# State-Facilitated Retirement Savings Programs: A Snapshot of Program Design Features

## State Brief 22-01

## June 30, 2022
## UPDATE[1]

[1]This updates and replaces State Brief 21-02, dated October 31, 2021.

# OVERVIEW

Since 2012, 46 U.S. states have acted to implement, study, or introduce legislation to establish state-facilitated retirement savings programs. In 2022, at least 17 states have introduced legislation to address the retirement savings gap among private sector workers. Additional detailed information about the progress of state legislative initiatives in 2022 and previous years, as well as the implementation status of state-facilitated retirement savings programs, can be found at https://cri.georgetown.edu/states.

**18 State-Facilitated Retirement Savings Programs (16 states and 2 cities)**

As of June 30, 2022, 16 states[2] and 2 cities have enacted state-facilitated retirement savings programs[3] for private sector workers. To date, these programs have adopted one or a combination of four models. The predominant model is an auto-IRA program, adopted by 11 states and 2 cities.

| Individual Retirement Account (Auto-IRA) | | Voluntary Open Multiple Employer Plan (MEP) | Voluntary Payroll Deduction IRA | Voluntary Marketplace |
|---|---|---|---|---|
| California | Maryland | Massachusetts | New Mexico | New Mexico |
| Colorado | New Jersey | Vermont | | Washington |
| Connecticut | New York[4] | | | |
| Delaware | New York City[5] | | | |
| Hawaii[6] | Oregon | | | |
| Illinois | Seattle, WA[7] | | | |
| Maine | Virginia | | | |

[2]The Hawaii and Delaware legislatures passed new programs bills in 2022, and we assume that they will be signed and enacted by their Governors.
[3]For simplicity, all programs are referred to as "state-facilitated," even if referring to one or more cities.
[4]On June 7, 2021, S 5395A passed both chambers of the New York State Legislature. This bill amends Chapter 55, which was originally signed into law in 2018, establishing the New York State Secure Choice Savings Program. The amendment changes the program from a voluntary payroll deduction IRA to an auto-IRA. The bill was signed on October 21, 2021.
[5]Because of the enactment of new state auto-IRA program change, the New York City program law specifies that it would become part of the state program (see Appendix for information about the New York City program).
[6]The Hawaii program is a first-of-its-kind variation of a pure auto-IRA program because employers are only required to participate in the program if their workers opt into the state program (for this reason, it is included in this list, but not in the 11-state count of auto-IRA programs because the employer mandate trigger is contingent on the opt-in of employees).
[7]The Seattle, Washington, program is not anticipated to be implemented because of a state legal constraint not previously identified before passage; it would now require state action to establish a city program.

**Implementation Status**

Most of these states are actively implementing their programs. Six states — California, Connecticut, Illinois, Massachusetts, Oregon, and Washington — are open to all eligible employers as of June 30, 2022. Massachusetts and Oregon opened their programs in late 2017, Washington opened its retirement marketplace in March 2018, Illinois launched its program in November 2018, California launched its program in July 2019, and Connecticut opened its programs to all eligible employers on April 1, 2022. Maryland opened its program to selected pilot employers in June 2022 with a goal to launch its program by September 2022. Other states, such as Colorado, Maine, New Mexico, New Jersey, New York, and Virginia, are making progress but are in a variety of implementation planning stages. Employers in all program states retain the option of acquiring a qualified retirement plan through the private market, and employees can always choose to opt out of program participation or change their contribution rates. For more detailed program implementation timelines for the auto-IRA programs, go to: https://cri.georgetown.edu/wp-content/uploads/2022/04/State-Programs-Employer-Implementation-Timeline-Gantt-Chart.pdf.

**Definitions of the program models:**

**Auto-IRA**

An Auto-IRA program requires employers that do not otherwise offer a retirement plan to allow their workers to be automatically enrolled in the state-facilitated retirement savings program. IRAs are personal savings accounts, not employee benefit plans; established and controlled by individuals, not employers; and therefore are not subject to the Employee Retirement Income Security Act (ERISA) of 1974. With state Auto-IRA programs, the role of the employer remains administrative only, restricted to enrolling workers and facilitating the payroll contribution. Employers are also prohibited from contributing to their employees' accounts. It is important to note that an employer could choose at any time to adopt their own plan instead of using the state program.

An IRA is an account that allows an individual to save for retirement with tax-free growth or on a tax-deferred basis. The two primary types of IRA accounts are 1) *Traditional IRA* — contributions are tax-deductible, and any earnings can potentially grow tax-deferred until withdrawn in retirement; and 2) *Roth IRA* — contributions are made on income after tax and withdrawals are tax-free in retirement, provided that certain conditions are met. These programs typically offer a Roth IRA as the default, but also offer a traditional IRA.

**Payroll Deduction IRA**

In many respects, this program design is like an Auto-IRA program but differs in two important ways: 1) Employer participation in the program is voluntary and, if participation for employers is voluntary and not required by the states, then 2) there is legal uncertainty on what extent it can use auto-enrollment.

**Multiple Employer Plan (MEP)**
A state-facilitated "open" MEP is a type of 401(k) "group plan" where otherwise-unrelated employers in the state would be able to join together as part of the state-facilitated plan, as defined by the U.S. Department of Labor (DOL). This model is an employer plan regulated by the Employee Retirement Income Security Act (ERISA) of 1974 that offers participants 401(k) plans with higher contribution limits and allows employers to match employee contributions. MEPs can reduce the administrative and fiduciary burdens that small employers would have to handle on their own.

**Marketplace Retirement Program**
A marketplace is an "electronic clearinghouse" facilitated by a state that reviews and approves qualified financial services firms to offer their low-cost retirement savings products to small businesses, as well as sole proprietors and self-employed individuals.

For more information about these program models, see Morse and Antonelli (2021), **State-Facilitated Retirement Savings Programs: A Policymaker's Guide to ERISA and the Tax Code for IRAs and 401(k)s, Policy Report 21-02**, March 2021.

# Auto-IRA Programs

**(States listed by date of enactment; see Appendix for city programs)**

**(2015) Illinois**

**(2015) Oregon**

**(2016) Maryland**

**(2016) Connecticut**

**(2016) California[8]**

**(2019) New Jersey (as amended)**

**(2020) Colorado**

**(2021) Virginia**

**(2021) Maine**

**(2021) New York (as amended)**

**(2022) Hawaii**

**(2022) Delaware**

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[8]In response to a legal challenge, the United States District Court, Eastern District of California ruled on March 28, 2019, that the CalSavers Program is not preempted by federal ERISA law. The plaintiffs — the Howard Jarvis Taxpayers Association (HJTA) — filed an amended complaint on April 11, 2019, but the prior ruling was upheld by the court on March 10, 2020. On June 12, 2020, the plaintiffs filed an appeal to the U.S. Court of Appeals for the Ninth Circuit, and that case was upheld on appeal on May 6, 2021. The HJTA filed a request on May 20, 2021, for the case to be heard *en banc* by the Ninth Circuit. On June 15, 2021, the Ninth Circuit denied the HJTA's request for rehearing *en banc* and no judge requested a vote for consideration. The HJTA subsequently petitioned the U.S. Supreme Court on October 12, 2021, to review the Ninth Circuit Court of Appeals' judgment. On February 28, 2022, the Supreme Court declined to hear the appeal of the lower court ruling, upholding that CalSavers is not preempted by ERISA.

# Illinois Secure Choice Retirement Savings Program

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| **Year Enacted** | 2015, as amended in 2016, 2017, 2019, and 2021 |
| **Employer Participation** | Mandatory for certain employers, with a two-year deferral for new businesses. |
| **Employers Affected** | Employers with 5 or more employees that have not offered a qualifying retirement plan in the last two years |
| **Administrative Entity** | The **Illinois Secure Choice Savings Board**, chaired by the Treasurer |
| **Structure of Accounts** | Roth IRA as the default, with a traditional IRA option as an alternative election |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with annual auto-escalation of 1% permitted to a maximum of 10% of wages. The first auto-escalation occurred on January 1, 2022. |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | Employers with fewer than 5 employees can voluntarily choose to participate in the program. |
| **Investment of Assets** | The program offers a suite of 11 target date funds (TDFs), based on the age of the enrollee, as the default investment option and additional investment options, including a capital preservation fund, growth fund, and conservative fund. For the first 90 days after the initial contribution is made to an account after enrollment, the default is to hold the money in a money market fund (a temporary fund only), but participants can select a different fund option immediately. If no investment option is selected, the funds are put into the age-appropriate TDF. |
| **Fees** | Total expenses cannot exceed 0.75% of the total trust balance (currently .05% state fee, .61% program administration fee, and .09% investment fee).[9] |
| **Implementation Timeline** | After pilot testing was completed in 2018, the program formally launched with Wave 1 with employers with more than 500 employees required to register by November 2018; Wave 2 with employers with 100–499 employees required to register by July 2019; and Wave 3 with employers with 25–99 employees required to register by November 2019. The program opened in March 2020 for self-enrollment, allowing self-employed, contract, and seasonal workers the opportunity to enroll. In 2021, with the lowering of the threshold from 25 to 5 employees, there are now two additional employer registration waves to be implemented: Employers with 16–24 employees will be required to register by November 1, 2022, and employers with 5–15 employees will be required to register by November 1, 2023. However, employers are free to register at any time before their deadline. |
| **Legislative Authority to Partner with Other States** | Yes |

[9]The program administration and investment fees can vary slightly higher or lower, as long as fees remain within the overall required statutory limits.

## OregonSaves

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| **Year Enacted** | 2015, as amended in 2019 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers that do not currently offer qualified plans |
| **Administrative Entity** | The **Oregon Retirement Savings Board**, chaired by the Treasurer |
| **Structure of Accounts** | Roth IRA as the default, with a traditional IRA option as an alternative election |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with auto-escalation of 1% per year to a maximum of 10%. Auto-escalation applies to participants who have been contributing for at least six months. The first auto-escalation took place on January 1, 2019. |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | Available to employers with no employees and employees of non-participating employers |
| **Investment of Assets** | The program offers a suite of 12 TDFs, based upon the age of the enrollee, as the default investment option and additional investment options, including a capital preservation fund, money market fund, and growth fund. Initial contributions are held for the first 90 days in the capital preservation fund and then defaulted the funds into the age-appropriate TDF unless another investment option is selected. |
| **Fees** | The program has an annual asset-based fee of approximately 0.25 percent (equivalent to $0.25 for every $100 in an account). There is also a monthly account fee of $1.50 per month that is assessed each quarter (equal to a total of $18 per year). This fee structure covers various program costs, with the fees allocated as follows: $4 per saver for state program administration; $14 per saver and .15% on assets for recordkeeping; and .10% for investment management. |
| **Implementation Timeline** | Two pilots were completed in 2017. The program has been implemented in six employer registration phases or "waves," based on the number of employees. The program is completing its final employer wave (those with 4 or fewer employees) and the registration deadline for these employers will be early 2023. However, employers are free to register at any time before their deadline. |
| **Legislative Authority to Partner with Other States** | Yes |

## Maryland$aves

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| **Year Enacted** | 2016, as amended in 2018 |
| **Employer Participation** | Mandatory for all employers that pay employees through a payroll system or service, with a two-year deferral for new businesses |
| **Employers Affected** | Employers that do not currently offer qualified plans |
| **Administrative Entity** | The **Maryland Small Business Retirement Savings Board** (nonprofit corporation),[10] chair elected by Board members |
| **Structure of Accounts** | Roth IRA as the default, with a traditional IRA option as an alternative election |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with annual auto-escalation of 1% up to a maximum of 10% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | The board decided to allow non-covered employers, employees of non-covered employers, gig workers, 1099 employees, and self-employed people to use the program. |
| **Investment of Assets** | Program participants who are enrolled using the default savings choices and do not make any investment selections will have their first $1,000 in funds invested automatically in a capital preservation option — an emergency savings feature. Then, every subsequent dollar that is contributed will be invested automatically in an age-appropriate Target Retirement Date option, which is the default investment, unless the employee makes another investment choice(s). Other investment options available include a bond index option and a global growth stock option. |
| **Fees** | MarylandSaves has an annual asset-based fee of approximately 0.18% (equivalent to $0.18 for every $100 in the account). There also is a $30 annual account fee (charged quarterly at $7.50 each quarter) that pays for administration of the program and the operating expenses charged by the program administrator and the state — $24 to the program administrator and $6 to the state. In the first year of holding an account, the state will waive its $6 portion of the fee and in the first 90 days of holding an account, the program administrator will waive $6 of their $24 annual fee. |
| **Implementation Timeline** | The pilot program was launched in March 2022, and pilot employers began to register in early June 2022. The full program launch is currently scheduled for September 2022. |
| **Legislative Authority to Partner with Other States** | No |

[10] In 2017, the Board received final approval from the Maryland Attorney General to implement the program through the creation of a non-profit corporation. Although the non-profit is subject to state oversight, it is not subject to state procurement, hiring, and other state administrative procedures.

## MyCTSavings

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| **Year Enacted** | 2016, as amended in 2019 and 2022 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers with 5 or more employees that do not currently offer a qualified plan |
| **Administrative Entity** | The **Office of the State Comptroller**, effective July 1, 2022, with a new appointed Connecticut Retirement Security Advisory Board (replacing the previous Connecticut Retirement Security Authority), chaired by the Comptroller |
| **Structure of Accounts** | Roth IRA |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 3% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | The Comptroller, in conjunction with the program's Advisory Board, will decide whether to open to other employers (an employer with 4 or fewer employees can make the program available to its employees, on a voluntary basis, consistent with any rules established by the program). |
| **Investment of Assets** | For the first 60 days, funds are held in a money market fund unless a default investment options has already been selected, and then funds would move into the default Target Retirement Date Option after 60 days for any existing savings and any future contributions. The program will default each participant's account into an age-appropriate TDF (2020–2070) or the saver can select from among seven other strategic investment portfolios (each is a mix of funds with different risk profiles). The investment options include: cash preservation portfolio; income portfolio; income and growth portfolio; balanced portfolio; conservative growth portfolio; moderate growth portfolio; or growth portfolio. In addition, according to current law, once the participant reaches normal retirement age, 50% of the participant's account will be invested in the lifetime income investment option. The program has not yet designated a lifetime income investment option. |
| **Fees** | MyCTSavings has an annual asset-based fee of approximately 0.22%, which includes the investment management fee of the underlying funds (equivalent to $0.22 for every $100 in the account). There is also a $26 annual account fee (that is charged $6.50 each quarter). These fees pay for the administration of the program and the operating expenses. |
| **Implementation Timeline** | The employer pilot program began the week of October 25, 2021, with employers beginning to register the first week of November. The program launched formally on April 1, 2022, with Wave 1 with employers with 100 or more employees required to register by June 30, 2022; Wave 2 with employers with 26–99 employees required to register by October 31, 2022; and Wave 3 with employers with 5–25 employees required to register by March 30, 2023. However, employers are free to register at any time before their deadline. |
| **Legislative Authority to Partner with Other States** | No |

## CalSavers

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| **Year Enacted** | 2016, as amended in 2017, 2018, 2019, 2020; and pending in 2022 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers with 5 or more employees[11] that do not already provide a qualified retirement plan and eligible employers of providers of in-home supportive services |
| **Administrative Entity** | The CalSavers Retirement Savings Board, chaired by the Treasurer |
| **Structure of Accounts** | Roth IRA as the default, with a traditional IRA as an alternative election |
| **Automatic Enrollment** | The Board will disseminate an employee information packet with information about the program and appropriate disclosures, including the mechanics of how to make contributions to the program. Employees must acknowledge that they have read all the disclosures and understand their content. |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with auto-escalation of 1% per year to a maximum of 8% of salary. The first auto-escalation took place on January 1, 2020, with pilot employers. |
| **Employer Contribution** | Only permitted if it would not trigger ERISA |
| **Availability to Other Employers** | Employees of non-participating employers and the self-employed can voluntarily choose to participate. |
| **Investment of Assets** | The program offers a suite of 12 TDFs, based upon the age of the enrollee, as the default investment option and additional investment options, including a money market fund, core bond fund, global equity fund, and sustainable balanced — environmental, social, and governance (ESG)) — fund. For the first 30 days, funds are held in the money market fund and then moved to the default age-appropriate TDF unless another investment option is selected. |
| **Fees** | On or after six years from the effective program date, expenditures from the Administrative Fund cannot exceed 1% of the total Program Fund annually (currently .05% state fee, .75% program administration fee, and a range of .025%–.15% investment fund fee) for a total annualized asset-based fee in the range of .825%–.95%. |
| **Implementation Timeline** | The pilot program began in November 2018. Employer registration opened July 1, 2019, and has been implemented in three phases: employers with 100 or more employees required to register by September 30, 2020; employers with 50 or more employees required to register by June 30, 2021; and employers with 5 or more employees required to register by June 30, 2022. However, employers are free to register at any time. |
| **Legislative Authority to Partner with Other States** | No |

[11] As of June 30, 2022, a program amendment bill — SB 1126 — was introduced in the 2022 state legislative session that would lower the employee participation threshold to one or more employees.

# New Jersey Secure Choice Retirement Savings Program

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| **Year Enacted** | 2019 (program replaced a marketplace enacted in 2016 but never implemented) |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers with 25 or more employees that have been in business at least two years and have not offered a qualified retirement plan |
| **Administrative Entity** | The **New Jersey Secure Choice Savings Board**, chaired by the Treasurer |
| **Structure of Accounts** | Roth or traditional IRA authorized |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 3% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | The board is authorized to consider the voluntary enrollment of individuals in the program. |
| **Investment of Assets** | The Board may establish any or all of the following investment options: a capital preservation fund, into which the Board may provide that the first $1,000 in contributions be deposited and also may provide for an account revocation period, during which an enrollee may withdraw the deposited amounts without penalty; a life cycle fund; or any other investment option deemed appropriate by the Board. The Board shall designate, by rule or regulation, one of the investment options as the default investment option for enrollees who fail to elect an investment option and may, from time to time, amend, modify, or repeal such investment options as it deems necessary or proper, and may subsequently select, by rule or regulation, a different investment option as the default investment option. If the Board has not selected a default investment option, then an enrollee who fails to select an investment option shall be placed in the life cycle fund investment option. |
| **Fees** | During the first three years after establishment of the program, annual administrative fees may not exceed 0.75% of the Program Fund. After that time, the annual administrative fees shall not exceed 0.6% of the Program Fund. |
| **Implementation Timeline** | The Board is meeting and a detailed program implementation timeline is still to be determined. |
| **Legislative Authority to Partner with Other States** | No |

# Colorado Secure Savings Program

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| **Year Enacted** | 2020 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers with 5 or more employees that have not offered a qualified retirement plan; grants, in an amount not to exceed $300 per employer, may be available to employers with between 5 and 25 employees to support participation in the program. |
| **Administrative Entity** | The **Colorado Secure Savings Program Board** in the Office of the State Treasurer, chaired by the Treasurer |
| **Structure of Accounts** | Roth IRA as the default, with a traditional IRA as an alternative election |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with annual auto escalation of 1% up to a maximum of 8% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | Employers not required to participate in the program will be allowed to participate on a voluntary basis. Individuals who qualify for an IRA also will be allowed to participate voluntarily. |
| **Investment of Assets** | The Board is authorized to enter contracts with up to three investment managers, private financial institutions, and other service providers to invest money and administer the program. The Board is currently considering the following investment options: a TDF series; capital preservation fund; core fixed income fund; global equity fund; and balanced ESG fund (these investment options are proposed and pending finalization). |
| **Fees** | For the first five years of program operation, total annual fees may not exceed 1% of total value of program assets. In the sixth year and subsequent years, the total annual fees may not exceed 0.75% of the total value of program assets. |
| **Implementation Timeline** | The Board has also developed an implementation timeline that includes launching an employer pilot in October 2022, with anticipated program launch by the first quarter of 2023. The program is currently anticipated to be rolled out in three waves: Wave 1, for employers with 100+ employees; Wave 2, for employers with 50+ employees; Wave 3, for employers with 5+ employees. |
| **Legislative Authority to Partner with Other States** | Yes[12] |

[12] The Colorado Secure Savings Program executed a joint Memorandum of Cooperation (MoC) with the New Mexico Work and $ave Program to begin to explore the possibility of forming a partnership between the two states for implementing a retirement savings program. A possible future partnership is still under consideration, but no formal agreement to do so has been considered yet by these two states.

# RetirePathVA

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| **Year Enacted** | 2021 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers that have employed 25 or more employees who worked at least 30 hours a week in the preceding calendar year and that have been in business for at least two years and do not already provide a qualified employer-sponsored retirement plan; the Board can explore and, as appropriate, establish incentives to encourage participation in the program by eligible employers and employees, including a grant program to provide incentives for compliance with the program and defray the costs for small businesses. |
| **Administrative Entity** | The **Governing Board of the Virginia College Savings Plan** (VA529), with a **Program Advisory Committee**, appointed by the VA 529 Board to assist with program implementation |
| **Structure of Accounts** | Roth IRA as the default, with a traditional IRA as an alternative election |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with annual auto escalation of 1% up to a maximum of 10% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | Employers not required to participate in the program will be allowed to participate on a voluntary basis. Any eligible employee whose employer does not facilitate participation in the program, or any self-employed individual, may participate, as long as the individual has taxable Virginia income. |
| **Investment of Assets** | The program investment funds will include a suite of target date funds, an equity fund, a fixed income fund and a capital preservation fund. |
| **Fees** | To be negotiated by the Board |
| **Implementation Timeline** | The program has developed an implementation timeline that includes a pilot launch no later than March 2023 (the first quarter of 2023). The program is required by law to open for enrollment by July 1, 2023, or as soon thereafter as practicable. |
| **Legislative Authority to Partner with Other States** | Yes |

# Maine Retirement Savings Program

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| **Year Enacted** | 2021 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers with 5 or more employees that have not offered to their employees a specified tax-favored retirement plan effective in form or operation at any time within the current calendar year or two preceding calendar years. |
| **Administrative Entity** | **Maine State Retirement Savings Board**, in the Office of the State Treasurer, chaired by the Treasurer |
| **Structure of Accounts** | Roth IRA, with the option to add a traditional IRA |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with authority to use auto-escalation at 1% per year up to a maximum of 8% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | A covered employer with fewer than 5 employees is not required to offer the program to its covered employees, but may offer the program to its employees at the option of the employer and in accordance with rules established by the Board. The program also must make provision for participation in the program by individuals who are not employees, such as self-employed individuals and independent contractors. |
| **Investment of Assets** | Employers provide for direct deposit of contributions into investments under the program, including, but not limited to, a default investment such as a series of TDFs and a limited number of investment alternatives, including a principal preservation option determined by the Board. In addition, the Board may provide that each participant's initial contributions, up to a specified dollar amount or for a specified period of time, are required to be invested in a principal preservation investment or, at the Board's discretion, must be defaulted into such an investment unless the participant affirmatively opts for a different investment for those contributions. |
| **Fees** | The Board will seek to keep fees, costs, and expenses of the program as low as practicable, except that any administrative fee imposed on a covered employee for participating in the program may not exceed a reasonable amount relative to fees charged by similar established programs in other states. The fee may be an asset-based or investment return fee, flat fee, or hybrid of the permissible fee structures. |
| **Implementation Timeline** | Employer enrollment waves: beginning April 1, 2023, employers with 25 or employees; beginning October 1, 2023, employers with 15 to 24 employees; beginning April 1, 2024, employers with 5 to 14 employees. Any covered employer may voluntarily offer the program to its covered employees on or after April 1, 2023. |
| **Legislative Authority to Partner with Other States** | Yes |

## New York State Secure Choice Savings Program[13]

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| **Year Enacted** | 2021 (amending original 2018 law creating a voluntary payroll deduction IRA) |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers who at all times during the previous calendar year employed at least 10 employees in the state and have not offered a qualified plan in the past two years; employers already offering a plan shall not terminate such plan for purposes of participating in the program. |
| **Administrative Entity** | New York State Secure Choice Savings Program Board, chaired by the Commissioner of Taxation and Finance or designee (which is the State Treasurer) |
| **Structure of Accounts** | Roth IRA |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 3% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | Not specified |
| **Investment of Assets** | The Board shall establish or authorize a default investment option for enrollees who fail to elect an investment option. The Board may establish or authorize any additional investment decisions that the Board deems appropriate, including but not limited to: a conservation principal protection fund; a growth fund; a secure return fund whose primary objective is the preservation of the safety of principal and the provision of a stable and low-risk rate of return; an annuity fund; a growth and income fund; or a life cycle fund with a target date based upon factors determined by the Board. |
| **Fees** | The Board shall keep its annual administrative expenses as low as possible and allocate administrative fees to individual retirement accounts in the program on a pro rata basis. |
| **Implementation Timeline** | The program shall be implemented, and enrollment of employees shall begin, within 24 months after the effective date, and the Board may delay implementation by an additional 12 months.[14] |
| **Legislative Authority to Partner with Other States** | No |

[13] On October 21, 2021, the Governor signed S 5395A. This bill amends Chapter 55, which was originally signed into law in 2018 and established the New York State Secure Choice Savings Program. The amendment changes the program from a voluntary payroll deduction IRA to an auto-IRA.
[14] The original implementation timeframe was not changed in the 2021 amendment to the program. However, it would appear the program implementation timeline can be extended with notification to the Governor and legislature.

# Hawaii

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| **Year Enacted** | 2022 |
| **Employer Participation** | Employers must notify employees of right to opt in and, if employee(s) choose to opt in, then the employer must facilitate contributions to the state program. |
| **Employers Affected** | Any person who is in business in the state and has one or more individuals in employment |
| **Administrative Entity** | The Hawaii Retirement Savings Board, co-chaired by the Director of Finance and the Director of Labor and Industrial Relations, with program administration within the Department of Labor and Industrial Relations |
| **Structure of Accounts** | Roth IRA as default; the Board also may choose to make a traditional IRA available |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | No. Employees must choose to opt into the program. The Board may authorize matching contributions of up to $500 to the accounts of the first 50,000 covered employees who participate in the Hawaii retirement savings program for 12 consecutive months after initial enrollment. |
| **Default Contribution Rate** | 5% |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | Not applicable |
| **Investment of Assets** | The board will develop and implement an investment policy that defines the program's investment objectives and is consistent with the objectives of the program, and other policies and procedures consistent with those investment objectives. |
| **Fees** | Total fees and expenses of the program each year shall not exceed 0.75% of the total assets of the program; this limit shall not apply during the initial three-year period after establishment of the program. |
| **Implementation Timeline** | The law is effective on July 1, 2022 with a program implementation timeline to be determined. Before implementation of the program, the board may conduct a detailed implementation and evaluation study and perform other due diligence tasks to determine the feasibility of the program parameters and the resources and time needed to implement the program. Upon completion of the study, the Board shall report its findings and recommendations, including any proposed legislation and funding requirements, to the legislature. |
| **Legislative Authority to Partner with Other States** | Yes |

## Delaware Expanding Access for Retirement and Necessary Saving (EARNS) Program

| | |
|---|---|
| **Year Enacted** | 2022 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers that employed 5 or more employees during the previous calendar year, have been in business at least six months in the preceding calendar year, and do not offer a qualified retirement plan |
| **Administrative Entity** | Delaware EARNS Program Board is a seven-member board with the chairperson appointed by the Governor from the two public members (one a small-business owner and the other with experience providing financial advice or assistance to lower- to moderate-income workers or retirees). The other five members will include the Treasurer, Secretary of Labor, Secretary of Finance, Insurance Commissioner, and chair of the Plans Management Board; each can designate others to serve for them. *Note*: Unless terminated earlier as provided in this subsection, the Board shall disband and cease to exist effective as of December 31, 2025, at which point, all duties and functions of the Board under this chapter shall be transferred to and assumed by the Plans Management Board. |
| **Structure of Accounts** | Roth IRA (with traditional IRA also authorized to be made available) |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | The Board may determine the default contribution level; it may not be less than 3% and not more than 6% of compensation. The Board may determine, at its discretion, to increase the automatic default contribution rate for all participants based on their years of participation, provided that such increases shall be either 1% or 2% of compensation and shall not occur more frequently than annually. The maximum default contribution rate established by the Board shall not exceed 15%. |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | The Board may adopt rules or regulations allowing employers that are exempt to voluntarily participate in the program and extending eligibility to participate in the program to individuals who are not employees, including unemployed individuals, self-employed individuals, and other independent contractors. |
| **Investment of Assets** | The Board shall adopt an investment policy statement and select investment options, including default investment options, consistent with the objectives of the program. The menu of investment options may encompass a range of risk and return opportunities. |
| **Fees** | The Board is authorized to charge and collect reasonable administrative fees from participants and use such fees, as well as appropriations and other funds dedicated to supporting the program, to defray reasonable program expenses. |
| **Implementation Timeline** | The Board may implement the program in stages, which may include phasing in the program based on the size of employers, or other factors. To the extent practicable, the Board shall implement the program so covered employees can begin to participate and make contributions by January 1, 2025. |
| **Legislative Authority to Partner with Other States** | Yes |

# Open Multiple Employer Plans (MEPs)[15]

**(listed by date of enactment)**

## (2012) Massachusetts
## (2017) Vermont

[15]On November 18, 2015, the U.S. Department of Labor issued a final Interpretive Bulletin Relating to State Savings Programs that Sponsor or Facilitate Plans Covered by the Employee Retirement Income Security Act (ERISA) of 1974. The Bulletin outlines those state-facilitated retirement savings programs that would include ERISA-covered retirement plans. These options include a marketplace, prototype plans, and state-facilitated "open" multiple employer plans (MEPs). The following state plans are covered by the Interpretive Bulletin.

## Massachusetts Defined Contribution CORE Plan (CORE Plan)

| | |
|---|---|
| **Year Enacted** | 2012 |
| **ERISA Applicability** | Yes |
| **Employer Participation** | Voluntary |
| **Employers Affected** | Nonprofits with 20 or fewer employees |
| **Administrative Entity** | **The Office of the State Treasurer and Receiver General** with investment and program oversight committees |
| **Structure of Accounts** | MEP — Defined Contribution 401(k) plan |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 6% with an annual auto escalation of 1% or 2%, up to 12% |
| **Employer Contribution** | Permitted, but not required. If a participating employer chooses to use the safe harbor employer-matching contribution option, 100% of the first 3% of the employee's contribution will be matched and 50% of the next 2% in employee contribution will be matched. If a participating employer selects the safe harbor non-elective contribution option, the employer agrees to make a flat rate contribution to the account of each eligible employee in an amount no less than 3%, regardless of employee contributions. |
| **Availability to Other Employers** | No |
| **Investment of Assets** | The Plan offers 12 CORE default TDFs based on expected retirement age and four objective base funds: the CORE Growth Fund, CORE Income Fund, CORE Inflation Fund, and CORE Capital Preservation Fund. For additional fees, a participant can choose to have the account professionally managed with a portfolio that would be developed "using one or more investments that comprise the CORE Plan investment lineup and may also use additional investments not otherwise available to **CORE Plan** participants." |
| **Fees** | For the participant, there is a $65 annual fee, deducted automatically from the participant's account, and other administrative fees depending on the "elective Plan features used by a participant. Each investment option has an administrative, advisory, and investment management fee that varies by investment option" and "additional fees, including administrative and other service fees, may be assessed over time." For the participating nonprofit, there is a one-time installation fee of $2,500, a $200 plan administrative fee charged annually beginning in the second year, and an annual compliance fee of $150 for employer contribution election and $750 for deferral-only election. |
| **Implementation Timeline** | The program launched in October 2017 and is open for enrollment. |

## Vermont Green Mountain Secure Retirement Plan

| | |
|---|---|
| **Year Enacted** | 2017, as amended in 2019 |
| **ERISA Applicability** | Yes |
| **Employer Participation** | Voluntary. The Board may study and make recommendations for methods to increase participation if, after three years, significant numbers of residents remain who are not covered by a retirement plan. |
| **Employers Affected** | Employers with 50 employees or fewer that do not currently offer a plan |
| **Administrative Entity** | The **Green Mountain Secure Retirement Board**, chaired by the Treasurer |
| **Structure of Accounts** | 401(k) plan |
| **Automatic Enrollment** | Permissible. Auto-enrollment of employees will occur once an employer opts to join the MEP. |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | Not specified |
| **Employer Contribution** | Permitted |
| **Availability to Other Employers** | The self-employed are eligible to participate. No earlier than one year after implementation, the Board intends to provide options via a clearinghouse/marketplace to individuals who are not eligible to participate, or choose not to participate, in the MEP, or whose employers opted not to join the MEP. |
| **Investment of Assets** | Not specified |
| **Fees** | Not specified |
| **Implementation Timeline** | Following the recent purchase of TAG Resources by Transamerica, Vermont continues to work with their plan administrator with the goal of launching Green Mountain Secure Retirement Plan by the end of calendar year 2022. |

# Marketplace[16]

## (2015) Washington

[16]On November 18, 2015, the U.S. Department of Labor issued a final Interpretive Bulletin Relating to State Savings Programs that Sponsor or Facilitate Plans Covered by the Employee Retirement Income Security Act (ERISA) of 1974. The Bulletin outlines those state-facilitated retirement savings programs that would include ERISA-covered retirement plans. These options include a marketplace, prototype plans, and state-facilitated "open" multiple employer plans (MEPs). The following state plan is covered by the Interpretive Bulletin.

## Washington Small Business Retirement Marketplace

| | |
|---|---|
| **Year Enacted** | 2015, as amended in 2017 |
| **ERISA Applicability** | ERISA cannot apply to the state to operate the Marketplace, but ERISA plans are allowed in the Marketplace with ERISA requirements applying to participating employers. |
| **Employer Participation** | Voluntary |
| **Employers Affected** | Fewer than 100 employees |
| **Administrative Entity** | The **State Department of Commerce** |
| **Structure of Accounts** | SIMPLE, Roth and traditional IRAs, and ERISA plans (e.g., 401(k)s) can be included; may also offer "life insurance plans designed for retirement purposes" |
| **Automatic Enrollment** | No state requirement, but employers may auto-enroll as IRS rules allow |
| **Employee Opt-out** | Voluntary employee participation |
| **Default Contribution Rate** | Not specified |
| **Employer Contribution** | Permitted if an ERISA plan option |
| **Availability to Other Employers** | Self-employed people and sole proprietors are eligible to participate in the marketplace. |
| **Investment of Assets** | The Marketplace now only offers Roth and traditional IRA options from Finhabits and Aspire Capital Advisors. Saturna, the 401(k) provider, left the Marketplace in January 2022. Other providers may be added in the future. |
| **Fees** | Plans cannot charge fees greater than 1% of the account balance and cannot charge an administrative fee to an employer.[17] Financial services firms may charge enrollees a de minimis fee for new and/or low-balance accounts in amounts negotiated and agreed upon by the Department and financial services firms. Fees associated with products offered in the Marketplace can be found on the **Retirement Marketplace** website. |
| **Implementation Timeline** | The Marketplace opened in March 2018. |

[17]The Washington State Department of Commerce's 2020 Biennial Report to the Legislature makes a recommendation to change the fee structure because "[c]urrent legislation does not allow providers to charge employers fees, which in turn prevents them from covering the cost of enrollment and account maintenance. The ability for a provider to charge an employer a flat fee or a cost per participating employee fee would very likely make the Marketplace more appealing to providers and increase plan availability. Fee structure should continue to be reasonable so as not to discourage businesses from enrolling into a savings plan." Other recommendations for program reform include: 1) Reduce provider requirements to offer multiple plans (many firms do not offer both the TDFs and balanced fund options required); 2) expand the program to businesses of all sizes; and 3) increase funding for marketing.

# Multi-tiered (or Hybrid) Option
# (Voluntary Payroll Deduction IRA[18] and Marketplace[19])

## (2020) New Mexico

[18]New Mexico's voluntary payroll deduction program is assumed to be designed to be covered under the 1975 DOL safe harbor (See 29 CFR 2510.3-2(d) and 40 FR 34526 (August 15, 1975)), which lays out the conditions under which payroll deduction IRAs would be exempt from ERISA.

[19]On November 18, 2015, the U.S. Department of Labor issued a final Interpretive Bulletin Relating to State Savings Programs that Sponsor or Facilitate Plans Covered by the Employee Retirement Income Security Act (ERISA) of 1974. The Bulletin outlines those state-facilitated retirement savings programs that would include ERISA-covered retirement plans. These options include a marketplace, prototype plans, and state-facilitated "open" multiple employer plans (MEPs). New Mexico's retirement plan marketplace is covered by the Interpretive Bulletin.

## New Mexico Work and $ave Program

| | |
|---|---|
| **Year Enacted** | 2020 |
| **ERISA Applicability** | Voluntary IRA: The Board shall avoid preemption of the program by federal law. The Board shall not impose any duties on employers pursuant to ERISA. Marketplace: ERISA cannot apply to the state for operating the marketplace, but ERISA plans are allowed in the marketplace and normal ERISA requirements would apply to participating employers. |
| **Employer Participation** | Voluntary |
| **Employers Affected** | Employers with their primary place of business physically in New Mexico |
| **Administrative Entity** | **New Mexico Work and $ave Board** |
| **Structure of Accounts** | Voluntary IRA: Roth IRA as the default, with other IRA options permissible. Marketplace: Options may include SIMPLE IRA; payroll deduction IRA; Multiple Employer Plans (if allowed under federal law); or plans described in Section 401(a) or 403(b) of the Internal Revenue Code |
| **Automatic Enrollment** | Voluntary IRA: An employer participating in the Work and $ave program may automatically enroll its employees, if permitted by federal law. Marketplace: An employer that offers a plan through the marketplace may use automatic enrollment. |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | Voluntary IRA: to be determined by the Board and can also include default auto-escalation. Marketplace: Not specified |
| **Employer Contribution** | Voluntary IRA: not permitted. Marketplace: permitted if an ERISA plan option |
| **Availability to Other Employers** | Not specified |
| **Investment of Assets** | Voluntary IRA: By default, contributions will be invested in a TDF investment and other funds can be available, such as index funds. A principal protection fund may be established for initial savings up to an amount established by the Board. Marketplace: The marketplace shall allow, but shall not require, the availability within approved plans of distribution options that provide income in retirement, including systematic withdrawal programs, guaranteed lifetime withdrawal benefits, and annuities. |
| **Fees** | Voluntary IRA: The program shall keep total fees and expenses below 1% of the funds invested. Marketplace: The Board shall establish administrative fees for financial service firms that participate in the Marketplace. The fees shall be sufficient to cover the actual cost of maintaining the marketplace. |
| **Implementation Timeline** | The Board shall implement the New Mexico Retirement Plan Marketplace and the New Mexico Work and $ave IRA Program on or before July 1, 2024 (deadline extended in the enacted 2021 program amendment bill). |
| **Legislative Authority to Partner with Other States** | Yes[20] |

[20] The Colorado Secure Savings Program executed a joint Memorandum of Cooperation (MoC) with the New Mexico Work and $ave Program to begin to explore the possibility of forming a partnership between the two states for implementing a retirement savings program. A possible future partnership is still under consideration, but no formal agreement to do so has been considered yet by these two states.

# APPENDIX[21]

## City-Enacted Programs

**(listed by date of enactment)**

**(2017) Seattle**

**(2021) New York City**

[21] The Seattle, WA, program is on hold indefinitely pending state legislative action. New York City's program is expected to merge into the new auto-IRA New York state program.

## Seattle Retirement Savings Plan

| | |
|---|---|
| **Year Enacted** | 2017 |
| **Employer Participation** | Mandatory. There is a two-year deferral for new businesses. |
| **Employers Affected** | Employers that do not currently offer qualified plans or participate in a multiple employer plan (MEP) |
| **Administrative Entity** | The Seattle Retirement Saving Plan Board of Administration; chair appointed by the Mayor |
| **Structure of Accounts** | One or more payroll deposit IRA arrangement |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | The Board can set default, minimum, and maximum rates. The plan must offer default escalation. |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | The Board can establish participation rules for self-employed individuals or employees who are not eligible to participate in an employer's qualified retirement plan. |
| **Investment of Assets** | The Board will establish several investment funds, each pursuing an investment strategy and policy established by the Board. The Board will establish at least three "core" investment funds, diversified to minimize the risk of large losses, and may establish one or more "non-core" investment funds. The Board may, at any time, add, replace, or remove any investment fund. Investment funds may include mutual funds, index funds, collective funds, separately managed accounts, exchange-traded funds, or other pooled investment vehicles that are generally available in the marketplace. |
| **Fees** | Not specified. The plan must keep administration fees low, but sufficient to ensure that the plan is sustainable. |
| **Implementation Timeline** | The Seattle, Washington, program is not anticipated to be implemented because of a state legal issue identified after passage. The Board decided in December 2018 that it will not implement its program, pending possible action by the Washington State Legislature on proposals to establish a statewide auto-IRA program. |

## Savings Access New York (City) Retirement Program[22]

| | |
|---|---|
| **Year Enacted** | 2021 |
| **Employer Participation** | Mandatory |
| **Employers Affected** | Employers with at least 5 employees that have been in business for at least two years and have not offered a qualified retirement plan in the previous two years |
| **Administrative Entity** | The Retirement Savings Board (three-member board appointed by the Mayor) |
| **Structure of Accounts** | Roth IRA or traditional IRA, with one to be designated as the default option |
| **Automatic Enrollment** | Yes |
| **Employee Opt-out** | Yes |
| **Default Contribution Rate** | 5% with authority to set auto-escalation or reduction |
| **Employer Contribution** | Not permitted |
| **Availability to Other Employers** | Employers, employees, and individuals not required to participate in the program will be allowed to participate on a voluntary basis. |
| **Investment of Assets** | To be determined by the Comptroller, subject to Board approval |
| **Fees** | Reasonable fees and costs to participants shall be maintained. All fees required for the administration of the retirement savings program shall be borne by participants or paid through funds received. |
| **Implementation Timeline** | The law is effective 90 days after it becomes law. The program shall be operational no later than two years after the effective date of the law unless the Board finds a reasonable reason to delay implementation. The program shall not be implemented if New York State establishes a program covering a substantial portion of uncovered employers. |
| **Legislative Authority to Partner with Others** | Yes |

[22]The NYC law specifies that the Board and Comptroller shall take all necessary steps to discontinue the program if they certify to the Mayor and Speaker in writing that the state has established a retirement savings program that requires a substantial portion of employers who would otherwise be covered employers to offer their employees the opportunity to contribute to accounts through payroll deduction or another method of contribution. As previously noted, the Governor of New York signed S 5395A on October 21, 2021. This bill amends Chapter 55, which was originally signed into law in 2018 and established the New York State Secure Choice Savings Program. The amendment changes the program from a voluntary payroll deduction IRA to an auto-IRA. It is assumed that the city will now no longer implement its own program.

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