The Benefits of Achieving Economies of Scale in State-Sponsored Retirement Savings Programs: The Case for Multi-State Collaboration

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I. Introduction

Over the last several years, most states have been actively engaged in exploring ways to enable more private sector workers to save for retirement. They recognize the failure to do so would expose state governments to increased budget pressure, because increasing numbers of retirees with insufficient savings need additional social services. To date, states have considered creating individual retirement savings programs that would only serve their own citizens. However, there are other models, ones based on a multi-state or regional approach, that should be explored for how states can work together to serve more than one state. For purposes of this paper, we use the terms ”multi-state” and “regional” to refer to any of several options for how such collaboration can take shape. States need not be contiguous to form interstate arrangements to help more workers access ways to save for retirement.

Every individual state can establish its own retirement program that would meet its special needs and circumstances. At the same time, the consideration of interstate arrangements offers opportunities for states to explore how they can achieve economies of scale by spreading both startup and ongoing costs over a wider population. This could enable smaller-population states to offer better services to their citizens at a lower cost. This paper reviews the experience of two existing state-sponsored savings plans — college 529 savings programs and ABLE programs — that could serve as examples for those interested in such arrangements. It then discusses several models policymakers could consider for creating such plans.

This is a concept paper rather than a comprehensive discussion of all the legal, operational, and other considerations necessary for creating such interstate arrangements or regional plans. We anticipate an in-depth exploration of these aspects as the subject of a future paper. This discussion of interstate collaboration also does not apply to, and is not intended to address, retirement plans for state and local government employees. That is a separate topic entirely.

The objective of this paper is to begin a discussion about the ways states can collaborate to achieve greater efficiencies of scale in building retirement savings programs for private sector workers that will spark additional interest and further research into innovative ways to help more Americans build retirement security.

II. Lack of Access and Coverage Remains a Challenge for Private Sector Workers

The proportion of U.S. private sector workers with access to employer-sponsored payroll deduction retirement savings plans or pensions has remained stagnant for several decades. In 1987, about 51 percent of private sector workers ages 21 to 64 had access to a retirement savings or pension plan through their employers. The share of the workforce covered by plans rose to 59 percent by 2000, but then fell gradually back to 51 percent as of 2013.[1] It is true that workers without such a plan could, in theory, use an individual retirement account (IRA) to save, but only about 1 worker in 20 with

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[1]Craig Copeland, “Employment-Based Retirement Plan Participation: Geographic Differences and Trends, 2013,” Employee Benefit Research Institute (EBRI), Issue Brief 405, p. 27, Washington, DC. https://www.ebri.org/pdf/briefspdf/EBRI_IB_405_Oct14.RetPart.pdf. 2014.

earnings of $30,000 to $50,000 a year and no access to a payroll deduction plan contributes to an IRA consistently.[2]

About 55 million U.S. wage and salary workers between the ages of 18 and 64 lack access to an employer-related payroll deduction plan.[3] Access to a retirement plan varies by workers' demographic characteristics and firm size. Coverage rates in 2012[4] are greater for higher-paid employees, with 23 percent coverage in the lowest quartile compared to 81 percent in the highest quartile. They are also higher for the better-educated. Only 27 percent of workers with less than a high school degree are covered, compared to 69 percent of those with a bachelor's degree or more education. Interestingly, coverage is fairly constant with respect to age after workers reach age 25. Coverage rates vary from 54 to 64 percent for workers between the ages of 25 to 64.

As expected, coverage is higher for full-time than for part-time workers, and rises with firm size. Among firms with 50 or fewer workers, only 28 percent of workers have access to a retirement savings plan. Among firms with 1,000+ employees, 70 percent have access to a plan.

Members of minority groups are more likely to work for an employer without a pension or retirement savings plan[5] — 62 percent of Hispanics, 44 percent of African Americans, and 45 percent of Asian-Americans do not have access to an employer-sponsored retirement plan.[6]

Small-business employees are especially at risk. A U.S. Government Accountability Office (GAO) study found that only about 14 percent (1 in 7) of businesses with 100 or fewer employees offer their employees a retirement plan.[7] To a large extent, this is due to the cost and complexity of a retirement plan.[8] A Pew Charitable Trusts survey of small- and medium-sized businesses without such a plan found that 71 percent felt the plans were too expensive to set up and 63 percent lacked the resources to

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[2]Employee Benefit Research Institute, Unpublished estimates of the 2004 Survey of Income and Program Participation Wave 7 Topical Module. 2006.

[3]David John and Gary Koenig, "Workplace Retirement Plans." This number is based on data from the Current Population Survey. However, the survey was redesigned after 2013, and the accuracy of its later results has been questioned. For this reason, we do not include data after 2013.

[4]Participation and coverage information presented in this section is adapted from a U.S. Government Accountability Office (2015) analysis of data from the Census Bureau's Survey of Income and Program Participation (SIPP). We define retirement plan coverage (synonymous with access) as being an employee age 18 or older who works for an employer that provides a retirement plan and is eligible for that plan. Since GAO does not report trends in coverage, we use data from Copeland (2014). This EBRI report presents Current Population Survey data on retirement plan participation and coverage over time for workers ages 21 to 64.

[5]Nari Rhee and Ilana Boivie, "The Continuing Retirement Savings Crisis." Available at SSRN: https://ssrn.com/abstract=2785723 or http://dx.doi.org/10.2139/ssrn.2785723. March 18, 2015.

[6]Who's In, Who's Out: A look at access to employer-based retirement plans and participation in the states. Pew Charitable Trusts, Washington, DC. January 2016.

[7]Testimony of C. Jeszeck, "Retirement Security: Challenges and Prospects for Employees of Small Businesses," GAO-13-748T, U.S. Government Accountability Office, Washington, DC, accessed on August 14, 2017, http://www.gao.gov/assets/660/655889.pdf. July 2013.

[8]Retirement savings plans include employer-sponsored IRA plans, defined contribution (DC) plans and defined benefit (DB) plans. See GAO (2012), "Private Pensions: Better Agency Coordination Could Help Small Employers Address Challenges to Plan Sponsorship (GAO-12-326)," p. 10. https://www.gao.gov/assets/590/589055.pdf.

administer a retirement savings plan.[9] Retirement savings plans for small businesses, in fact, typically have higher fees than those available to larger businesses. A Brightscope/ICI report found that the median total annual cost for plans with under $1 million in assets is 148 basis points compared with 57 basis points for plans with $100 million to $250 million in assets.[10] A low-cost retirement savings plan that is simple to administer would help answer these concerns.

Another large group of workers that is unlikely to be covered by a retirement savings plan is contingent workers. This group includes white-collar consultants and independent contractors, some of whom are highly paid, as well as blue-collar workers such as printers, security guards, maintenance professionals, and factory workers, a significant number of whom were once regular employees. It also includes gig workers who work through a technology platform such as Uber or Lyft. Using the most widely accepted definition, there were nearly 11 million contingent workers in 2010 — about 8 percent of the employed labor force.[11] On average, these workers earned almost 13 percent less annually (even controlling for the effects of working part-time or seasonally) and were two-thirds less likely to have access to a work-provided retirement savings account than their traditionally employed counterparts.[12]

Participation rates, if provided coverage, are high for employer-sponsored retirement plans. Conditional employee participation rates, defined as those eligible to contribute, exceed 72 percent for all worker characteristics and firm sizes, except for three categories — workers age 18-24, workers in the lowest earnings quartile, and high school dropouts. Even in those categories, however, conditional participation rates exceed 50 percent when workers are provided the opportunity. These participation rates have been high and relatively steady — between 79 percent and 81 percent — since 1987. These facts suggest that expanding coverage will expand total participation as well.

Notably, savings rates have less to do with income levels than one might think; savings variability, it appears, has more to do with retirement plan access. When employees are presented with a plan at work that provides guidance, they take the opportunity to save. This is true at all income levels. The same GAO study on why lower-income people are less likely to save showed very similar participation rates in plans among varying income levels.[13] Among workers age 50 to 58, 86 percent of those with incomes under 300 percent of the poverty line participated in a retirement savings plan or pension if they were offered one and were eligible, compared with 95 percent of those with higher

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[9]The Pew Charitable Trusts, “Small Business Views on Retirement Savings Plans,” p. 2. http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/01/small-business-views-on-retirement-savings-plans. 2017.

[10]BrightScope and ICI, “The BrightScope/ICI Defined Contribution Plan Profile: A Close Look at 401(k) Plans,” p. 42. https://www.ici.org/pdf/ppr_14_dcplan_profile_401k.pdf. 2014.

[11]GAO, “Contingent Workforce: Size, Characteristics, Earnings, and Benefits,” p. 12. https://www.gao.gov/assets/670/669766.pdf. 2015.
U.S. Bureau of Labor Statistics, “Labor Force Statistics from the Current Population Survey,” https://data.bls.gov/timeseries/LNS12600000 and https://data.bls.gov/timeseries/LNS12500000.
Calculation of 11 million is taken from figure of total workforce in U.S. Bureau of Labor Statistics data and estimate of 8 percent taken from GAO analysis. 2018.

[12]GAO, p. 6. 2015.

[13]U.S. Government Accountability Office (GAO), “Automatic IRAs: Lower-Earning Households Could Realize Increases in Retirement Income,” GAO-13-699, GAO, Washington, DC. Accessed on August 14, 2017, http://www.gao.gov/assets/660/657171.pdf. August 2013.

incomes.[14] Since passage of the Pension Protection Act of 2006 (PPA)[15] encouraged the use of automatic enrollment in retirement plans, retirement savings plans implementing this option have reported higher participation levels among employees at lower income levels.[16]

The Employee Benefit Research Institute's 2017 Retirement Confidence Survey[17] demonstrated both the value of a workplace plan and the cost of not having one. It found that about 67 percent of employees with access to a retirement savings plan through their employers had more than $25,000 saved, and 45 percent had $100,000 or more saved.[18] However, 87 percent of those without access to such a plan had less than $25,000 in total savings and investments, and only 5 percent had $100,000 or more saved.[19]

III. State Are Designing New Ways to Expand Access to Retirement Savings Options

Since 2012, more than 40 states have introduced legislation to either establish a state-sponsored retirement plan for private sector workers or study the feasibility of establishing one. As of May 1, 2018, these actions have resulted in 11 new retirement savings programs. Ten states (California, Connecticut, Illinois, Maryland, Massachusetts, New Jersey, New York, Oregon, Vermont, and Washington) and one city (Seattle) have enacted legislation to expand the accessibility and effectiveness of retirement savings for private sector workers.[20] (For convenience, this paper generally refers to "states" and "state-sponsored retirement savings programs," even though there is at least one new city-sponsored program.)

In the face of continued federal failure to address the large number of Americans who lack the ability to build retirement security, states have acted out of necessity. They face significant budgetary and economic consequences if more Americans enter retirement with limited financial resources.[21] For

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[14]April Y. Wu and Matthew S. Rutledge, "Lower-Income Individuals without Pensions: Who Misses Out and Why," CRR Working Paper 2014-2, Boston College Center for Retirement Research, Chestnut Hill, MA. Accessed on August 14, 2017, http://crr.bc.edu/working-papers/lower-income-individuals-without-pensions-who-misses-out-and-why/. March 2014.

[15]The Pension Protection Act of 2006 (PPA) made changes to retirement savings and pension funding rules. It also removed certain barriers that prevented firms with DC plans from automatically enrolling employees. For a summary of the PPA, see Pension Benefit Guaranty Corporation (2017), "Pension Protection Act of 2006." https://www.pbgc.gov/prac/laws-and-regulations/pension-protection-act-of-2006.

[16]Jeffrey Clark, Stephen Utkus, and Jean Young, "Automatic enrollment: the power of default." Vanguard Research, p. 5, Valley Forge, PA, https://pressroom.vanguard.com/content/nonindexed/Automatic_enrollment_power_of_default_1.15.2015.pdf. January 2015.

[17]EBRI (2017), "Preparing for Retirement in America," 2017 RCS Fact Sheet 3, p. 3, Accessed on 14 August 2017, https://www.ebri.org/pdf/surveys/rcs/2017/RCS_17.FS-3_Preps.Final.pdf.

[18]This question applies to employees of all ages.

[19]EBRI defines "having a retirement plan" as having an IRA, DB, or DC plan. The value of assets reported contains all investments except for the value of the respondent's primary residence and DB plan assets.

[20]For more detailed information about state programs and legislative proposals, see the Georgetown Center for Retirement Initiatives website at http://cri.georgetown.edu/states/.

[21]Econsult Solutions, "The Impact of Insufficient Retirement Savings on the Commonwealth of Pennsylvania," Final Report submitted to the Pennsylvania Treasury Department. http://www.patreasury.gov/pdf/Impact-Insufficient-Retirement-Savings.pdf. 2017; Philip Trostel, "The Fiscal Implications of Inadequate Retirement Savings in Maine," University of Maine. https://mcspolicycenter.umaine.edu/wp-content/uploads/sites/122/2017/03/final-aarp-report.pdf. 2018.

seniors living at or below the poverty line, states will be increasingly pressed to deal with dramatic increases in the cost of social service programs, including healthcare, housing, and food and energy assistance.

As incomes fall, consumers spend less, and the available tax base is reduced. By way of contrast, if retirees have greater levels of savings and income to spend, they can contribute to the strength of local and national economies. One recent study suggests that for every 100 retirees who move into a community, as many as 55 new jobs can be created.[22]

As discussed below, states are implementing several types of plan designs:[23]

1) Payroll deduction IRAs usually using automatic enrollment (Auto IRAs) that certain employers are required to offer if they have no other retirement plan;
2) Payroll deduction IRAs that employers can choose to join;
3) Open Multiple Employer Plans (MEPs); and
4) Marketplaces.

All these program options are voluntary for employees — they can choose whether and how much to contribute. Five states (California, Connecticut, Illinois, Maryland, and Oregon) and the city of Seattle require employers that meet certain criteria to offer either the state-sponsored program or a similar alternative. Two (Washington and New Jersey) have enacted a retirement marketplace, two (Massachusetts and Vermont) have enacted MEPs, and one (New York) has enacted a payroll deduction IRA program that companies can join if they so choose.

Each program is in a different stage of implementation. As of May 15, 2018, three programs — Oregon, Washington, and Illinois — are now enrolling workers, with others in various stages of planning and/or implementation. Details of the individual plans can be found in the appendix.

Secure Choice Plans Using Payroll Deduction IRAs. Five states and one city have enacted laws establishing Secure Choice programs based on the Auto IRA. These states — California, Connecticut, Illinois, Maryland, and Oregon — and the city of Seattle have some program design differences, but all require businesses meeting certain criteria to offer their employees the state's Secure Choice program unless they choose to offer another type of retirement plan. Each of these states has begun to implement their programs, with Oregon being the first state to launch its program in late 2017 and, most recently, Illinois launching its first pilot test with a small group of employers in May 2018. Between 2020 and 2022, all these programs should be fully implemented.[24]

Voluntary Payroll Deduction IRAs. In April 2018, New York became the first state to adopt a voluntary payroll deduction IRA program. This design differs from the Secure Choice approach taken by the other states to date in two key ways: 1) Participation by employers in the program is voluntary and 2) it does

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[22]Selig Center for Economic Growth, Terry College of Business, University of Georgia, "Evaluating Retiree-based Economic Development in Georgia: Golden Rules," p. 11. 2013. https://www.terry.uga.edu/media/documents/selig/golden-rules-2013.pdf.

[23]Center for Retirement Initiatives, McCourt School of Public Policy, Georgetown University, "State-Facilitated Retirement Savings Programs: A Snapshot of Plan Design Features (State Brief-18-03, May 31, 2018 Update)." https://cri.georgetown.edu/wp-content/uploads/2018/05/States_SnapShotPlanDesign5-31-18FINAL.pdf. 2018.

[24]For an overview of program implementation timelines, see Center for Retirement Initiatives, McCourt School of Public Policy, Georgetown University, "State-Facilitated Retirement Savings Programs: A Snapshot of Plan Design Features (State Brief-18-03, May 31, 2018 Update)." https://cri.georgetown.edu/wp-content/uploads/2018/05/States_SnapShotPlanDesign5-31-18FINAL.pdf. 2018.

not require the use of auto-enrollment. In many other respects, the program design is like Secure Choice plans, featuring a governing board and a simplified set of investment options using a Roth IRA.

Federal Legal and Regulatory Considerations Affecting State-Sponsored Payroll Deduction IRAs. In 1975, the U.S. Department of Labor (DOL) created a regulatory safe harbor for payroll deduction IRAs, specifying the conditions under which such plans would be exempt from ERISA.[25] Of course, this safe harbor did not envision state-sponsored plans that require employer participation or use automatic enrollment, since these features had yet to be conceived. States with Auto IRA programs that include an employer mandate and automatically enroll employees take the position that the DOL safe harbor still exempts their programs from ERISA regulations.[26] The New York program takes a lighter regulatory approach and does not mandate that employers join the state program.

State-Sponsored Multiple-Employer Plans (MEPs). Two states — Massachusetts and Vermont — have authorized the creation of state "open" MEPs. A MEP is a 401(k) plan covered by the full scope of ERISA and the Tax Code "qualified" plan rules. ERISA 401(k) plans have higher contribution limits than IRA-based plans and allow both employers and employees to contribute. However, ERISA also requires participation by employers and employees to be voluntary

DOL has given a government-sponsored MEP greater operational freedom than one sponsored by a private sector entity. Specifically, an "open" MEP sponsored by a state or local government may allow any business employing state residents to join the program and removes the common bond requirement (i.e., being in the same industry) that currently exists for other MEPs.[27]

In 2017, Massachusetts launched its MEP 401(k) for certain nonprofits through the Massachusetts Connecting Organizations to Retirement (CORE) Plan.[28] The law authorizes the state treasurer to set up a state-sponsored tax-deferred plan for nonprofits with no more than 20 employees.[29] Vermont currently plans to launch its state-wide MEP in January 2019. Employers with 50 or fewer employees that do not currently offer a plan will be eligible to join the MEP.

State-Sponsored Marketplaces. A marketplace allows the state to connect eligible, often small, employers with qualifying retirement savings plans offered by private sector providers. Only pre-screened products that the state determines are suited to small employers, provide good quality, and

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[25]The DOL has ruled in DOL Reg. Sec. 2510.3-2(d) that an employer IRA payroll deduction program is not an ERISA plan if 1) it is employee-pay-all (the employer does not make any contributions); 2) employee participation is completely voluntary; 3) employer involvement is limited to making the program known to employees, without endorsement, processing payroll withholding elections, and answering questions; and 4) the employer is not paid for offering the program.

[26]David Morse, "The First State Auto IRA Is Up, Running, and Working—So Why Do Some Business Groups Want These Plans to Fail?" *Benefits Law Journal*, Vol. 30, No. 4. http://www.klgates.com/files/Publication/fe23342f-0720-4381-bd59-11c259832e2e/Presentation/PublicationAttachment/6f845bd4-1601-4da7-bebb-159bebc01ea2/From%20the%20EditorThe%20First%20State%20Auto%20IRA%20Is%20Up%20Running%20and%20Working%20So%20Why%20Do%20Some%20Business%20Groups%20Want.pdf. Winter 2017.

[27]See 80 Fed. Reg. 71,938. November 18, 2015.

[28]Press release, "Treasurer Goldberg and Massachusetts Nonprofit Network Launch New Defined Contribution 'CORE Plan.'" https://www.mass.gov/news/treasurer-goldberg-and-massachusetts-nonprofit-network-launch-new-defined-contribution-core. October 12, 2017.

[29]See bill language MA H. 3754, No. 60. https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter60. 2012.

charge low fees are offered through the marketplace. Currently, marketplaces have been authorized in both Washington and New Jersey. The marketplace is designed with the flexibility to offer a variety of retirement plan options ranging from IRAs to 401(k)s. The state does not assume any of the legal or regulatory obligations of those plan options; they remain with the plan provider.

The Washington State Small Business Retirement Savings Marketplace opened for business on March 19, 2018. It offers five types of 401(k) plans and two types of IRAs (a Roth and a traditional) through two different firms. In April 2018, the program announced that it anticipated adding a Simplified Employee Pension (SEP), and Roth and traditional IRA from another provider currently under review.[30]

Although the Washington and New Jersey programs come from almost identical legislation, New Jersey so far has taken little action to implement its program.

IV. The Importance of Program Operations to Financial Feasibility[31]

Regardless of the type of program being implemented in a state, there are typically three key components of program operation that, when managed effectively and efficiently, help keep costs low. These are recordkeeping, investment management, and program administration. Each state considers similar operational and administrative functions when establishing their programs.

- ***Recordkeeping*.** Recordkeeping is the unseen heart of a retirement plan. It includes signing up new employers, tracking enrollments and opt-outs, establishing employee accounts, processing contributions and withdrawals, recording and implementing employee choices regarding contribution rates and investments, generating reports and tax documents, and providing customer service related to these activities. Recordkeeping costs are dominated by unit costs — per employer using the plan and for each employee account — and constitute by far the largest cost center during program startup: The larger the number of potential decision points and exceptions the recordkeeper must implement, the larger the potential cost. Once the costs are set, they do not vary significantly based on the amount of money in the employee's account; an account with $100 in it costs about the same for the recordkeeper to manage as one with $100,000.

- ***Investment.*** While the Board of Trustees of a state will set investment policy and exercise oversight, day-to-day management of investment portfolios usually will be contracted out. Investment management fees are typically charged as a percentage of assets for each account. Program scale will have an impact on the ability to command low investment management fees. Because it does not cost much more to manage a $10 billion fund than a $1 billion fund, the program's investment expense ratio — the percentage of assets spent on investment management — can be expected to drop as the plan's asset base grows.

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[30]Georgetown University Center for Retirement Initiatives, Webinar, Open for Business: Updates from OregonSaves and the Washington State Retirement Marketplace. April 18, 2018.
[31]This section draws upon Nari Rhee, "Lessons from California, Connecticut, and Oregon: How Plan Design Considerations Shape the Financial Feasibility of State Auto-IRAs," State Brief 16-03, Center for Retirement Initiatives, McCourt School of Public Policy, Georgetown University. https://cri.georgetown.edu/wp-content/uploads/2016/12/Policy-Brief-16-3.pdf. 2016.

- ***Program administration.*** There will be some costs for the state to administer its program. These costs will be incurred as part of not only the program planning and launch but the ongoing administration and oversight of the program as well. These costs generally are to be paid by fees on the program assets and such fees can be kept very low, especially when spread across a large participant and asset base.[32] State-specific administrative costs that are ongoing include program staff salaries, board expenses, consultant and legal expenses, and fiduciary liability insurance premiums. Four studies have estimated these costs. Ongoing annual program administration costs are estimated to be up to $1 million in Connecticut, $1.3 million in Oregon, $3.4 million in Illinois,[33] and $6.6 million in California, averaging just a few dollars per participant. In addition, one-time program startup cost estimates in the four studies range between $500,000 and $1.1 million.

Cost containment is critical for state programs because they will start out with many accounts to service, but low average balances on which to charge fees. To minimize total program expenses as a percentage of assets, states must minimize program complexity and leverage economies of scale effectively.

During the startup phase, recordkeeper costs for servicing employers and employees will make up the largest cost center. Because many of the core operation functions of state programs are similar, economies of scale could be generated if states could come together and use one set of vendors to handle the operations component of their programs. Such interstate collaboration could further reduce the costs of state programs by using one set of investment managers, advisors, and service providers.

For states establishing new retirement savings programs, exploring program design options remains critical. The financial feasibility studies for auto-IRA programs in California, Connecticut, Illinois, and Oregon demonstrate that over the long term (and in some cases, the short term), they can afford to charge low fees and remain self-funding. However, this requires states to be vigilant about program design to minimize cost.

V. Individual State Demographics Can Pose Special Challenges

While all states have substantial populations of uncovered workers, their individual circumstances vary widely. These include the absolute size of the population that could benefit from a state-sponsored plan, the proportion of workers employed by very small employers or are self-employed, whether the state contains urban areas of significant size, and the income level of uncovered workers. A state of any size can set up a state-sponsored plan, but larger numbers of uncovered workers enable the startup costs to be spread over a wider population and make it easier to build significant

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[32]State laws set limits on fees, which vary from 0.5% (Maryland) to 0.75% (Illinois and Connecticut) to 1.05% (Oregon). For an overview of program fees, see Center for Retirement Initiatives, McCourt School of Public Policy, Georgetown University, "State-Facilitated Retirement Savings Programs: A Snapshot of Plan Design Features (State Brief-18-03, May 31, 2018 Update)." https://cri.georgetown.edu/wp-content/uploads/2018/05/States_SnapShotPlanDesign5-31-18FINAL.pdf. 2018

[33]Center for Retirement Research, Boston College, Illinois Financial Feasibility Study. http://illinoistreasurer.gov/TWOCMS/media/doc/Illinois%20Secure%20Choice%20Feasibility%20FINAL.pdf. March 2017.

investment balances quickly. Similarly, urban areas of a significant size make it easier to reach larger numbers of uncovered workers than when those workers are spread over a large number of small towns and rural areas. Finally, uncovered workers at small employers are harder to serve with a personal touch, as are the self-employed.[34]

The number of potential users of a state-sponsored system varies widely. California, which is implementing such a system, has about 7.5 million uncovered workers, while Pennsylvania, which is considering such a move, has about 2.2 million. On the other hand, North Dakota has about 112,000, Delaware about 152,000, Rhode Island about 185,000, and West Virginia about 270,000.[35]

Other factors are more constant regardless of population size. All these states have a roughly similar proportion of their uncovered workers who work for employers with 10 or more employees or who earn more than $63,500 annually.[36] The proportion of uncovered workers who work for employers with 10 or more employees ranges from 72% in North Dakota to 80% in Pennsylvania, and the percentage of the uncovered who earn $63,500 or more ranges from 7% in North Dakota to 11% in California. However, the difference in gross population means that California has about 825,000 workers earning higher wages, while only about 7,800 earn that much in North Dakota.

States and their workers also can vary significantly in other ways, including the types of industries and average employer size; racial and ethnic diversity; and average worker's age, income, and education levels. All these factors can have an impact on levels of participation in retirement savings programs.[37] Some of these characteristics may be more similar among states in a particular region of the country and should be taken into consideration in determining what plan design approach could work best for the state. These factors may also make interstate collaboration and a regional design more attractive.

Urbanization is another factor that is likely to affect how hard it would be for a state plan to increase coverage.[38] Of the states mentioned above, 95 percent of California's population in the 2010 census lived in an urban area.[39] This makes it much easier to reach a significant number of uncovered workers without requiring major travel. On the other hand, only 60 percent of North Dakota's population is in urban areas and only 49 percent of West Virginia's population is in such locations. Certain small states, however, are very urbanized, with 91 percent of Rhode Islanders and 83 percent of Delaware's population living in such areas.

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[34]With a better understanding of the size and future potential growth of the contingent or "gig" workforce, several states are evaluating their options for how to reach out and include self-employed workers in their programs. The Washington state marketplace, by design, is already open to individuals and the self-employed.

[35]For state-level figures on uncovered workers, see AARP Public Policy Institute, "State Retirement Savings Resource Center, Workplace Retirement Plan: Who's Not Covered?" https://www.aarp.org/ppi/state-retirement-plans/retirement-savings-gap/.

[36]The fifth and highest income quintile includes workers who earn $63,500 and above.

[37]The Pew Charitable Trusts, "Who's In, Who's Out," http://www.pewtrusts.org/~/media/assets/2016/01/retirement_savings_report_jan16.pdf?la=en.

[38]For the Census Bureau's classification of urban and rural, see United States Census Bureau, "2010 Census Urban Area FAQs." https://www.census.gov/geo/reference/ua/uafaq.html.

[39]United States Summary: 2010 Population and Housing Unit Counts, 2010 Census of Population and Housing. Issued September 2012, Table 19, p. 42. https://www.census.gov/prod/cen2010/cph-2-1.pdf.

Finally, geography could influence the decision about whether an interstate or regional approach is a better alternative and how such a plan might be structured. For instance, a small-population state that is close to one with both a much higher population might find it better to seek an affiliation with the larger state plan. On the other hand, several small-population states close to each other could decide to band together and set up a platform that serves all their uncovered workers.

In planning for a state-sponsored plan, it would be a mistake to assume that any such plan would serve all of the state's uncovered workers. The extent to which employers would choose to set up their own retirement plans, rather than use the state-sponsored program, remains to be seen. Early data from OregonSaves suggest that less than 5 percent of eligible employers have chosen to obtain their own plans rather than adopt the Oregon program.[40] Regardless of the path chosen, the state's goal of increasing worker access to retirement savings would be achieved.

An additional factor is whether the state chooses to require employers who meet certain criteria to offer a retirement saving plan or if employer participation is voluntary. States with voluntary participation by employers will have to find other ways to encourage a greater proportion of eligible employers to use the state-sponsored platform.

VI. Section 529 College Savings Programs: Open Eligibility but Individual Administrative Structures[41]

A Section 529 college savings plan[42] offers some administrative lessons for developing a regional approach to retirement savings plans. Most 529 plans are open to residents in other states. Only a handful of states still restrict their plans to their state residents, but their residents are not restricted from enrolling in plans in other states. Some states have different maintenance fees for in-state vs. out-of-state participants, an approach not dissimilar from the use of in-state vs. out-of-state tuition at today's public universities. For example, the District of Columbia's plan charges $15 annually for out-of-state residents or $10 annually for in-state residents.[43]

If a saver wants to switch his or her account to another plan, every state allows a once-per-year rollover to another with a state 529 plan with no tax consequences. However, many states will charge for transferring the account or will recapture the state tax deductions if the account moves from an in-state to an out-of-state plan.

Turnkey Administrative Model for Program Servicing. Section 529 college savings plans developed state by state, with large states and early adopters having greatest success in scale, attracting national investors and keeping costs low relative to other state programs. Although state programs have

[40] Information provided via email communication from Joel Metlen, Operations Director, Oregon Savings Network, Office of the Oregon Treasurer. June 7, 2018.
[41] This section draws from Andrea Feirstein, "529 College Savings Plans: Lessons for Publicly Sponsored Private Retirement Plans," Policy Brief 16-02, Center for Retirement Initiatives, McCourt School of Public Policy, Georgetown University. https://cri.georgetown.edu/wp-content/uploads/2016/11/Policy-Brief-16-2.pdf. 2016.
[42] Section 529 plans allow individuals to make contributions to savings account that can used to pay for a variety of qualified educational expenses, including tuition, books and room and board. The money invested in a 529 account grows tax-deferred and there are no state or federal taxes when the money is withdrawn and used for qualified, college-related expenses.
[43] DC College Savings Plan, "FAQs," https://www.dccollegesavings.com/home/faqs.html. 2018.

developed turnkey approaches to managing operations, each state operates its program independently, and still pays for its own infrastructure, but benefiting from design similarity and avoiding unnecessary additional costs.

While the earliest 529 college savings plans tended toward ones run entirely by the appointed state entity (e.g., the Ohio Tuition Trust Authority, Utah Educational Savings Plan, and Virginia College Savings Plan), most of today's plans have engaged private sector turnkey program managers that provide all necessary services under one comprehensive management agreement, including investment management, customer service, legal compliance, recordkeeping and administration, marketing and outreach, and distribution. For the most part, 529 program managers are based in investment management firms or in technology firms that have alliances with providers of key services.[44] More recently, some states have implemented a hybrid structure with the various management services required in a 529 plan split between the states and their private sector partners.

States with large primary customer service, technology, and consumer outreach operations easily undertook these services for 529 plans. For other states, there has been no shortage of private sector entities to provide the component services under the appropriate contract term. In recognition of different plan management structures, the College Savings Plans Network, an affiliated entity of the National Association of State Treasurers, adopted general guidance in May 2010 to provide a framework for state administrators of 529 plans to facilitate oversight and monitoring of the plans.[45] The guidance intentionally does not set a single strict code for oversight, but rather recognizes the different nature of college savings governing structures and essentially establishes that oversight standards must be consistent with the nature, size, and operation of each state entity.

In applying these general governance principles to state-sponsored retirement plans, it should be noted that the retirement industry has already established best practices for addressing tax code requirements. For example, an IRA must have a trustee or custodian that is a bank, federally insured credit union, savings and loan association, or other entity approved by the IRS. Every IRA account has a written document that describes the role of a custodian or trustee, and a disclosure statement that explains the IRA account rules and how the account operates. As with 529 plans, there are many private sector service providers that act as IRA custodians and maintain customer service and technology platforms for IRAs.

While many states have engaged private sector service providers to manage key components of 529 plans, state boards and other governing authorities cannot delegate their fiduciary duties to 529 participants. In fact, even where states engage turnkey service providers, the state entity remains responsible for the choice of the private sector manager, which must be based upon a transparent solicitation process and careful manager due diligence.

Boards and governing bodies satisfy their fiduciary duties by complying with well-established processes, such as adopting investment policies, investment monitoring and replacement criteria, and

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[44]Based upon a review of Program Disclosure Statements for currently offered college savings plans. See also collegesavings.org, Comparison of Plan Types. http://plans.collegesavings.org/planComparisonResults.aspx?resultsId=726745, and Savingforcollege.com, Compare by Features." http://www.savingforcollege.com/compare_529_plans/?plan_question_ids[]=26&page=compare_plan_questions.

[45]College Savings Plans Network, Guidance for Governance and Maintenance of Section 529 Savings Plans, adopted May 18, 2010. http://www.collegesavings.org/wp-content/uploads/2015/06/Governance-Principles-approved-5-18-2010.pdf.

engaging managers through and in accordance with public competitive procurement procedures. They also fulfill their duties of obedience and care by engaging independent, expert advisors when necessary, and always acting in the best interests of the programs' participants. For regional retirement savings plans, this would remain true for both the state that originates the plan and the state that is interested in allowing its citizens to use it.

VII. The Achieving a Better Life Experience (ABLE) Program: Open Eligibility with Interstate Collaboration for Administrative Efficiency

The Stephen Beck, Jr. Achieving a Better Life Experience (ABLE) Act (Public Law 113-295) is intended to help those with disabilities save for the future so they can have a better quality of life and pay for disability-related expenses without putting their limited federal disability benefits at risk. This new program gives eligible individuals with disabilities the ability to establish tax-advantaged savings accounts called "ABLE accounts" that resemble the Section 529 college savings accounts.[46]

At its outset, the ABLE program faced the same issues that state retirement savings programs face today: limited state funding to support recordkeeping, investment, and program administrative costs and concerns about the ability to grow the number of accounts and assets to manage as needed to help keep costs low. However, the federal framework that allows for creating state ABLE programs provided states with a unique opportunity: the freedom to explore options that would allow them to offer ABLE accounts to their eligible residents to build the scale that would enable them to attract high-quality investment managers and service providers to their programs while using a common administrative structure for the program services.

For state-sponsored retirement savings plans, the ABLE Act provides several examples of ways that regional plans could be structured and administered. While ABLE plans are being implemented in regional consortiums and similar interstate arrangements, as the federal law that created the plans opens the door to regional alliances of those plans, the ABLE Act only shows how regional retirement savings plans could be structured and administered. It does not guarantee that states have the legal authority to create similar regional retirement plans.

[46]The ABLE Act created a Section 529A that established a new tax-favored program in the Internal Revenue Code. ABLE contribution amounts are tied to the federal gift tax amount, which is $15,000 in 2018. Eligibility for ABLE accounts is limited to those with a disability that originated before the age of 26. A qualified individual can use funds from his/her account for any expense related to his/her disability, including education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, oversight and monitoring, funeral and burial, and other items, as outlined in program regulations issued by the U.S. Department of the Treasury. Investment growth is tax-free at the federal level when used for qualifying purposes. Contributions to an ABLE account must be made in cash from the contributor's after-tax income. A state must ensure that aggregate contributions to an ABLE account do not exceed the state-based limits for 529 accounts. For more information, see the ABLE National Resource Center, "What are ABLE Accounts?" http://www.ablenrc.org/about/what-are-able-accounts.

***Creating the Alliance by Interstate Agreement*.** On January 15, 2016, a group of 13 states[47] entered into the ABLE Interstate Agreement ("Interstate Agreement"), establishing an ABLE Consortium Advisory Committee ("Consortium") to facilitate an interstate alliance of states and complete a multi-state procurement with Illinois acting as the facilitating state through its treasurer. Each of the participating states in the alliance established an ABLE Plan under Section 529A of the new law and passed legislation enabling them to participate. They entered into the Interstate Agreement as a "Member Plan." Since that launch, three additional states — Arkansas, Delaware, and New Jersey — have joined the alliance, increasing the number of participating states to 16.[48]

Many of the states that are members of the alliance have smaller populations, so the collaboration helps them to achieve scale and minimize costs. The member state programs are also open to out-of-state individuals — elimination of the residency requirement in 2015 allows for qualified beneficiaries to enroll in any open program as soon as it is available.

- *Member States Govern Program*.[49] On June 8, 2016, under the Interstate Agreement, the Illinois state treasurer issued a Request for Proposals (RFP) for investment management, administrative services, customer service, and outreach material support for all the alliance member states. The Illinois state treasurer entered into a contract with Ascensus to serve as the program administrator and investment manager for the program.

- *Program Manager Responsibilities.*[50] As the program manager for the alliance, Ascensus entered into a Master Agreement with the facilitating state — Illinois — on behalf of all of the alliance states to offer common program elements, services, and costs to each of them. Under the Master Agreement, the program manager handles program operations, including recordkeeping, other administrative services, and investment management.

  In addition, Ascensus has entered into a separate Implementing Agreement with each of the member states (including the facilitating state) and may provide additional administrative or other services for certain member states. The initial Master Agreement is for five years and expires on December 7, 2021, unless terminated earlier. The member states may extend the Master Agreement for up to another five years with the current program manager. The Implementing Agreements and Master Agreement cover the same time period, although a member state always has the option to terminate its individual Implementing Agreement at any time.

- *The Investment Options.*[51] As part of the Master Agreement, each of the member plans offers the same seven investment options: six Target Risk Options (Aggressive, Moderately Aggressive, Growth, Moderate, Moderately Conservative, and Conservative) and a conservative checking

[47]Alaska, Colorado, Illinois, Indiana, Iowa, Kansas, Minnesota, Montana, Nevada, North Carolina, Pennsylvania, Rhode Island, and the District of Columbia were the initial states to start the National ABLE Alliance.
[48]Office of the State Treasurer, "Delaware Joins Fourteen States to Assist Persons with Disabilities." https://news.delaware.gov/2017/12/19/delaware-joins-fourteen-states-assist-persons-disabilities/. December 19, 2017 and information provided via email communication from Courtney Eccles, Office of the Illinois State Treasurer. June 13, 2018.
[49]DC ABLE, National ABLE Alliance: Plan Disclosure Statement, p. 15. May 2017.
[50]Ibid.
[51]Ibid., p.8

account. BlackRock, Schwab, and Vanguard provide the mutual funds and/or ETFs in the Target Risk Options. Sallie Mae Bank provides the high yield savings account in the applicable Target Risk Options. Fifth Third Bank provides the checking account product in the Checking Option.[52] There is no limit on the number of the investment options an investor can choose, but no less than 1 percent of the investor's total contribution can be allocated to any one of the options selected. Account assets may be moved from one investment option to another up to two times per calendar year or on a change in the account owner.

Program assets are maintained separately for each of the member states and no member state can make any claim on the assets of another member state. The assets of each member state are invested in the investment options as provided for by the member state. Each member state is responsible for the governance and oversight of its program and assets.

- *Account Fees.* Except for the checking account option, annual investment fees, for example, on assets can range from 0.34 to 0.38 percent.[53] A member plan may also charge an account maintenance fee. There are also additional administrative fees for certain types of activity-based transactions. For example, as disclosed by one of the member states, the checking account has a $2 monthly fee, which can be waived with an average daily balance over $250 or if the account-holder is enrolled in electronic statement delivery at Fifth Third Bank.[54] There are currently no fees associated with rolling over an ABLE account from one ABLE program to another. There is a $60 annual account maintenance fee, which is discounted to $45 for account owners who receive specified account information electronically.[55]

States Enter an Agreement for Another State to Administer Their Programs. Several other states collaborate using an alternative model for implementing their ABLE programs. Ohio's state treasurer has created its STABLE Account program for implementing its ABLE program. Ohio offers its program to any other state interested in using it — unlike the interstate alliance model of agreements, in which member states can negotiate additional or alternative administrative arrangements, Ohio offers its program in whole to any other state. The adopting state would have the ability to brand the program as its own through its own state program website, but otherwise agrees to adopt the entire Stable Account program structure, including recordkeeping, administrative services, and investment options.[56]

There is no cost to the adopting state for using the Ohio STABLE Account program., thanks to the economies of scale generated by bringing all savers directly through the Stable Account program.[57]

[52]Ibid., p. 15.
[53]Ibid., p. 9.
[54]National ABLE Alliance, Minnesotable Plan, "Member Plan Addendum, March 2017," p. 5. https://cdn.unite529.com/jcdn/files/UABLE/pdfs/mn-programdescription.pdf#page=5.
[55]Ibid.
[56]Each Partner State Supplement clearly lays out that the "STABLE Account Plan and is established pursuant to Ohio law … and is structured and operated by the Ohio Treasurer's Office and Service Providers." See, for example, Kentucky's Partner State Supplement: STABLE ACCOUNT, "STABLE Account 529A Savings Plan: Plan Disclosure Statement and Participation Agreement – April 24, 2017," p. 69. https://www.stableaccount.com/files/STABLEpds.pdf#page=84.
[57]Phone interview with Joe Aquilino, deputy treasurer and executive counsel, Office of the Ohio State Treasurer. June 11, 2018.

The program administrator for Ohio's STABLE Account is Intuition ABLE Solutions, LLC.[58] The investment manager is Vanguard and the investment fees range from 0.19 to 0.34 percent for Ohio and partner state residents.[59] There is an account administrative fee of $30 per year for Ohio residents and $42 per year for non-Ohio account owners.[60] There is no fee for rolling over an ABLE account from one ABLE program to another ABLE program.[61]

To date, 11 states have chosen to partner with Ohio and adopt its STABLE Account program: Arizona, Georgia, Kentucky, Missouri, New Hampshire, New Mexico, Oklahoma, South Carolina, Vermont, West Virginia, and Wyoming.[62]

Maintaining Individual State Program Open to Out-of-State Residents. Some states have established their own programs, although they are open to all out-of-state residents. This is an approach that more closely models a 529 college savings programs. Among the states that have chosen this approach are Virginia, Florida, New York, and Michigan. For example, Virginia manages its own ABLEnow program, but it is open to all U.S. citizens and residents. It is administered by the Virginia 529 College Savings Plan. The program offers investment options provided by Vanguard and Fidelity, with asset based fees ranging from 0.37 to 0.40 percent. There is a $39 annual administrative fee, which can be waived based on the size of the account balance. There is no fee for rolling over the ABLE account to another ABLE program.[63]

State-based ABLE programs are off to a fast and strong start because of interstate collaboration, facilitated by federal legislation that removed concerns about benefits eligibility and state registration requirements. This cleared a path for these state programs to work together as efficiently as possible to reach more eligible individuals and boost savings.

VIII. Strength in Numbers: Options for Multi-State or Regional Collaboration

Both the Section 529 college savings accounts and ABLE programs provide models for how states could develop multi-state or regional retirement savings programs. There also are other models, several of them outlined in this paper, for policymakers to consider. (A full and comprehensive discussion of all the legal and operational considerations of these models is not the objective of this paper, but can be addressed in a future, more-detailed paper.)

Any state can certainly still choose to create its own individual plan, but a regional or multi-state approach has the potential to achieve the economies of scale necessary to minimize costs while significantly expanding access to retirement savings options.

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[58]STABLE ACCOUNT, "STABLE Account 529A Savings Plan: Plan Disclosure Statement and Participation Agreement – April 24, 2017," p. 9. https://www.stableaccount.com/files/STABLEpds.pdf#page=24.
[59]Ibid.
[60]Ibid.
[61]ABLE National Resource Center, "Ohio." http://www.ablenrc.org/state-review/ohio.
[62]STABLE ACCOUNT, "STABLE Account 529A Savings Plan: Plan Disclosure Statement and Participation Agreement – April 24, 2017," p. 68. https://www.stableaccount.com/files/STABLEpds.pdf#page=83.
STABLE Account, "Supplement to the Plan Disclosure Statement and Participation Agreement Dated April 24, 2017." https://www.stableaccount.com/files/STABLEpds.pdf.
[63]ABLE National Resource Center, "Virginia." http://www.ablenrc.org/state-review/virginia.

There are four general models for regional retirement savings plans discussed in this paper (described in greater detail below). These are:

1) Another state contracts with an established state plan to handle program administration;
2) An interstate alliance jointly structures and administers a program for those states in the alliance;
3) A turnkey private provider develops and makes available a customizable platform that can be used by individual states; and
4) A Section 529 approach lets a state have its own "open" program and allows individual savers and employers from other states to sign up and use its plan.

While the first two models appear to have the most promise for general use, any of the four could meet the specific needs of a state, depending on which type of savings platform is preferred.

Regardless of whether a regional or individual state approach is adopted, the best way to ensure that any state-sponsored retirement savings plan attracts the maximum number of savers is to both include automatic enrollment and require employers to offer either the state plan or an individual employer plan.[64] This does not imply that a state plan lacking one or both features will fail; it merely means that such a plan will require additional effort to attract the same level of participation. Both the specific circumstances of a state's economy and political considerations may dictate that one model is better for the state than another.

There is no wrong answer for any state. No matter which model it chooses and whether it decides to create its own plan or join a regional plan, a state choosing any state-sponsored plan will improve the retirement security of its citizens.

Contract with another state to run the plan. There is no reason why a state must operate its own retirement savings program for private sector workers, regardless of the program type (e.g., IRA, MEP, or marketplace). A state could contract with another state that already has a plan or, as discussed below, with a private sector provider. For states with small populations or a high volume of citizens commuting across state borders, contracting with another state plan to provide these services could be very attractive. Each state could still brand its program as its own, maintaining its own identity. For example, if state A contracts to use state B's plan, the employers and savers of state A would see the plan offered as the state A plan, even though it uses state B's plan. Of course, this could change over time. As previously discussed, a variation on this type of arrangement is currently being used by Ohio and other several states to implement ABLE Act accounts.

Under such an arrangement, a state without a plan could contract with one that does to provide those services to its private sector employers and workers. The state without a plan could consider the use of tax incentives to encourage its employers and workers to participate in the program. Both states should have the same coverage requirements and operating rules, and offer the same plan features, although there could be some variations if both states agree. For instance, a state with a voluntary Auto IRA program might contract with a state that requires coverage, or states may specify certain

[64]William G. Gale and David C. John, "State Sponsored Retirement Savings Plans: New Approaches to Boost Retirement Plan Coverage" (Philadelphia: Pension Research Council, The Wharton School, University of Pennsylvania): 24, https://pensionresearchcouncil.wharton.upenn.edu/wp-content/uploads/2017/09/WP-2017-12-John-Gale.pdf. September 2017.

differences for the plan offered to citizens of another state, such as higher fees to cover any additional costs. However, both states must agree to the arrangement in all instances and to specify the details of the contract.

For the state that already has a plan, taking on the administration of one or more other states' programs offers potential advantages, including allowing its plan to grow faster, accelerating payback of startup costs, and expanding levels of service faster than it might have otherwise.

On the other hand, serving more employers and savers is not free. It would incur additional costs that could adversely affect the plan's bottom line. Serving more savers without sufficient resources also could affect the level of service to in-state savers, thus damaging the program's reputation and endangering political support for it. The additional resources required to meet the needs of additional savers probably must be paid in advance, with the expectation that the costs will be covered in the future. These costs should be paid by the state seeking to use the plan, but it may be hard to get them all paid up front.

The existing program also must ensure that its standards are met by employers in the adopting state and should require that state to monitor compliance.

Finally, there is no guarantee that the new state will continue the arrangement after the term of the initial contract. One way to reduce that risk is for the new state to require its affected private sector employers to use only the existing state plan or a private sector provider. In addition, the contract could have a penalty or other payment if the contract is not renewed. The state entity running the plan must have clear authority in law to undertake the transaction, and the contract must be clear and unambiguous.

The state contracting to use the existing plan faces similar positives and negatives. The advantages include the ability to cover workers with a retirement plan much faster and at a lower cost than if the state started its own plan. The contracting state can carefully examine the existing plan to see if it fits the state's special needs, and to compare the costs of an existing plan rather than dealing with hypothetical structures. If the existing plan is in a larger state, the new state's savers could take advantage of much lower fees and better services than it could support by using only its own uncovered employees. The existing plan may also have resources that the new state could use to explain the plan and how it works to its employers and savers.

However, these real advantages must be weighed against potential problems. The state contracting with an existing plan must ensure that it will meet its savers' needs, and not use them to subsidize those in the other state. This requires guarantees that the level of service that is provided will be equal in both states, and that to the extent desired, both states' savers will receive the same products at a reasonable cost. It is reasonable for the existing plan to charge the savers in another state higher fees, but the amount must be fair and carefully negotiated. In addition, there must be a clear understanding that the existing plan either now has the resources to serve the new savers adequately or will have them soon, as well as the cost of creating that extra capacity and how that will be paid. Of course, both standard of service and other factors must be monitored regularly and rigorously.

Finally, the ability to renew the contract must be clear, in addition to what happens if the political climate changes and either state decides to change the arrangement. As with the state that has the plan, the laws must be clear that the powers and responsibilities of the state's authority in arranging such a plan are clearly delineated, and the contract must be clear and unambiguous, especially if there are differences between what is offered in the two states. There also must be well-defined procedures for resolving any disputes.

Since a contract is involved, no additional legal complications should arise from this type of multi-state or regional arrangement. Essentially, we do not see this as any different from a state contracting with a private provider, but indications that this type of agreement is acceptable from both federal regulators and law would be welcome. Properly structured and managed, expanding an existing state plan to also cover savers in another state has a real potential for improving retirement outcomes at a lower cost to both jurisdictions.

Interstate alliances. A true regional plan would be created if states banded together and used a master agreement to build a single system that they would all use. This is another type of arrangement currently being used by several states to implement ABLE Act accounts. In theory, this type of arrangement could be used for any of the state plan models, although the individual states would almost certainly need to pass enabling legislation. As with the previous model, each state, after passing enabling legislation allowing it to contract with another state if such authority did not already exist, could label the plan used by their employers and savers with that state's name or "brand," or members of the alliance or consortium could all use a single name.

There are at least three ways that an interstate arrangement could be structured. While the consortium could be limited to one type of plan, it could also be used to offer several types (e.g., a payroll deduction IRA, MEP, etc.), with states either offering all the types or picking only one or more to serve their citizens. Regardless, all employers and savers would use a single platform with the same services handled from a central location and, in most cases, all having the same investment choices. It may also be possible for individual states to customize some types of services, while other services are contracted out to a provider that would serve the entire alliance, rather than individual states.

The advantages of such an interstate arrangement are clear. Because the plan would serve a great many more savers and employers than a similar single-state plan, startup costs per saver would probably be lower. Administration costs could be lower depending on the type of plan and how it is managed, and investment balances would also reach higher levels faster. By serving a large population, it would also be possible to offer more services to both savers and employers faster than under a single-state plan. In short, an interstate arrangement could allow states to offer their citizens a much more sophisticated plan, potentially with lower costs, than they could create on their own.

However, there are also potential disadvantages to such an arrangement. First, it is important to remember that the interstate arrangement that offers ABLE Act accounts was enabled by a provision in the federal legislation creating those accounts. At this point, a similar arrangement that offered retirement savings accounts does not have that authorization, and there could be legal questions about certain types of interstate collaborations. It also would be important to ensure that a regional plan can meet the demands of a much wider population than a single-state plan.

States can differ in how they define employers and employees, and how they identify employers in their states. These differences must be addressed to keep costs down and administration effective. This would require a more-sophisticated platform that could be significantly more expensive and could take longer to build. In addition, as part of a group of states, each individual jurisdiction would have less control over its actions and policies. Since many more savers and employers would be using the system, services would probably be more impersonal and bound by policies. The likelihood that these problems would arise depends on how well the plan is structured and thought out in advance, as well as the number of states involved and how similarly they see the arrangement working.

Contract with a turnkey private provider. Under this option, a state would contract with a provider that would structure and manage the entire platform in the state's name and "brand." Whether it is a payroll deduction IRA or a more-complex MEP arrangement, the provider would be responsible for handling all recordkeeping, transaction processing, and investment management, although any of the services could also be contracted out separately. The provider would also be free to offer the same platform to other states.

This is a way for states to achieve the benefits of scale and offer a plan that has potentially lower costs than might be possible if each created its own plan. The provider may simply act as an aggregator that combines and manages services provided by others, or it could offer a complete suite of services. Similarly, the plan could be branded for individual states, or if several states end up offering the same platform, it could be under a joint name, in much the same way that certain state lotteries are jointly branded as Powerball.

As an example, a single provider could structure a low-cost, simple retirement plan that it manages using its own recordkeeping platform, as well as investment offered by it and/or others. This could be a plan that it also offers to private sector employers, or it could be one specially developed for use by states. Similarly, a provider that specializes in one area could use its own services and contract out the others, or an advisor could contract out all the individual services. The overall platform could be under the control of one company, or it could be a consortium that has decided to act together to take advantage of a market opportunity.

For states, the advantages include the ability to have an experienced manager handling all the many details of creating and operating a retirement plan. All day-to-day responsibility would be centrally located and easier to manage. The costs of creating a plan could be spread over a wider number of savers, while creating a larger investment pool faster than would be otherwise possible. It might also be possible to offer a wider variety of investment and other services than possible if a state plan must start from scratch. In theory, it could also be used for any type of state-sponsored plan, from a MEP to a marketplace. By covering employers in several states, there is a greater chance for employees who change jobs to remain covered by the same plan.

This approach could be used for any of the existing state plan models. It does not appear to cause any additional legal questions other than those that might already exist for state plans of differing types. In the case of an open MEP, the contract may need to be drafted so that each state is clearly the sponsor of its own plan to meet DOL requirements, but this does not seem to be a major obstacle. Even if several states all decided to use the same private sector provider's platform, the details would be specified by contract with the provider. State law could authorize the relevant state authority to enter into such an arrangement, and any provisions needed to meet specific state requirements could be detailed in the contract.

However, there are also drawbacks for states considering such an approach. The individual state still has the ultimate responsibility for ensuring that all fiduciary responsibilities are met. As this arrangement is handled largely outside of state government, it might be more difficult to ensure that there are no hidden fees or operating failures. Each state must ensure that the arrangement benefits its savers equally with others, and that it meets its individual circumstances and economy. As with all of the various forms of interstate arrangements, the state must also take steps to ensure that all contracts are negotiated to the advantage of its savers rather than the managers, that fees are appropriate, and that investment options are chosen objectively rather than because the provider offers them.

There will be a temptation to assume that all is well, but a hands-off approach could result in missing small problems that become serious ones. Contracting out the entire platform operation has great potential, but active oversight is essential.

Have a plan but allow employers and savers to join any state plan. If a state already has a retirement savings program that it has established or licensed from another state or private provider, it could follow the pattern of Section 529 college savings accounts and allow its employers the choice of either using its plan or contracting with another state's plan. Obviously, this only applies to employers that have chosen not to obtain a plan from a private sector provider.

States without such a plan could simply allow their citizens to save in a plan offered by another state — if the other state is willing to allow their plan to serve out-of-state residents. The receiving state gets the value of having additional savers that it can use to spread out costs of starting and administering its plan. However, it must balance that with the increased costs associated with serving people in a much wider geographic area. Since many Section 529 plans are run by private sector providers, which carefully monitor costs and may already manage the programs of several states, this may be a fairly simple decision. However, managing a college savings plan that is mainly used by a relatively small number of middle-class families is somewhat different from managing retirement plans for dozens of small businesses, many of which employ moderate-income workers.

For state-sponsored retirement savings programs, a private sector employer that does not have another retirement plan could contract with a state plan in another state to cover its employees.[65] Both the home state plan and the receiving state's plan would have to agree to the arrangement in advance. Both state plans would also have to have the same coverage requirements for size of the firm or to have agreed that a company that contracts with either plan would be considered to be in compliance with both states' standards. The company would then send its employees' contributions to the plan that it has chosen, use its investments, and follow its rules.

There is a potential advantage to the employers and savers in such an arrangement: It could allow the employer to select a lower-cost plan, or one that better meets the specific needs of its specific workforce. It could also choose a plan that has lower compliance requirements than that of the state in which it operates. The ability to choose would also be valuable for companies that do business in

[65]Under current DOL guidance, each state would have to be the sponsor of the MEP for the employers in its state, but the two state programs could be supported by a single identical platform. For example, Vermont and New Hampshire could both adopt and sponsor MEPs individually or jointly while agreeing to use the same platform for their programs.

multiple states, since such a company could then cover all its employees with one plan and have to comply with only one set of coverage requirements.

However, the arrangement also has significant potential drawbacks. Essentially, the home state plan is allowing another level of competition against itself, and thus is reducing the number of potential savers that it can use to cover administrative and startup costs.[66] It is also lowering the amount of potential assets in its plan's investment portfolio.

One way in which states, in particular small states, address this challenge in the context of today's Section 529 college savings plans is for these states to offer significant tax advantages to its residents to encourage them to use the home state program. Especially for smaller states, allowing employers to choose another state's plan could reduce the viability of the home state's plan and potentially doom it to failure.

The state is also depending on another state to meet the same level of fiduciary and operational standards, without necessarily having the ability to monitor those standards. Essentially, such an open arrangement invites a move to the least-common denominator for these plans.

The one plan type that would not be disadvantaged by allowing employers to choose a state plan is a marketplace. In states offering that feature, the marketplace could list various state plans as options for employers to choose from, along with plans from private sector providers. Since such an arrangement between states is a contract for services, rather than a formal compact, there does not seem to be any federal law that restricts such an arrangement. The fact that Section 529 plans are open to savers from any state reinforces this opinion.

States could follow the pattern of Section 529 plans by offering state tax advantages for using their plans and for requiring companies to repay those tax breaks if there is a move to another state's plan. However, since all types of plans would already have federal tax advantages in common, regardless of where the plan is located, these state tax incentives would be likely to be outweighed by both federal taxes and compliance, and administrative costs and complexities.

Allowing in-state employers to choose which state's retirement savings plan to use offers potential advantages to them, but any state considering this arrangement has to offset those advantages against the potential disadvantages for its own plan and the fiduciary and operational standards it wishes to see. If the state permitting its employers and workers to use another state's plan has its own state-sponsored IRA program already in place, it would have to evaluate and communicate whether there are ERISA implications for the employers who choose to use another state's plan.

The question of geography. In theory, a regional plan would involve contiguous states. Ideally, a small state could align with a neighboring larger one, or several small population states that abut each other could join to create a regional plan.

However, with today's technology, this need not be true. Conceivably, an east coast state could decide to use the plan of a west coast state because it best meets the state's special needs or its plan administration best meets the standards desired by the east coast state. Several midwest or southern

[66]A state could not prevent an employer or individual from joining another state's MEP or IRA program.

states could decide to align because they all want to establish the same type of coverage requirement, and a certain existing state plan has a track record of meeting the needs of employers in that situation.

Rather than limit the definition of "regional," we embrace the wider concept. Anything that helps to enable more Americans to build real retirement security should be encouraged.

IX. Conclusion

State-sponsored retirement savings plans for private sector workers are already helping many people build retirement security and have the potential to help millions more. Both the employers and individual savers in states that implement such plans will benefit — employers by being able to attract and retain better workers, and savers, by having money set aside to supplement their Social Security benefits upon retirement. States also benefit when workers have more retirement resources by saving on the cost of providing taxpayer-paid services to retirees.

Multi-state or regional plans may make this task easier. By joining together, states have the potential to reduce the cost of building a retirement savings platform and offer better services. This is true regardless of which type of state savings plan the states adopt or which method they use to collaborate. However, a multi-state or regional platform is not essential. There is no state that cannot establish a retirement savings plan of some type on its own.

We believe that multi-state or regional plans could make the process easier and more cost-effective. It is an option that any state considering a state plan could explore, but it is equally valid for the state to decide to build its own plan.

APPENDIX

Overview of State Program Characteristics

Secure Choice* Payroll Deduction IRAs					
	Year Enacted	**Employers Covered**	**Default Contribution Level**	**Structure of Accounts**	**Implementation Timeline**
Illinois Secure Choice Savings Program	2015	25 or more employees	5%	Roth IRA	Pilot program in May 2018 followed by phased rollout until March 2020
OregonSaves	2015	Employers that do not currently offer qualified plans	5% with annual auto-escalation of 1% until 10%	Roth IRA	Open; phased rollout to be completed by May 15, 2020
Maryland Small Business Retirement Savings Program and Trust	2016	Employers that do not currently offer qualified plans	Not specified	To be determined	To be determined; not specified in statute
Connecticut Retirement Security Authority	2016	5 or more employees	3%	Roth IRA	January 1, 2019, with a phased rollout
CalSavers	2016	5 or more employees	5% with annual auto-escalation of 1% until 8%	Roth IRA as default, option for traditional IRA	Anticipated pilot launch by the end of 2018
Seattle Retirement Savings Plan	2017	Employers that do not currently offer qualified plans	Not specified	To be determined	By law, contributions to begin between January 1, 2019, and January 1, 2021
Open Multiple Employer Plans (“MEPs”)					
	Year Enacted	**Employers Covered**	**Default contribution level**	**Structure of Accounts**	**Implementation Timeline**
Massachusetts Defined Contribution CORE Plan	2012	Nonprofits with 20 or fewer employees	6% with annual auto-escalation of 1–2% until 12%	Defined contribution 401(k) plan	Program launched in October 2017 and open for enrollment
Vermont Green Mountain Secure Retirement Plan	2017	Employers with 50 employees or fewer	Not specified	Defined contribution 401(k) plan	Program to launch on or before January 15, 2019

Marketplaces					
Washington Small Business Retirement Marketplace	2015	Employers with 100 employees or fewer	Not specified	Currently offers 401(k) and IRA products	Opened for enrollment on March 19, 2018
New Jersey Small Business Retirement Marketplace	2016	Employers with 100 employees or fewer	Not specified	SIMPLE IRA, payroll deduction IRA, and others	Not specified in law
Voluntary Payroll Deduction IRA					
New York Secure Choice Savings Program	2018	Employers that do not currently offer qualified plans	3%	Roth IRA	To be open for enrollment within 24 months after law is effective; board may delay by additional 12 months

*Require employers meeting certain criteria to offer their employees the state's retirement savings program unless they choose to offer another type of retirement plan.

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