

As previously reported by GAO in 2015, ERISA creates much uncertainty for state sponsored programs and their feasibility. Policy experts worry that companies could use ERISA to argue states can't force employers to follow state laws requiring them to participate in retirement plans. Oregon recently settled a lawsuit with the ERISA Industry Committee over reporting requirements it had deemed unjust.[11]

Alongside ERISA, the financial sector also serves as a barrier to entry for state-sponsored retirement programs. The fees tied to state retirement plans are lower than the charges associated with plans operated by banks and investment firms.[12] Corporate fees generate substantial profits

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[9] "FAQs." *Oregonsaves*, www.oregonsaves.com/home/overview/faqs.html.

[10] AARP Public Policy Institute. "Oregon Could Save $98.9 Million by Helping People Save for Their Own Retirement." *AARP*. May 2017.

[11] Center for Public Integrity. "The Finance Industry Has Quietly Launched an Assault on State-Sponsored Retirement Plans." *Mother Jones*, 2 Apr. 2018, www.motherjones.com/politics/2018/04/the-finance-industry-has-quietly-launched-an-assault-on-state-sponsored-retirement-plans/.

[12] Center for Public Integrity. "The Finance Industry Has Quietly Launched an Assault on State-Sponsored

for investment and insurance companies, which see state programs as unfair competition. There has also been pushback with the financial industry and the use of auto-IRAs. A switch to a common 401(k) plan would reduce the administrative burdens and lower costs for the state.

Washington's Small Business Retirement Marketplace

History

Roughly 131,000 small businesses in Washington did not offer retirement plans for their employees, and 2 million individuals had no access to a formal workplace retirement savings program.[13] To address this challenge, state legislators passed the Washington's Small Business Retirement Marketplace plan which was implemented in 2018. Washington's Department of Commerce is responsible for the administration and implementation process of this online marketplace. Unlike Oregon, the Marketplace does not require mandatory enrollment for all employers / employees.[14]

Mechanism and Fees

Washington set certain eligibility requirements where qualified financial institutions may offer retirement savings options to employers with less than 100 employees.[15] Additionally, individuals who do not have access to an employer-sponsored plan may select a plan based on their preferences.[16] Due to the nature of the marketplace approach, the default contribution varies for each plan. The Marketplace is designed so employees can choose from a range of private-sector retirement plans which include ROTH IRAs, Traditional IRA or SOLO 401(k)[17] if self-employed.[18] Qualified employers, on the other hand, can choose from Traditional 401(k), Auto Enroll 401(k)[19], Traditional IRA, or Roth IRA.[20]

Fees are determined by the private sector vehicle providers, but must be lower than 1 percent of assets under management to be part of the marketplace. The following table includes the current opening balance, contribution limits, and annual fee ranges for the various options.[21]

Retirement Plans." *Mother Jones*, 2 Apr. 2018, www.motherjones.com/politics/2018/04/the-finance-industry-has-quietly-launched-an-assault-on-state-sponsored-retirement-plans/.

[13] Department of Commerce. "Small Business Retirement Marketplace - Washington State." Accessed December 11, 2018. https://www.commerce.wa.gov/growing-the-economy/business-services/small-business-retirement-marketplace/.

[14] American Bar Association. "State Retirement Plans for Private Employers." Accessed December 11, 2018. https://www.americanbar.org/content/dam/aba/events/employee_benefits/EB1605WEB15_PPT.pdf.

[15] Department of Commerce. "Small Business Retirement Marketplace - Washington State." Accessed December 11, 2018. https://www.commerce.wa.gov/growing-the-economy/business-services/small-business-retirement-marketplace/.

[16] Ibid

[17] Solo 401(k) is a traditional 401(k) which only covers a business owner and their spouse.

[18] Department of Commerce. "Individuals." https://www.retirementmarketplace.com/Resources/Individual-Resources.

[19] Auto Enroll 401(k) is referring to auntomacticall enrolling employees into a 401(k) plan.

[20] United States Department of Labor. "Small Business Retirement Savings Advisor." Accessed December 11, 2018. http://webapps.dol.gov/elaws/ebsa/plans/final.asp.

[21] Retirement Marketplace. "Viewing Retirement Plans." Accessed December 11, 2018. http://www.retirementmarketplace.com/plans?pln=935-691-36-33-34-32-31-745-743&num=4.

Type of Account	*Opening Balance*	*Monthly Contribution*	*Fee Ranges*
Roth IRA	$5.00	$20.00	0.14% - 0.96%
Traditional IRA	$5.00	$20.00	0.14% - 0.96%
Solo 401(k)	$0.00	$0.00[GUS2]	0.44% - 0.9%

Benefits

Based on preliminary results, there are some benefits to the Small Business Retirement Marketplace program. For instance, this plan offers more choices for participants, compared to other state sponsored approaches. Each available option has different fee structures or mechanisms, which helps individuals choose the best plan for them based on their personal preferences.[22] Additionally, market forces, such as new firms entering the market and increasing competition, may lead to lower fees, better services, and improve options to suit the consumer. Lastly, an employer can also choose an option to add contributions.

Limitations

However, the Small Business Retirement Marketplace faces some limitations. For example, research indicates programs that require individuals to actively select plans versus opting out may have lower enrollment rates. Such mechanisms require individuals to research and choose from an array of choices, and, as a result, they may not have access to resources or the time to make the most rational or best decision for them.[23] Therefore, they may not enroll in any option, which contradicts the aim of this program to increase access to retirement savings. Furthermore, only self-employed individuals, sole proprietors, and employers with fewer than 100 qualified employees are eligible to participate in the marketplace. The marketplace may not provide a retirement savings plan to all who may need it. Lastly, Washington's Department of Commerce does not provide financial literacy tools to help employers and employees understand how these options work and what it means for them. This could still serve as a barrier for those who want or need a retirement savings plan.

Massachusetts CORE Plan for Nonprofits

History

In 2012, Massachusetts enacted H.B. 3754 to establish a state-sponsored retirement plan for small non-profit organizations with 20 or fewer employees. The Massachusetts Nonprofit

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[22] The Seattle Times. "https://www.seattletimes.com/business/washingtons-first-of-its-kind-website-helps-workers-employers-shop-for-retirement-savings-plans/." Accessed December 11, 2018. https://www.seattletimes.com/business/washingtons-first-of-its-kind-website-helps-workers-employers-shop-for-retirement-savings-plans/.

[23] Rosenberg, Tina. "The Opt-Out Solution." The New York Times. Accessed December 11, 2018. https://opinionator.blogs.nytimes.com/2010/11/01/the-opt-out-solution/.

Network (MNN), the state's non-profit trade association, was the leading advocate for the creation of the program. MNN found that less than half of small nonprofits in Massachusetts offered retirement benefits to employees, according to a report the organization co-sponsored in 2009.[24] The Massachusetts non-profit sector is one of the largest in the country, with more than 39,000 nonprofit organizations located in the state.[25]

Mechanism and Fees

The state-sponsored plan was launched in 2017 under the name the Connecting Organizations to Retirement program (CORE Plan). The CORE Plan is a defined contribution 401(k), Multiple Employer Plan administered by the Massachusetts Office of the State Treasurer. Participation in the program is voluntary for qualified nonprofit employers and their employees. The state assumes primary administrative and investment responsibilities related to the plan for employers that choose to participate.

Under the CORE Plan, employees working for participating nonprofit organizations are automatically enrolled in a target date fund.[26] Employees can choose to remain in the target date fund or choose from four diversified investment funds based on the participants' savings goals.[27] Employees can opt out of the CORE Plan, as the program is voluntary for employees.

The CORE Plan features auto-escalation.[28] The default contribution rate for employees is 6 percent, with an auto-escalation rate of 1 or 2 percent per year. Under the plan, employees are charged a $65 annual fee for services. Participating employers are charged a one time payment fee of $2,500.

Benefits

The CORE Plan offers a potentially lower-cost and practical option for small non-profits seeking to offer retirement benefits to their employees. The CORE Plan supports employers with administrative, communications, and investment education services, which eases the operational burdens on employers of offering a retirement plan independently. Additionally, the CORE Plan could offer a lower-cost option for employers than offering a private plan, as the economy of scale the state system provides could drive down fees and other costs.

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[24] Keating, E. (2009). For the Benefit of Our Workers: The Massachusetts Nonprofit Employee Benefit Study. Massnonprofitnet.org. Available at: http://www.massnonprofitnet.org/wp-content/uploads/2010/12/BenefitReport2009_R.pdf.

[25] Exempt Organizations Business Master File Extract (EO BMF)." Internal Revenue Service, www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf.

[26] According to the The CORE Plan website, the target date fund is "a diversified mix of underlying funds whose asset allocations change over time to become more conservative as a participant nears retirement." https://www.empower-retirement.com/client/mass/employer/resources/pdf/CORE-Plan-Adoption-Brochure.pdf

[27] The funds include the CORE Growth Fund, the CORE Income Fund, the CORE Inflation Fund, and the CORE Capital Preservation Fund.

[28] Auto-escalation refers to an annual increase in the employee contribution rate toward a target savings rate.

Limitations

Participation in the CORE Plan is voluntary for employers, which might limit the number of employees eligible to participate. The CORE Plan is in its early stages of operation. Program participation data, if released, could provide an understanding of how effective the CORE Plan has been in improving access to retirement savings options for nonprofit employees.

Developments to Monitor

While legislative action has occurred in a majority of states, several have passed state-sponsored plans, and a few have begun implementing, there are a variety of developments to monitor going forward.

- Regarding the effects of implementation, will private businesses choose the state-sponsored options instead of "employer sponsored" (401(k)) plans?
- What is the impact on contingent workers (are they included or excluded from specific state plans and how does this affect the industry and its employees?)
- Regarding plan design, what is the potential for multi-state plans[29] for increasing state adoption of state-sponsored retirement savings plans?
- Regarding legal questions, how would states allowing the Cannabis industry to participate be affected if the Trump administration preempts state legalization efforts?
- Could states develop retirement plans for individuals who only operate in cash or informal economies?
- Perhaps most serious and time-sensitive, what is the future of federal movement on this issue, including possible preemption of state plans under ERISA rule changes?

[29] Multi-state plans would entail several states joining together to administer a retirement savings program to their residents.