POLICY BRIEF

A New Frontier for Saving for Retirement? The Creation of State Retirement Savings Marketplaces

A Review of New York State's Proposed Secure Choice Savings Program

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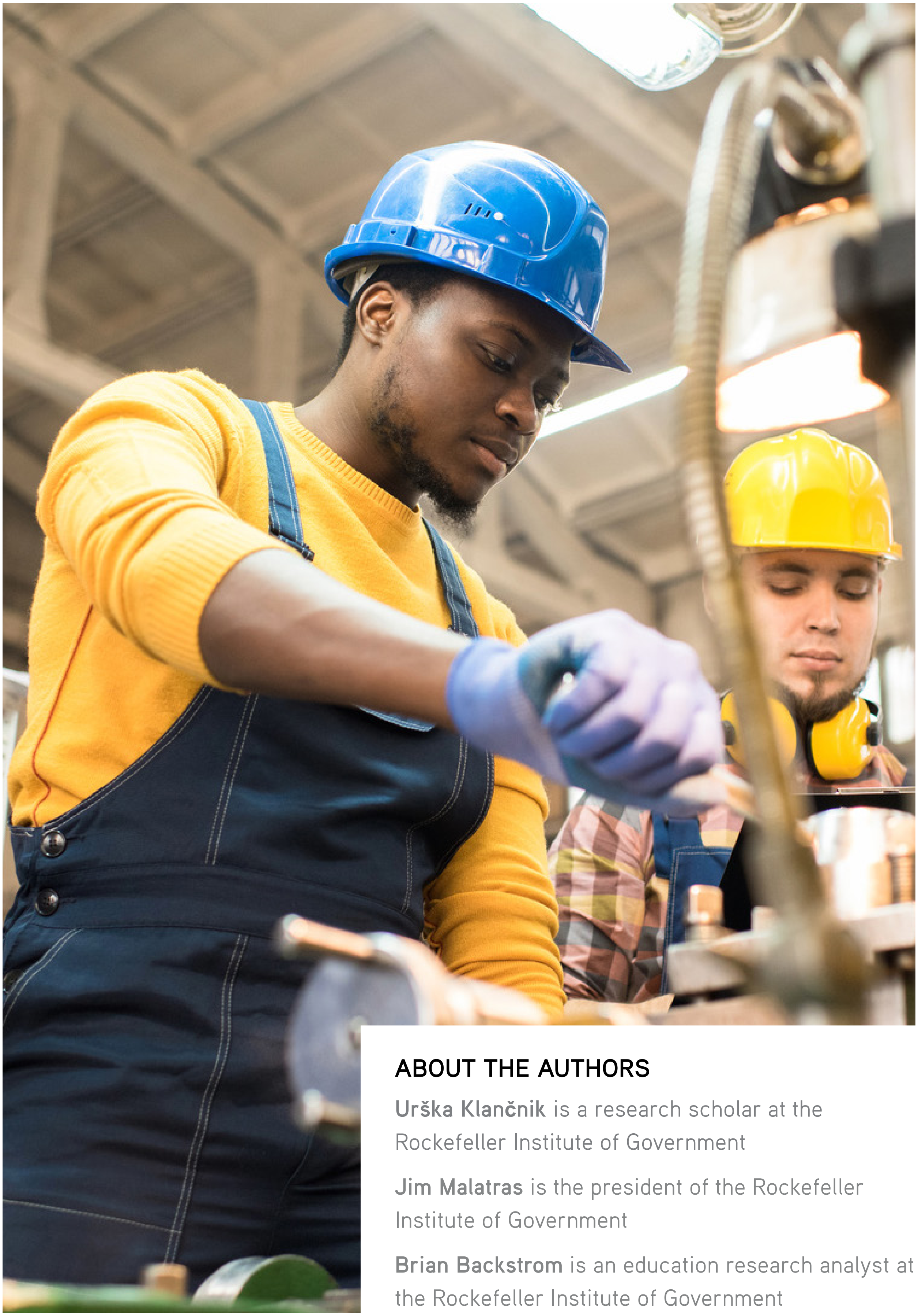

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The ever-changing landscape of employer-based benefits has created challenges for policymakers concerned — and rightly so — about dwindling access for employees to retirement savings programs. In 2016, New York Governor Andrew Cuomo created the Saving More to Achieve Richer Tomorrows (SMART) Commission to analyze ways to increase access for private-sector employees to retirement savings plans. First chaired by State University of New York (SUNY) Board of Trustees Chairman and former State Comptroller H. Carl McCall, and then by former State Budget Director Mary Beth Labate, the commission consisted of a diverse group of consumer, business, and policy experts. The Rockefeller Institute of Government provided technical research and policy assistance.[1]

Based in part on the work of the SMART Commission, the governor's 2018 New York State Executive Budget included a proposal to create the New York State Secure Choice Savings Program (Secure Choice),[2] a state-facilitated voluntary retirement savings account program for private-sector workers not enrolled in a retirement plan. The state Deferred Compensation Board (Board) would create and administer this program, which would offer several savings account options and create a main online portal marketplace for participating employees to use to manage their accounts. All expenses of the Board would be covered by the New York State Secure Choice Administrative Fund.

Participation in the Secure Choice program would be voluntary for employers as well as employees. If a private-sector employer decides to participate, its employees would be enrolled in a Roth IRA (individual retirement account) and automatic contributions from employees' payroll checks would be established, though any employee can opt out either initially or at any time. Employers do not make contributions to employees' retirement accounts, and all employees' savings are portable, meaning they can take them from one job to the next.[3]

In early 2018, both houses of the state legislature included modified versions of the program in their budget resolutions, so the concept has received broad and bipartisan support and appears well-positioned to be enacted in New York.[4]

Will a program such as Secure Choice benefit private-sector workers? We found that even a voluntary program will likely reduce the number of New Yorkers without any retirement savings.

1 The Rockefeller Institute staff was assisted by Anek Belbase and Geoff Sanzenbacher of the Center for Retirement Research at Boston College; and by David Morse of K&L Gates LLP on legal issues.

2 Business groups and other stakeholders did raise concerns at the time with a state mandate that businesses must offer retirement plans. There was more support for a voluntary program, similar to what the state recently proposed.

3 See New York State Division of the Budget, "FY 2019 New York State Executive Budget: Public Protection and General Government Article VII Legislative," Bill Draft 12670-01-8, FY 2019, Part X, p. 170, https://www.budget.ny.gov/pubs/archive/fy19/exec/fy19artVIIs/PPGGArticleVII.pdf.

4 A similar retirement savings program was proposed for New York City by City Comptroller Scott Stringer for NYC's private-sector employees, introduced in 2016. The NYC Nest Egg program would allow employers that currently do not offer a retirement plan to make use of a "curated marketplace" that would make their search for a retirement plan easier and faster. Employers worried about Employee Retirement Income Security Act of 1974 (ERISA) fiduciary responsibilities and paperwork associated with a 401(k) plan could select a "voluntary publicly-sponsored 'turn-key' product in the

Will a program such as Secure Choice benefit private-sector workers? We found that even a voluntary program will likely reduce the number of New Yorkers without any retirement savings. We explore these issues in more detail below.

The Growing Retirement Crisis

An increase in the number of retirees, combined with longer life expectancies and a smaller working-age population, is jeopardizing the solvency of the national Social Security Insurance Trust Fund. Current projections note that Social Security will be fully funded only for the next seventeen years, and by 2035 revenue from payroll taxes will cover only about three-fourths of scheduled benefit levels.[5] All retirees from that year forward could see a substantial cut to their benefits as a result.

The Social Security Administration notes that its benefit payments are the dominant source of income for 71 percent of single elderly beneficiaries and nearly half of elderly married recipients.[6] The potential of a drastic cut in benefits, especially for such citizens, is an impending crisis.

This pension crisis is not limited to private-sector employees either. Previous research by the Rockefeller Institute examined the financial stress that many public pension funds are under across this country, stress severe enough that taxpayer bailouts costing billions of dollars or drastically reduced benefits to retirees could result.[7]

The public seems aware of these troubling predictions. According to the National Institute on Retirement Security, 88 percent of Americans believe the nation faces a retirement crisis.[8]

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new NYC 401(k) Marketplace, the Empire City 401(k) MEP." And, finally, employers that do not select a plan through the NYC 401(k) marketplace or on their own would automatically be put into a new NYC Roth IRA category, requiring them to enroll eligible employees into a basic publicly enabled payroll deduction IRA. While automatically enrolled initially, employees would be given option of opting out.

Another example is Senate Bill S.4344, introduced by State Senator Diane J. Savino, to enact the New York State secure choice savings program act (https://www.nysenate.gov/legislation/bills/2017/s4344/amendment/original).

5 *The 2016 Annual Report of the Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds* (Washington, DC: U.S. Government Publishing Office, July 22, 2016), https://www.ssa.gov/OACT/TR/2016/tr2016.pdf.

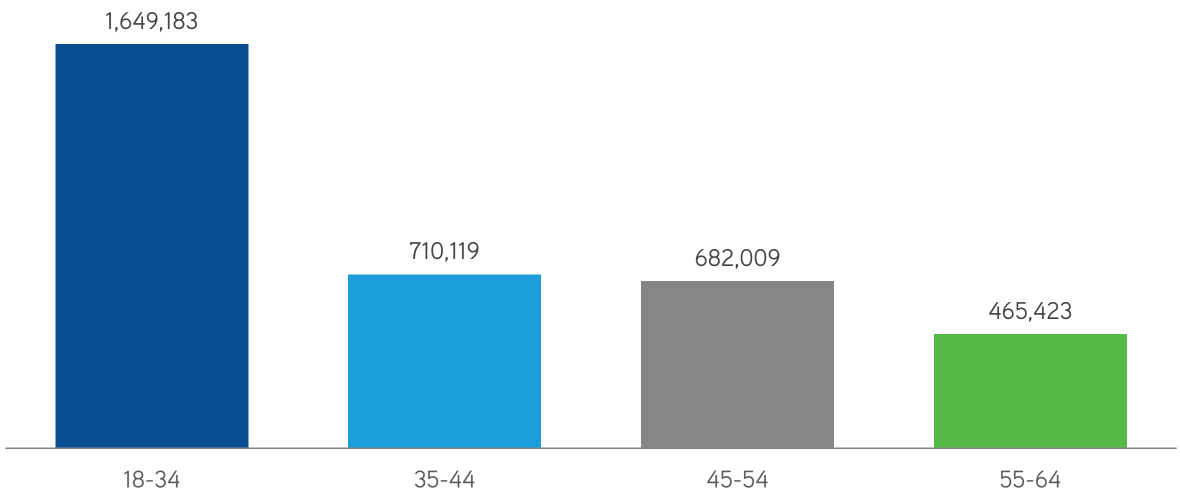
6 "Fact Sheet: Social Security," Social Security Administration, n.d., https://www.ssa.gov/news/press/factsheets/basicfact-alt.pdf; and Cameron Huddleston, "Social Security is running out fast — and no one is going to like the solution," Business Insider, July 26, 2017, http://www.businessinsider.com/social-security-is-running-out-and-no-one-will-like-the-solution-2017-7.

7 Donald J. Boyd and Yimeng Yin, *How Public Pension Plan Investment Risk Affects Funding and Contribution Risk,* Policy Brief (Albany: Rockefeller Institute of Government, January 2017), http://rockinst.org/issue-area/public-pension-plan-investment-risk-affects-funding-contribution-risk/; Yimeng Yin and Donald J. Boyd. *Investment Return Volatility and the Pennsylvania Public School Employees' Retirement System* (Albany: Rockefeller Institute of Government, August 2017), http://rockinst.org/issue-area/pennsylvania-public-school-employees-retirement-system-significantly-underfunded/.

8 Diane Oakley and Kelly Kenneally, *Retirement Security 2017: A Roadmap for Policy Makers: Americans' Views of the Retirement Crisis* (Washington, DC: National Institute on Retirement Security, February 2017), https://www.nirsonline.org/reports/retirement-security-2017-americans-views-of-the-retirement-crisis/.

In addition to the shakiness of public and private pension funds and the potential drying-up of the Social Security Trust Fund, millions of working Americans currently do not have retirement benefits available to them from their employer. According to AARP's Public Policy Institute, an estimated fifty-five million employees in the United States do not have access to any kind of employer-sponsored retirement plans.[9]

FIGURE 1. **Number of New York Private Sector Employees whose Employer Does Not Offer Retirement Plans, by Age of Employee**



Source: AARP Analysis of U.S. Census Bureau's Current Population Survey, March Supplements 2012–14.

According to the AARP Public Policy Institute's analysis of Census data, more than 3.5 million private-sector workers — over half of the total number — in New York do not have a retirement plan through their workplace. As Figure 1 shows, the majority of those who lack coverage — more than 60 percent — are younger individuals. While the number of those not saving for retirement through their employer does decrease in the last two age groups, they still represent approximately one million individuals who are much closer to their retirement age and not participating in a retirement savings program.

The proposal for a new state-facilitated, private-sector retirement program in New York is a response to this growing retirement crisis.

Advantages of State-Sponsored Retirement Savings Plans

Although participation in the New York State Secure Choice Savings Program would be voluntary, there are strong signs that involvement by companies would be quite high. AARP's 2017 survey shows that 60 percent of employers that do not offer a retirement plan are concerned about their employees' retirement security. An even

9 Gary Strauss, "'Work and Save' Programs Gain Momentum," AARP, February 27, 2018, https://www.aarp.org/money/investing/info-2018/work-save-plan-fd.htmlhttps://www.aarp.org/money/investing/info-2018/work-save-plan-fd.html.

higher percentage — 74 percent — of these businesses would support legislation that would create a privately managed New York State retirement savings option that is easy to use and low cost, features that define the Secure Choice proposal. A similar percentage of these business owners — 73 percent — stated that they would offer their employees access to such a state retirement savings plan.[10]

Although participation in the New York State Secure Choice Savings Program would be voluntary, there are strong signs that involvement by companies would be quite high.

Effectively designed government-sponsored and government-run savings program marketplaces also can help separate consumers from the typical noise of the financial-sector offerings and offer easily understood options. As the Connecticut State Comptroller's Office points out, people can get an IRA on their own anytime in the private marketplace yet that does not seem to happen for various reasons, including "cost and misunderstanding of the financial industry."[11] Connecticut has started a state-sponsored retirement savings program that is projected to increase overall enrollment in retirement plans.

Angela Antonelli, executive director of the Center for Retirement Initiatives, explains that while employees with traditional defined-benefit retirement plans (such as pension programs) have the advantage of relying on investment experts to manage their payroll deduction contributions, the now more common defined-contribution systems put employees in a situation in which they are responsible for the financial tasks previously performed by their employer and a whole team of investment specialists.[12] Antonelli notes that while some may say it is not unreasonable to expect individuals to manage their own retirement savings, that expectation does not align with the practice of other areas in our lives:

> If the pipes burst in your house, no one would expect you to repair them yourself. Car breaks down? Bring it to the mechanic. Want to build your house? Hire an architect and construction team. But when it comes to one of the most important financial decisions an individual can make — how to save and invest for retirement — we are left on our own.[13]

While individuals left to fend for themselves in the private retirement-program marketplace may lead to low participation rates, it is not surprising that when

10 Brittne Nelson, "2017 AARP Survey of Business Owners: New York Non-Workplace Savings Plan," AARP, December 2017, https://www.aarp.org/research/topics/economics/info-2017/ny-sbo-without-retirement.html.

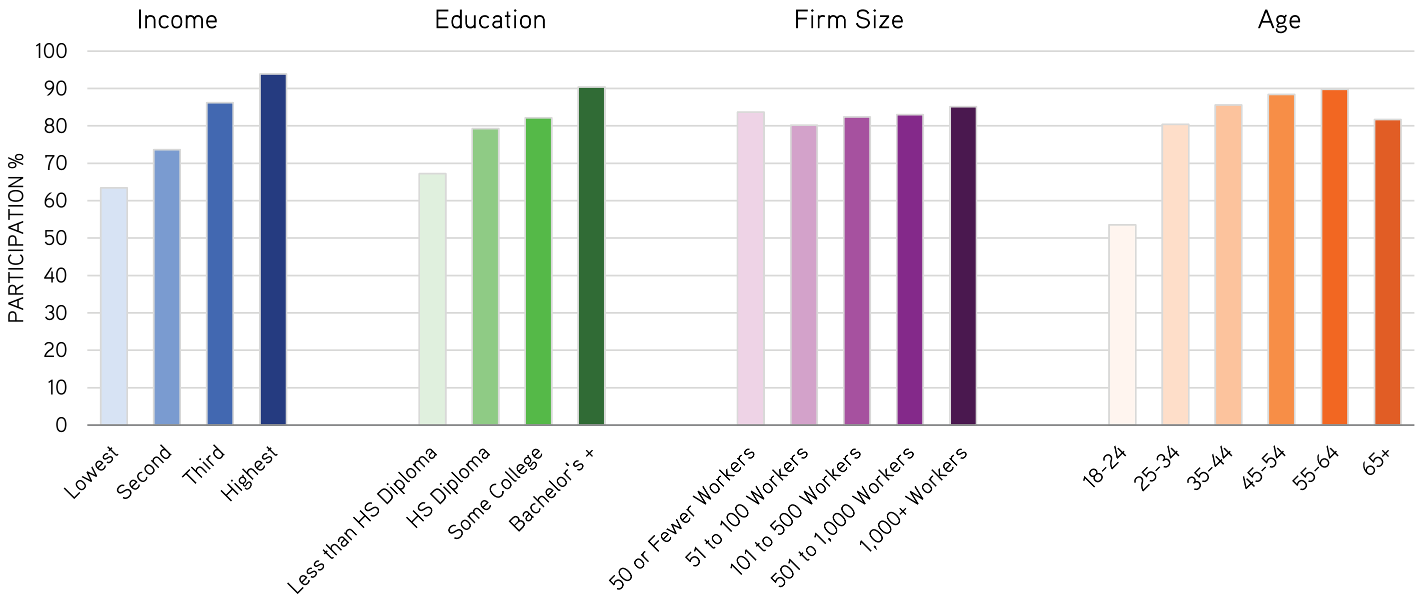
11 "Retirement Security: Every Worker Deserves Dignity in Retirement," State of Connecticut Office of the State Comptroller, accessed March 20, 2018, http://www.osc.ct.gov/retirementsecurity/index.html.

12 Angela M. Antonelli and Yijun Yin, "What We Know About Retirement Savings: Why Strategic Behavioral 'Nudges' Make Sense," Center for Retirement Incentives, McCourt School of Public Policy, Georgetown University, September 2016, https://cri.georgetown.edu/what-we-know-about-retirement-savings-why-strategic-behavioral-nudges-make-sense/.

13 Ibid.

employers offer their employees the opportunity to participate in an established retirement-savings program that is managed for them, a majority chooses to participate, according to the U.S. Government Accountability Office (GAO). Even with the youngest employees (eighteen- to twenty-four-year-olds), typically the age group with the lowest retirement-plan participation rates, more than half choose to participate in a retirement-savings program when offered access to one by their employer (see Figure 2).

FIGURE 2. **Retirement Program Participation of Workers Whose Employeres Offer Retirement Programs for Which They Are Eligible**



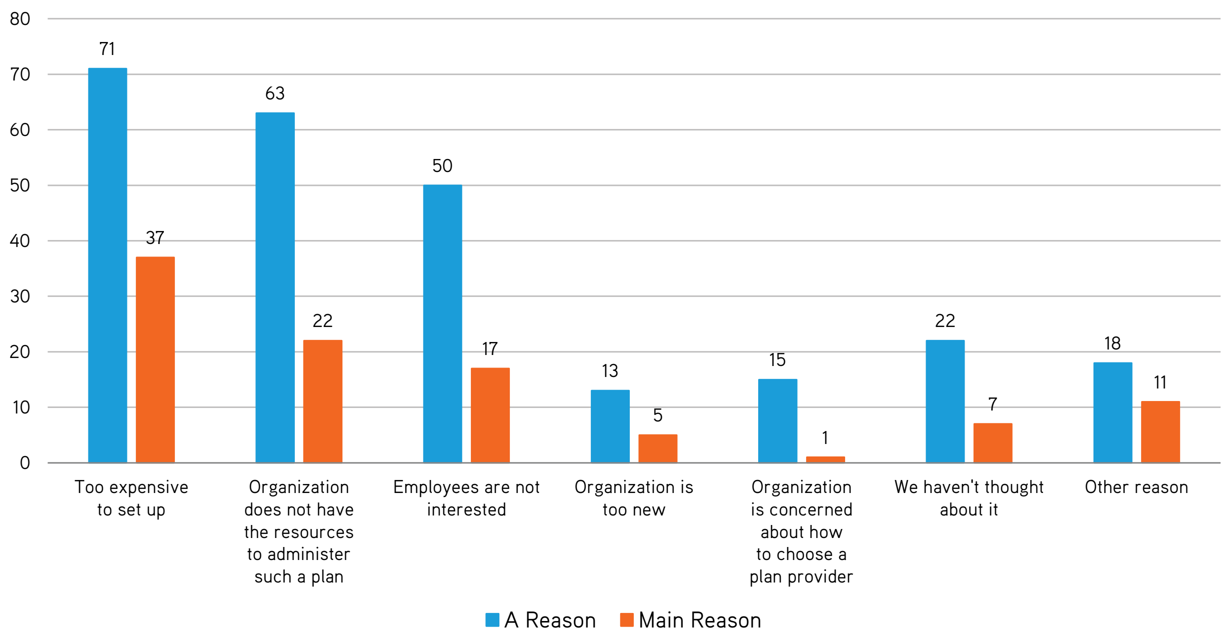
Source: GAO (2015) analysis of 2012 Survey of Income and Program Participation data. See *Retirement Security: Federal Action Could Help State Efforts to Expand Private Sector Coverage*, (see footnote 14).

The vast majority of employees who do not participate in a retirement savings plan — 84 percent — report that the main reason was not having access to such a plan, meaning that either their employer does not offer retirement-savings programs or they are not eligible for the programs offered. The GAO noted that employee participation in retirement-savings programs could be expanded significantly through any or all of a few key strategies: establishing a program of automatic enrollment for employees in employer-provided plans; adopting policies that encourage or require access to retirement-savings plans at the workplace; offering financial incentives for participation (such as employer-matched contributions); and program simplification to ensure greater understanding by employees.[14]

14 *Retirement Security: Federal Action Could Help State Efforts to Expand Private Sector Coverage*, Report to the Ranking Member, Committee on Health, Education, Labor and Pensions, U.S. Senate (Washington, DC: U.S. Government Accountability Office, September 2015), https://www.gao.gov/assets/680/672419.pdf (Table 12, pp. 97-8).

State-facilitated plans that simplify the options — one of the key strategies recommended by GAO to increase participation — could have perhaps the most positive impact on small businesses. According to recent Congressional testimony, Charles Jeszeck, the director of education, workforce, and income security at the GAO, stated that many small businesses "felt overwhelmed by the number of plan options, plan administration requirements, and fiduciary responsibilities."[15] State-facilitated plans also could avoid some of the other largest obstacles to employers providing retirement plans on their own. A recent survey by the Pew Charitable Trusts, for example, asked small- and medium-sized businesses what were their main challenges or reasons for not offering retirement plans. As shown in Figure 3 below, some of the top reasons were the expense with starting a plan and its administrative burden,[16] obstacles that would be eliminated by the option of a state-facilitated plan.

FIGURE 3. **Why Small- and Medium-Sized Businesses Don't Offer Retirement Plans**



Source: Small Business Views on Retirement Savings Plans (see footnote 16).

A Changing Employment Marketplace

The growing retirement-savings crisis reflects a larger shift in the general private-sector workplace, which is significantly transforming how it classifies employees and

15 Charles A. Jeszeck, *Retirement Security: Challenges and Prospects for Employees of Small Businesses*, Testimony Before the Committee on Health, Education, Labor, and Pensions, U.S. Senate (Washington, DC: U.S. Government Accountability Office, July 16, 2013), https://www.gao.gov/assets/660/655889.pdf; *Who's In, Who's Out: A look at access to employer-based retirement plans and participation in the states* (Washington, DC: Pew Charitable Trusts, January 2016), http://www.pewtrusts.org/~/media/assets/2016/01/retirement_savings_report_jan16.pdf.

16 *Small Business Views on Retirement Savings Plans* (Washington, DC: Pew Charitable Trusts, January 2017), http://www.pewtrusts.org/~/media/assets/2017/01/small-business-survey-retirement-savings_f.pd,

how — or whether — it provides benefits to employees. Historically, most employees had access to company-offered benefits ranging from healthcare insurance to retirement benefits. At many companies, if a person worked there long enough, he or she qualified for fairly generous pension benefits, the standard for many public-sector employees. But recently, much of that has begun to change.

Independent contractors or contract workers are among the fastest growing sectors in the United States — now nearly 15 percent of the entire workforce.

One among many examples of the newer "gig economy" — defined as "an environment in which temporary positions are common and organizations contract with independent workers for short-term engagements"[17] — is the ride-hailing industry. Considered independent contractors, companies such as Uber and Lyft do not offer employees the same status as traditional public- or private-sector transportation companies, and do not have employer-offered benefits. Other core service functions in the private sector (e.g., cleaning service, telecommunications, and the like) also are being contracted out by companies more than ever before, leaving many employees in those sectors also without traditional access to employer-based benefits.[18]

In fact, independent contractors or contract workers are among the fastest growing sectors in the United States — now nearly 15 percent of the entire workforce.[19] From 2005 to 2015, so-called alternative work arrangements — including contract workers, freelancers or independent contractors, temporary help agency workers, and others — rose from 10.7 percent to 15.8 percent of the total workforce. The largest increase — from 1.4 percent in 2005 to 3.1 percent in 2015 — was for workers hired out through contract companies.[20] According to economists Lawrence Katz of Harvard University and Alan Krueger of Princeton University, this means that "94 percent of net job growth in the past decade was in the alternative work category.... And over 60 percent was due to the [the rise] of independent contractors, freelancers and contract company workers."[21] To put this into perspective, almost all of the jobs created between 2005 and 2015 were temporary as opposed to traditional employment.[22]

17 Ivy Wigmore, "gig economy," WhatIs.com, updated May 2016, http://whatis.techtarget.com/definition/gig-economy.

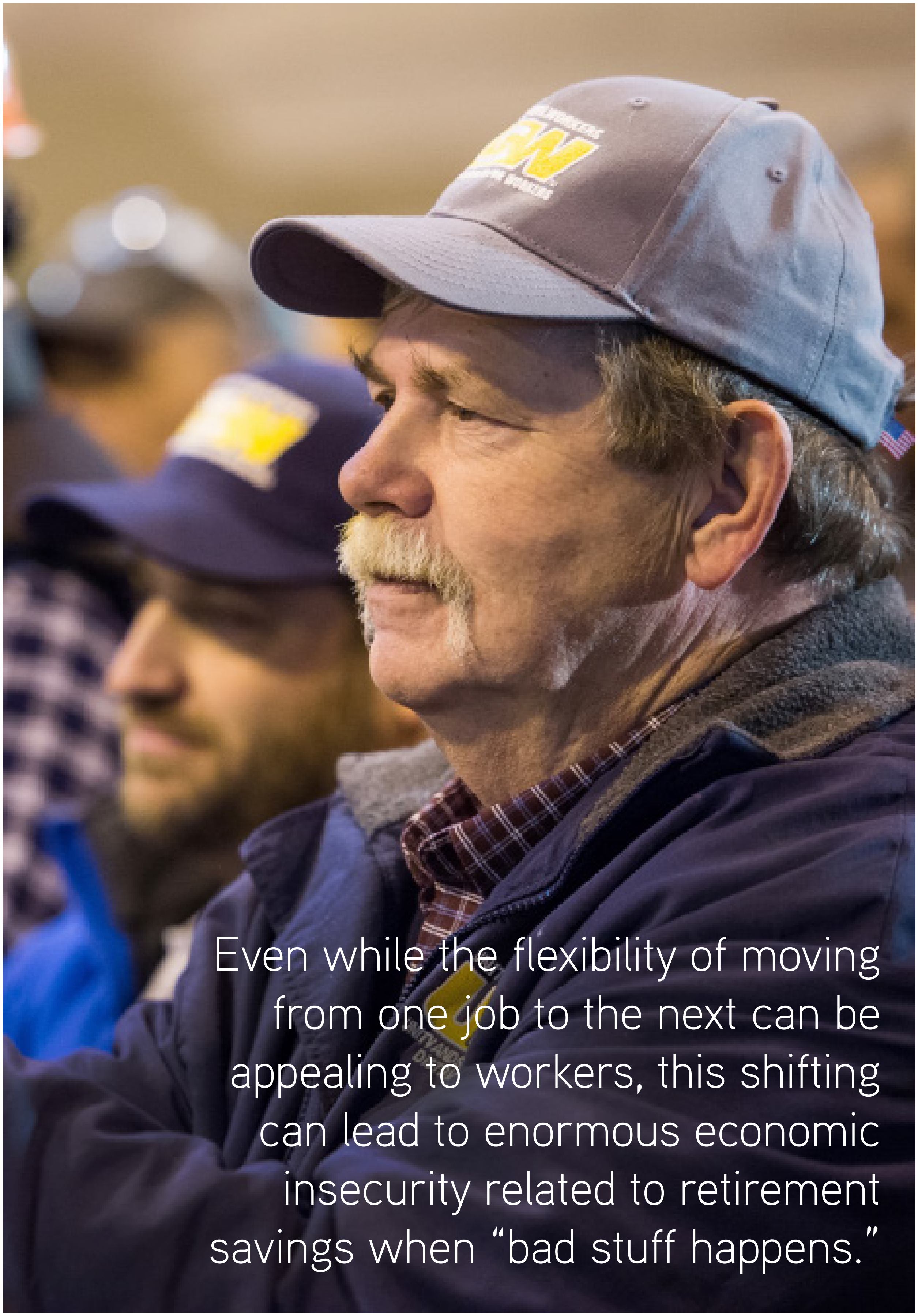
18 For a great analysis of this transition see David Weil, *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It* (Cambridge: Harvard University Press, May 2017).

19 "Explaining the Growth of the Alternative Workforce," National Bureau of Economic Research," accessed March 21, 2018, http://www.nber.org/digest/dec16/w22667.html.

20 Lawrence F. Katz and Alan B. Krueger, "The Rise and Nature of Alternative Work Arrangements in the United States, 1995-2015," Working Paper #603, Princeton University Industrial Relations Section, September 13, 2016, http://dataspace.princeton.edu/jspui/bitstream/88435/dsp01zs25xb933/3/603.pdf.

21 Dan Kopf, "Almost all the US jobs created since 2005 are temporary," Quartz, December 5, 2016, https://qz.com/851066/almost-all-the-10-million-jobs-created-since-2005-are-temporary/.

22 Ibid.



Even while the flexibility of moving from one job to the next can be appealing to workers, this shifting can lead to enormous economic insecurity related to retirement savings when "bad stuff happens."

Initial Federal and State Responses

In 2016, President Obama gave formal recognition to this shifting economy and the impact it had on retirement savings, using his State of the Union address that year to call for portable retirement accounts for private-sector employees.[23] Since then, there have been efforts on the national as well as state level to address the issue. A few examples are briefly described below.

US Senator Mark Warner pointed out that even while the flexibility of moving from one job to the next can be appealing to workers, this shifting can lead to enormous economic insecurity related to retirement savings when "bad stuff happens."[24] To combat this insecurity and in an attempt keep pace with growing alternative-work arrangements, US Senator Warner and US Representative Suzan DelBene introduced in Congress the *Portable Benefits for Independent Workers Pilot Program Act*.[25] This legislation would create a pilot program at the U.S. Department of Labor and establish a $20 million grant fund meant to encourage states, localities, and nonprofit organizations to design and implement new retirement-savings pilot projects ($15 million), or assess and improve existing models ($5 million). In order to be eligible for grants, the models cannot focus on a single benefit category but will need to address a variety of employment-related benefits, including retirement savings, workers compensation, sick leave, healthcare, and others. Further, programs that can be replicated on a large scale will be prioritized.[26]

On the state level, Assemblymember Evan Low in California has recently introduced a bill with the "intent of the Legislature to enact legislation relating to portable employee benefits in California."[27] The bill is currently pending referral and may be heard in committee as early as March 2018.

Also in California, the city of San Francisco has taken the lead in trying to understand and create new protections against the insecurities of independent work. The San Francisco Office of Economic and Workforce Development (OEWD) is working together with the nonprofit Samaschool on a pilot program to provide support to the growing number of gig economy workers. The program provides a series of free online interactive training modules and videos on topics unique to gig economy, such as tax obligations and rights of independent workers versus employees. The city additionally

23 Yuka Hayashi, "Obama: Make Retirement Accounts More Accessible, Portable," *Wall Street Journal*, January 26, 2016, https://www.wsj.com/articles/obama-make-retirement-accounts-more-accessible-portable-1453784461.

24 Sarah Kessler, "US legislators just proposed a $20-million experiment that could bring benefits to freelance and gig-economy workers," Quartz, May 25, 2017, https://qz.com/991270/us-senator-mark-warner-proposed-a-20-million-fund-to-experiment-with-portable-benefits-for-freelancers-gig-economy-workers-and-contractors/.

25 S. 05 25, 115 Cong. (2017-18), https://www.scribd.com/document/349414506/Portable-Benefits-Bill-05-25-2017.

26 Office of US Senator Mark R. Warner, "Legislation to Test-Drive Portable Benefit Models Introduced in the House and Senate," Press Release, May 25, 2017, https://www.warner.senate.gov/public/index.cfm/2017/5/legislation-to-test-drive-portable-benefit-models-introduced-in-the-house-and-senate.

27 AB-2765, Sess. of 2018 (Cal. 2018), http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2765.

offers in-person assistance at San Francisco workforce centers, where workers can familiarize themselves with the topics while working with peers and an instructor.[28]

Another example can be found in Iowa, where state Senator Nate Boulton proposed Senate File 2087, which would require the Department of Workforce Development, together with the Iowa insurance commissioner, to conduct a study of the options for portable benefits for nontraditional workers. The study is to focus on who should administer a portable benefits program, what benefits and what level of benefits could be provided, and options for financing the program. The report, with its findings and recommendations, is required to be submitted to the general assembly by November 15, 2018.[29]

The state of Washington in January 2018 received a letter from Uber's Chief Executive Dara Khosrowshahi, Service Employees International Union (SEIU) 775 President David Rolf, and Seattle investor and workers' rights advocate Nick Hanauer urging the state government to develop a portable employee-benefits system.[30] While there seems to be a general and shared support for portable benefits in theory, various stakeholders disagree on the specifics. On-demand companies would like to preserve the independent contractor status of their workers, which is why a portable benefits program, to which employers would contribute as long as "their workers will be considered independent contractors rather than employees,"[31] might be a good starting point. In Washington, state Representatives Jessyn Farrell and Derek Stanford proposed a bill requiring businesses and individuals that act as brokers for independent workers to contribute towards their benefits. The bill does not determine "a worker's employment status or the contracting agent's employment relationship to the worker."[32] One reason could be to maintain the flexibility that is associated with the gig economy, as well as to be able to gather support from on-demand companies. Further, in 2018, Washington state Representatives Monica Stonier, Mike Sells, and Gerry Pollet sponsored a bill that builds on the foundation of Representative Farrell's bill and would create a portable benefits system. The bill seeks to clarify the definition of "employee" and would ensure that all workers, regardless of their status, have access to a basic social safety net.[33]

The portable benefits movement is certainly gaining momentum, particularly as the economy's shift to alternative-work arrangements grows, and numerous state governments are responding to the demands of workers, on-demand companies,

28 Conor McKay, "Bridge to Employment: San Francisco & Samaschool Partner on Free Training for Gig Workers," Aspen Institute Workforce Development Blog Post, January 25, 2018, https://www.aspeninstitute.org/blog-posts/san-francisco-gig-economy-toolkit/.

29 SF 2087, Sess. of 2018 (Iowa 2018), https://www.legis.iowa.gov/legislation/BillBook?ga=87&ba=SF%202087.

30 Ali Breland, "Uber CEO calls for new benefits system for gig economy workers," *The Hill*, January 24, 2018, http://thehill.com/policy/technology/370506-uber-ceo-signs-letter-calling-for-portable-benefits-to-help-gig-workers.

31 Kessler, "US legislators just proposed."

32 H-1606.3, Sess. of 2017 (Wash. 2017), http://lawfilesext.leg.wa.gov/biennium/2017-18/Pdf/Bills/House%20Bills/2109.pdf.

33 HB 2812, Sess. of 2018 (Wash. 2018), http://apps2.leg.wa.gov/billsummary?BillNumber=2812&Year=2017&BillNumber=2812&Year=2017.

and unions to ensure access to benefits. While legislation proposals and other initiatives are still in their early stages, the issue of portable benefits will certainly help shape the definition and management of the modern workplace.

States Test the Waters with Retirement Savings Programs

Numerous states across the country are enacting laws designed to provide private-sector employees with greater access to retirement plan options.[34] According to the Georgetown University's Center for Retirement Initiatives, there are currently nine state-facilitated and one city-facilitated retirement savings programs in place for private-sector employees:[35] California; Connecticut; Illinois; Massachusetts; Maryland; New Jersey; Oregon; Vermont; Washington; and the city of Seattle. While retirement savings plans in California, Connecticut, Illinois, Maryland, Oregon, and the city of Seattle are based on a mandatory automatic enrollment with an opt-out option for employees, New Jersey and Washington have decided on a voluntary marketplace option. Vermont and Massachusetts chose a slightly different approach, in which auto-enrollment of employees takes place only when their employer chooses to participate and there is always an opt-out option for workers. These plans are introduced and briefly discussed below, and further detail on each program appears in the appendix.

Auto-IRA: California, Connecticut, Illinois, Maryland, Oregon, the City of Seattle

The auto-IRA retirement savings programs that have been enacted in five states and the city of Seattle have several things in common. All the programs offer portable benefits, meaning the saved funds stay with employees if and when they switch jobs, and all six programs require participation by eligible employers and require these employers to automatically enroll eligible employees for a payroll deduction. Generally, employers are not permitted to contribute to these accounts; only California's CalSavers program permits employer contribution, and then only if such contributions will not trigger federal ERISA rules. In each plan, employees always have the option to opt-out or make changes, such as increase or decrease their contribution level.

OregonSaves Program Highlights

Employees eligible

32,913

7,517

employees started contributing

Active employee accounts

26,361

$1,190,466

in assets

362

employers registered in total:

267 (74%) *added employees and* **143 (40%)** *began payroll deductions*

as of

March 3, 2018

34 Liz Farmer, "Legal or Not, States Forge Ahead With 401(k)-for-Everyone Plans," *Governing*, August 2017, http://www.governing.com/topics/mgmt/gov-401k-states-retirement-private.html.

35 "State Initiatives 2018: New Programs Begin Implementation While Others Consider Action," McCourt School of Public Policy, Center for Retirement Initiatives, Georgetown University, Last Updated January 29, 2018, https://cri.georgetown.edu/states/.

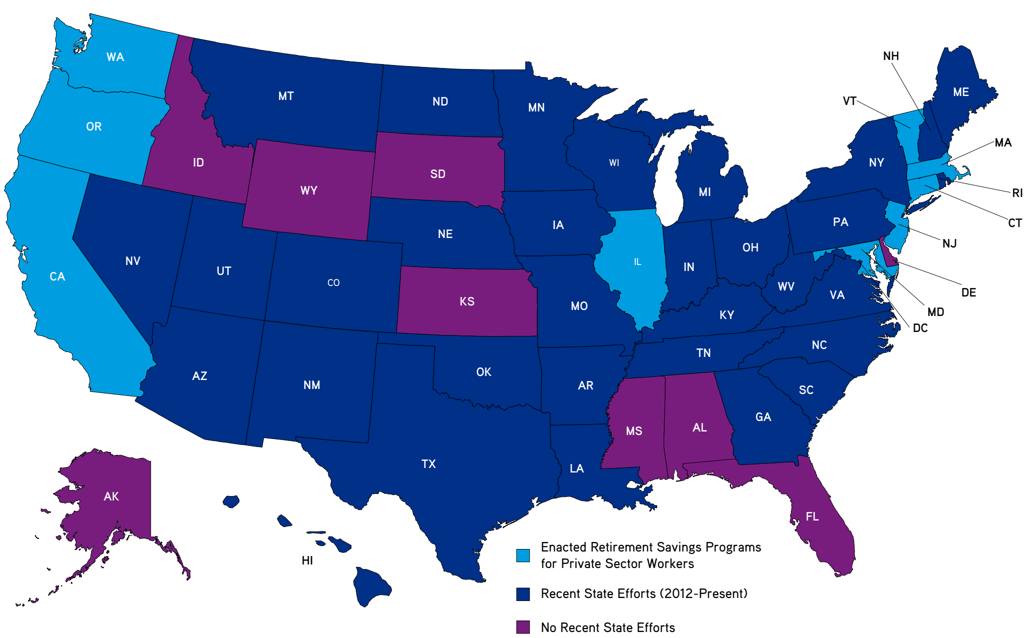
Multiple Employer Plan (MEP): Massachusetts, Vermont

Multiple Employer Plans, which have been enacted in Massachusetts and Vermont, do not require employers to participate but makes participation voluntary. Further, in these two cases, the MEPs are governed by ERISA, and if an employer chooses to participate, its employees are automatically enrolled with an opt-out option. In both cases, employer contribution is permitted. In both of these state-facilitated programs, employees' savings are portable.

Marketplace: New Jersey, Washington

The retirement-plan marketplaces established by New Jersey and Washington are virtual marketplaces offering low-cost retirement-savings plans from qualified financial services firms to employers with fewer than 100 employees. Employer participation is voluntary and employees' savings are portable. Both marketplaces are required to offer at least two kinds of plans to eligible employers: either a SIMPLE IRA; or a payroll-deduction IRA or a workplace-based IRA. Further, the firms participating in the marketplace also have to offer at least two product options within each plan.

FIGURE 4. **Recent State Efforts to Expand Retirement Savings Programs**



Source: "State Initiatives 2018: New Programs Begin Implementation While Others Consider Action" (see footnote 37).

While ERISA plans are allowed to participate in the marketplace, ERISA does not apply to the two states for operating the marketplace. Employer contributions are allowed for ERISA plan options.

Early Success: The OregonSaves Program

The Secure Choice program proposed for New York includes elements of other state plans that position it for substantial effectiveness and success.

Compelling evidence that state-sponsored retirement savings programs work and can be very successful is provided by Oregon's plan, OregonSaves. While most of the retirement savings programs introduced above are just starting their pilot phases in 2018 or 2019, Oregon launched its pilot program in July 2017 and, due to its highly successful introductory phase, was opened for accelerated enrollment in December 2017. "The [Oregon State Retirement] Board had initially planned to invite eligible employers to facilitate OregonSaves gradually over the next two years, starting with the state's largest employers," noted Oregon State Treasurer Tobias Read. "A series of deadlines to register remain unchanged, but employers don't need to wait for them."[36]

While Oregon's program requires all employers that do not currently offer a retirement savings program to participate and to automatically enroll eligible employees, the successes of the program appear to easily translate to likely successes of voluntary programs as well.

Other State Action Appears Imminent

In addition to the states that have already enacted retirement savings programs, many other states are in the process of doing so or are at least studying their options. According to the Georgetown University's Center for Retirement Initiatives, forty states have "acted to implement, study or consider legislation"[37] to address noted retirement savings crises. Below is a map of the states that have in one way or another started addressing the retirement savings gap in the private sector since 2012.

Federal Action Creates Complications

Federal action related to state-facilitated retirement savings programs is creating new challenges and complications for states undertaking and seeking to undertake such efforts.

In April 2017, after the US Congress voted to roll back an Obama-era regulation that was aimed at helping low-income workers save for retirement, the repeal became law.[38] The regulation sought to encourage cities and counties to provide retirement

36 Oregon State Treasury, "Pioneering OregonSaves retirement program opening for statewide enrollment, based on successful pilot phase," Press Release, December 22, 2017, http://www.oregon.gov/treasury/Newsroom/Pages/ViewArticle.aspx?pressReleaseID=221.

37 "State Initiatives 2018: New Programs Begin Implementation While Others Consider Action," McCourt School of Public Policy, Center for Retirement Initiatives, Georgetown University, Last Updated January 29, 2018, https://cri.georgetown.edu/states/.

38 H.J.Res.67, 115 Cong. (2017-18), https://www.congress.gov/bill/115th-congress/house-joint-resolution/67.

plans for those private-sector employees not covered by a retirement plan option through their employers by exempting retirement savings accounts from ERISA, making it easier for cities and counties to set up retirement savings accounts.[39]

In May 2017, the federal government also nullified a rule by the Department of Labor's Employee Benefits Security Administration "regarding savings arrangements established by States for non-governmental employees."[40] Established in 2016, this rule specified the conditions under which state-run IRA plans are exempted from Employment Retirement Income Security Act (ERISA).[41] The ERISA exemption was instrumental in giving states adequate flexibility to set up their own retirement savings programs. The Center for Retirement Initiatives at Georgetown University analyzed five retirement savings programs, all of which were not subject to ERISA, determining that they would not have been implemented if ERISA applied.[42] Further, the ERISA-exempt state-sponsored retirement plans had vast support, with officials from twenty-two states writing to Senate Majority Leader Mitch McConnell asking him to lead his House in a vote against repeal.[43]

In July 2017, the federal government abruptly ended the "myRA" retirement savings program. Introduced in late 2014, the myRA program was geared towards helping low- and moderate-income households save for retirement. Under the program, approximately 30,000 participants contributed $34 million to new individual retirement plans. The reason cited for ending the program was the cost of managing it, which was pegged at $70 million, and according to US Treasurer Jovita Carranza, there was not enough demand for the program to justify its cost.[44]

The current federal government administration may be acting to discourage states from mandating that businesses offer retirement plans to their employees and requiring workers to be automatically enrolled, and state-facilitated programs with voluntary participation structures may face less opposition. Still, much of this action is designed to reverse previous efforts designed to encourage states to find ways to address the retirement savings crisis. Even some of the state-sponsored plans with mandatory participation still "believe that they have legal authority under earlier, less explicit laws and regulations."[45] Oregon, together with California, Connecticut, Illinois,

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39 Jordain Carney, "Senate votes to eliminate Obama-era retirement rule," *The Hill*, March 30, 2017, http://thehill.com/blogs/floor-action/senate/326484-senate-votes-to-eliminate-obama-era-retirement-rule.

40 H.J.Res.66, 115 Cong. (2017-18), https://www.congress.gov/bill/115th-congress/house-joint-resolution/66.

41 "Savings Arrangements Established by States for Non-Governmental Employees; Proposed Rule," 80 Fed. Reg., November 18, 2015, https://www.gpo.gov/fdsys/pkg/FR-2015-11-18/html/2015-29426.htm.

42 *Comparison of Retirement Plan Design Features, By State: California, Illinois, Oregon, Maryland and Connecticut* (Center for Retirement Initiative, McCourt School of Public Policy, Georgetown University, Updated June 15, 2016): 2, https://comm.ncsl.org/productfiles/83453751/Antonelli_CRI_Brief.pdf.

43 Letter from officials in twenty-two states to Senator Mitch McConnell, May 1, 2017, http://cri.georgetown.edu/wp-content/uploads/2017/05/Sen.McConnell.Multi-State-Sign-on-Letter_05.01.pdf.

44 "Oregonians Start Saving With Auto-Enroll Retirement Plan," Bloomberg Law, January 26, 2018, https://bnanews.bna.com/employee-benefits/oregonians-start-saving-with-auto-enroll-retirement-plan.

45 William G. Gale and David C. John, *State Sponsored Retirement Savings Plans: New Approaches to*

and Maryland — which each enacted similar auto-IRA retirement savings programs — are going to be testing the waters.[46]

The New York Secure Choice Act: A Refined and Important Component of the Portable Retirement Benefits Movement

The Secure Choice program proposed for New York includes elements of other state plans that position it for substantial effectiveness and success. Program participation is voluntary, which likely will avoid most pushback from federal efforts that seem to be attacking programs with mandatory participation requirements. The state, through its Deferred Compensation Board, will be administering the program and arranging through a dedicated fund to cover all administrative costs. This design should substantially reduce administrative burdens on participating private employers. Direct access to manage their plans is provided to employees through an online portal; options offered are designed to be relatively easy to understand, with the hope that participation will swell; and all retirement savings are portable.

Conclusion

The contemporary workplace and employer-employee relationship are changing. The increasing number of private-sector workers who lack access to a retirement savings program is a sign of a general shift that is forcing state governments to reconsider how employee benefits should be managed in the future in order to encourage individual retirement savings and help avoid any looming crisis.

In New York State the first steps have been taken. Governor Andrew Cuomo included the proposal for the New York State Secure Choice Savings Program in his 2018 Executive Budget. Both the state Senate and the state Assembly have included modified versions of the Secure Choice program in their budget resolutions. The voluntary participation structure of the program also likely designs it for the least difficulty from changing federal regulations. New York State seems well-positioned to join the nine states that have already enacted state-facilitated retirement savings programs for private-sector workers.

Boost Retirement Plan Coverage (Philadelphia: Pension Research Council, The Wharton School, University of Pennsylvania, September 2017): 24, https://pensionresearchcouncil.wharton.upenn.edu/wp-content/uploads/2017/09/WP-2017-12-John-Gale.pdf.

46 "Oregonians Start Saving With Auto-Enroll Retirement Plan."

APPENDIX

Auto-IRA

California

- Program: the California Secure Choice Retirement Savings Trust Act (SB 1234)*;
- Administrative Entity: the California Secure Choice Retirement Savings Investment Board, chaired by the treasurer[†];
- Employer Participation: employers with five or more employees will be required to offer a retirement plan of their choosing or provide access to CalSavers;
- Default Contribution Rate: 5 percent;
- Potential Impact: 7.5 million Californians not covered by their employer[**];
- Timeline: it is estimated that the soft launch will be in summer or fall of 2018, and then officially open statewide in early 2019.

* SB-1234, Sess. of 2016 (Cal. 2016), http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160SB1234.
† "California Secure Choice Retirement Savings Investment Board (CalSavers)," Office of California State Treasurer John Chiang, accessed March 21, 2018, http://www.treasurer.ca.gov/scib/members.asp.
** Ibid.

Connecticut

- Program: the Connecticut Retirement Security Exchange through Public Act 16-29*;
- Administrative Entity: the Connecticut Retirement Security Authority Board. chair appointed by the governor[†];
- Employer Participation: employers with five or more employees that do not currently offer a retirement program;
- Default Contribution Rate: 3 percent;
- Potential Impact: approximately 600,000 employees without access to a retirement savings plan through their workplace[**];
- Timeline: first set to start January 1, 2018, the Authority pushed that date back and will develop a timeline in March 2018.[‡]

* Substitute House Bill No. 5591, Sess. of 2016 (Conn. 2016), https://www.cga.ct.gov/2016/ACT/pa/2016PA-00029-R00HB-05591-PA.htm.
† "CT Retirement Security Authority," Connecticut Department of Labor, accessed March 21, 2018, http://www.ctdol.state.ct.us/retirement%20authority/.
** "Retirement Security: Every Worker Deserves Dignity in Retirement" (see footnote 11).
‡ NAPA Net Staff, "CT Pushes Back Implementation Date for State-Run Auto-IRA Program," NAPA Net, November 13, 2017, https://www.napa-net.org/news/technical-competence/state-auto-ira-plans/ct-pushes-back-implementation-date-for-state-run-auto-ira-program/.

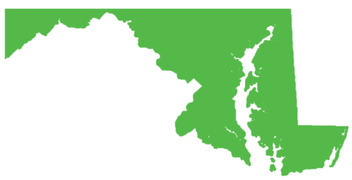
Illinois

- Program: the Secure Choice Savings Program Act*;
- Administrative Entity: the Illinois Secure Choice Savings Board, chaired by the treasurer[†];
- Employer Participation: employers with twenty-five or more employees that have not offered a retirement program in the past two years;
- Default Contribution Rate: 5 percent;
- Potential Impact: 1.2 million employees could gain access to retirement savings plans through Secure Choice[**];
- Timeline: phase one pilot program in 2018, but many employers may not actually begin enrollment until later phases in 2018 or 2019.

* Public Act 098-1150, Sess. of 2015 (Ill. 2015), http://www.ilga.gov/legislation/publicacts/fulltext.asp?Name=098-1150.
† "Secure Choice," Office of the Illinois State Treasurer, accessed March 22, 2018, http://illinoistreasurer.gov/Individuals/Secure_Choice.
** Ibid.

Auto-IRA, continued

Maryland



- Program: Maryland Small Business Retirement Savings Program and Trust (SB 1007 / HB 1378) [*,†];
- Administrative Entity: the Maryland Small Business Retirement Savings Board, chair elected by the Board members**;
- Employer Participation: all qualifying employers that currently do not offer a retirement plan;
- Default Contribution Rate: the Board has discretion to set default contribution amount;
- Potential Impact: approximately 995,000 do not have access to a retirement savings plan through work; [‡]
- Timeline: the Act went into effect on July 1, 2016, and currently there is no exact start date.

* H.B. 1378, Sess. of 2016 (Md. 2016), http://mgaleg.maryland.gov/2016RS/chapters_noln/Ch_324_hb1378E.pdf.

† S.B. 107, Sess. of 2016 (Md. 2016), http://mgaleg.maryland.gov/2016RS/chapters_noln/Ch_323_sb1007E.pdf.

** "Maryland Small Business Retirement Savings Board," Maryland Manual On-Line, accessed March 22, 2019, http://msa.maryland.gov/msa/mdmanual/25ind/html/66smallbusret.html.

‡ David John and Gary Koenig, "Workplace Retirement Plans Will Help Workers Build Economic Security," Fact Sheet: Maryland, AARP, August 2015, https://www.aarp.org/content/dam/aarp/ppi/2015-07/AARP-Maryland-state-fact-sheet.pdf.

Oregon

- Program: OregonSaves (HB 2960*)[†];
- Administrative Entity: the Oregon Retirement Savings Board, chaired by the treasurer**;
- Employer Participation: all employers that currently do not offer a retirement plan;
- Default Contribution Rate: 5 percent;
- Potential Impact: 1.05 million workers in Oregon lacked access to a retirement plan through work[‡];
- Timeline: the pilot phase started in July 2017, registration is now open to all employers (the exact timeline can be accessed at https://www.oregonsaves.com/).

* H.B. 2960, Sess. of 2015 (Oreg. 2015), https://olis.leg.state.or.us/liz/2015R1/Downloads/MeasureDocument/HB2960/Enrolled.

† "OregonSaves is now open for all employers," OregonSaves, accessed March 22, 2018, https://www.oregonsaves.com/.

** "Oregon Retirement Savings Board," OregonSaves.com, accessed March 22, 2018, http://www.oregon.gov/retire/pages/board.aspx.

‡ Oregon Market Research Report (Boston: Center for Retirement Research at Boston College, July 2016), http://www.oregon.gov/retire/SiteAssets/Pages/Newsroom/ORSP%20Market%20Analysis%2013JULY2016.pdf.

The City of Seattle

- Program: the Seattle Retirement Savings Plan (SRSP)*;
- Administrative Entity: the Seattle Retirement Saving Plan Board of Administration, chair appointed by the mayor[†];
- Employer Participation: all employers that currently do not offer a retirement plan to their employees and do not participate in a Multiple Employer Plan;
- Default Contribution Rate: the Board can set the default rate;
- Potential Impact: approximately 200,000 Seattle employees lack access to a retirement plan through their employer[**];
- Timeline: expected to begin January 1, 2019.[‡]

* GS 379-1-A-1-2018, Seattle City Council, 2018, https://seattle.legistar.com/LegislationDetail.aspx?ID=3195945&GUID=B5134189-775A-4B1C-8B86-1AEB9080E849&Options=&Search.

† "Seattle Retirement Savings Plan," Seattle.gov, accessed March 22, 2018, http://www.seattle.gov/mayor/retirement-plan.

** Ibid.

‡ http://mayorburgess.seattle.gov/2017/10/mayor-burgess-delivers-seattle-retirement-savings-plan-legislation-to-council/#sthash.CheL4AYJ.CxgqW8KG.dpbs

Multiple Employer Plan (MEP)

Massachusetts

- Program: Massachusetts Defined Contribution CORE Plan ("CORE Plan")*;
- Administrative Entity: a not-for-profit defined-contribution committee, within the Office of the State Treasurer and Receiver General;
- Employer Participation: nonprofit organizations with twenty or fewer employees;
- Default Contribution Rate: 6 percent[†];
- Timeline: launched in October 2017 and is now open for enrollment.

* Office of the Mayor, "Mayor Burgess delivers Seattle Retirement Savings Plan legislation to Council," press release, October 10, 2017, https://www.mass.gov/core-plan-for-nonprofits.
† CORE: Connecting Organizations to Retirement Plan Overview (Boston: Office of the State Treasurer and Receiver General, n.d.), https://docs.empower-retirement.com/EE/MassCoreWR/DOCS/Plan-Highlights.pdf.
S.135, Sess. of 2017 (Vt., 2017), Section C.1, https://legislature.vermont.gov/assets/Documents/2018/Docs/ACTS/ACT069/ACT069%20As%20Enacted.pdf.

Vermont

- Program: the Vermont Green Mountain Secure Retirement Plan*;
- Administrative Entity: Green Mountain Secure Retirement Board, chaired by the treasurer[†];
- Employer Participation: employer participation is voluntary, but meant for employers that currently do not offer a retirement plan and have fifty or fewer employees;
- Default Contribution Rate: not specified;
- Potential Impact: 104,000 employees in Vermont do not have access to a retirement plan through their employer**;
- Timeline: current implementation date is January 15, 2019.

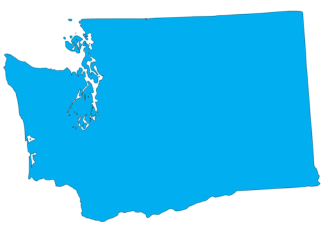
* S.135, Sess. of 2017 (Vt., 2017), Section C.1, https://legislature.vermont.gov/assets/Documents/2018/Docs/ACTS/ACT069/ACT069%20As%20Enacted.pdf.
† "Green Mountain Secure Retirement Plan," Office of the Vermont State Treasurer, accessed March 22, 2018, http://www.vermonttreasurer.gov/content/green-mountain-secure-retirement-plan.
** Honorable Beth Pearce, "Small Businesses & Retirement Readiness: Vermont Embraces a Multiple Employer Plan Approach," Center for Retirement Initiatives, McCourt School of Public Policy, Georgetown University, June 2017, https://cri.georgetown.edu/small-businesses-retirement-readiness-vermont-embraces-a-multiple-employer-plan-approach/.

Marketplace

New Jersey

- Program: New Jersey Small Business Retirement Marketplace Act (Chapter 298)*;
- Administrative Entity: Office of the State Treasurer[†];
- Employer Participation: employer participation is voluntary, but meant for employers with fewer than 100 employees;
- Default Contribution Rate: not specified;
- Potential Impact: 1.7 million private-sector employees in New Jersey do not have a retirement savings plan through their employer;
- Timeline: not specified — the Department of Treasury issued the Request for Information (RFI) on January 9, 2018, and is reviewing responses from private-sector financial services firms.

* Chapter 298, Sess. of 2016 (N.J. 2016), http://www.njleg.state.nj.us/2014/Bills/PL15/298_.PDF.
† "New Jersey Small Business Retirement Marketplace: Request for information (RFI)," No. 17-1226INV, New Jersey Department of the Treasury, n.d., http://www.nj.gov/treasury/doinvest/pdf/Rfp/RFI17-1226final.pdf.



Washington

- Program: the Washington Small Business Retirement Marketplace*;
- Administrative Entity: State Department of Commerce[†];
- Employer Participation: employer participation is voluntary, but meant for employers with fewer than 100 employees;
- Default Contribution Rate: not specified;
- Potential Impact: more than two million employees in Washington lack access to a retirement savings plan through their employer;
- Timeline: anticipated launch was mid-2017, but is now expected in early 2018.[**]

* S.B. 5826, Sess. of 2015 (Wash. 2015), http://lawfilesext.leg.wa.gov/biennium/2015-16/Pdf/Bills/Session%20Laws/Senate/5826-S.SL.pdf.
† "The Retirement Marketplace is Live at retirementmarketplace.com," State of Washington Department of Commerce, accessed March 22, 2018, http://www.commerce.wa.gov/growing-the-economy/business-services/small-business-retirement-marketplace/.
** Carolyn McKinnon, Retirement Marketplace Update, State of Washington Department of Commerce press release, February 1, 2017, https://content.govdelivery.com/accounts/WADOC/bulletins/1842abc.

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