

# STATE-RUN MANDATORY AUTO-ENROLL PROGRAMS FOR THE PRIVATE SECTOR<sup>1</sup>

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*Note: None of the state auto-enroll programs described in this chart include provisions coordinating the operation and requirements of one program with those of another state’s program, which could affect non-exempt multistate employers, including when such employers have employees with compensation attributable to more than one state. In that case, both the employer and employee could be subject to multiple state regimes.*

## Part I. Implemented Programs (in order of program launch)

	OREGON	ILLINOIS	CALIFORNIA	CONNECTICUT
<b>PROGRAM NAME</b>	Oregon Retirement Savings Plan (“ <a href="#">OregonSaves</a> ”), enacted June 25, 2015, and codified at O.R.S. 178.200 et seq.	Illinois Secure Choice Savings Program (“ <a href="#">Illinois Secure Choice</a> ”), enacted Jan. 4, 2015, and codified at 820 I.L.C.S. 80/1 et seq.	CalSavers Retirement Savings Program (“ <a href="#">CalSavers</a> ”), enacted Sept. 28, 2012 and Sept. 29, 2016 (implementing legislation), and codified at CAL. GOV. CODE 100000 et seq.	Connecticut Retirement Security Exchange (“ <a href="#">MyCTSAVINGS</a> ”), enacted May 27, 2016, and codified at CONN. GEN. STAT. CH. 574.
<b>PROGRAM PERFORMANCE DATA</b>	Data as of December 31, 2021: <ul style="list-style-type: none"> <li>• \$150.0 million total assets</li> <li>• 112,689 participants with funded accounts (an increase of 15 since September 30, 2021)</li> <li>• 42,466 accounts with contributions facilitated by multiple employers</li> <li>• \$1,331 average funded account balance</li> <li>• 20,314 accounts with a <i>full or</i></li> </ul>	Data as of January 31, 2022: <ul style="list-style-type: none"> <li>• \$83.3 million total assets</li> <li>• 100,310 participants with funded accounts</li> <li>• \$830 average funded account balance</li> <li>• 21,789 accounts with a <i>full or partial</i> withdrawal</li> <li>• \$17 million total withdrawals (19.2% of total contributions)</li> <li>• 6,413 registered employers</li> </ul>	Data as of January 31, 2022: <ul style="list-style-type: none"> <li>• \$177.3 million total assets</li> <li>• 226,703 participants with funded accounts</li> <li>• \$782 average funded account balance</li> <li>• 33,316 accounts with a <i>full</i> withdrawal; 2,554 accounts with a <i>partial</i> withdrawal</li> <li>• \$23.9 million total withdrawals (11.8% of total contributions)</li> </ul>	Not available.

<sup>1</sup> This chart does not include states that have enacted or have currently pending a proposal for a *voluntary* retirement program for private-sector employers and employees.

<sup>2</sup> Part III generally includes those proposals for a mandatory program that are under consideration in the states’ 2022 legislative sessions.

	OREGON	ILLINOIS	CALIFORNIA	CONNECTICUT
	<p><i>partial</i> withdrawal</p> <ul style="list-style-type: none"> <li>• \$39.3 million total withdrawals (22.8% of total contributions)</li> <li>• 17,025 registered employers (45% have started submitting contributions)</li> <li>• 19,771 exempted employers</li> </ul> <p>Program expenditures:</p> <ul style="list-style-type: none"> <li>• The program announced in August 2019 it was “no longer dependent on the state’s general fund and is no longer spending any loaned funds.” No updates are known regarding repayment of the state’s loan (amount of loan unknown).</li> <li>• Upon the program’s conversion to BNY Mellon in November 2021 (discussed below), the program estimated it would need annual revenue of \$2.4 million to pay the state, recordkeeper, and investment manager.</li> </ul>	<p>(47.2% have started submitting contributions)</p> <ul style="list-style-type: none"> <li>• 12,753 exempted employers</li> </ul> <p>Program expenditures for the year ending June 30, 2021:</p> <ul style="list-style-type: none"> <li>• Expenses of approximately \$1.4 million were incurred by the Treasurer and Board for the provision of administrative, oversight, and marketing services to the program.</li> </ul>	<ul style="list-style-type: none"> <li>• 27,048 registered employers (29.1% have submitted contributions)</li> <li>• 59,845 exempted employers</li> </ul> <p>Program expenditures as of May 31, 2021 (most recent available):</p> <ul style="list-style-type: none"> <li>• \$6.62 million total program expenditures from inception (8% of total contributions through the same date).</li> </ul>	
<b>PROGRAM STATUS</b>	<p>OregonSaves launched on July 1, 2017. Employers are required to register with the program or file a Certificate of Exemption (unless a notice of presumed exemption was received) according to a rollout schedule that began November 15, 2017. The next and final deadline for employers with four or fewer employees is targeted for late 2022.</p>	<p>Illinois Secure Choice completed its phased rollout to employers that were subject to the initial mandate (i.e., employers with 25 or more employees) from 2018-2019. The state is continuing to onboard employers and follow up with those that have not registered and that are not known to be exempt. Secure Choice is in the process of implementing a bill enacted in 2021 that expanded the mandate to employers with 5-24 employees; the program has set registration deadlines of November 1, 2022 and November 1, 2023 for non-exempt</p>	<p>CalSavers opened for enrollment on July 1, 2019. The registration deadlines for non-exempt employers with more than 50 employees have passed. Non-exempt employers with five or more employees must register by June 30, 2022.</p> <p><b>Litigation.</b> On May 6, 2021, the Ninth Circuit affirmed a district court’s dismissal of an ERISA preemption case brought against CalSavers by the Howard Jarvis Taxpayers Association (HJTA). HJTA’s petition for a rehearing en banc was denied. On October 12,</p>	<p>The program launched a pilot in October 2021. As of January 21, 2022, five of 10 pilot employers were “engaged,” with two employers regularly submitting payroll. The launch schedule for non-pilot employers is expected to begin in 2022 and consist of three waves based on employer size.</p>

	OREGON	ILLINOIS	CALIFORNIA	CONNECTICUT
		employers with 16-24 employees and 5-15 employees, respectively.	2021, HJTA filed a petition seeking review by the U.S. Supreme Court. The Supreme Court requested a response from CalSavers; CalSavers filed a response on January 21, 2022, and HJTA filed a reply on February 4, 2022. On February 9, 2022, the petition was distributed and is scheduled for conference on February 25, 2022.	
<b>SAVINGS VEHICLE</b>	Automatic enrollment payroll deduction Roth IRA (default) or traditional IRA	Automatic enrollment payroll deduction Roth IRA (the Secure Choice website states that a traditional IRA is available to savers “who need to recharacterize their contributions”)	Automatic enrollment payroll deduction Roth IRA (default) or traditional IRA	Automatic enrollment payroll deduction Roth IRA
<b>EMPLOYEES SUBJECT TO AUTOMATIC ENROLLMENT</b>	Any person age 18 or older who is employed for compensation in Oregon by a non-exempt employer (if the employer’s registration date has passed).	Any individual who: <ul style="list-style-type: none"> <li>• Is employed full-time or part-time by an employer that is required to facilitate Illinois Secure Choice; and</li> <li>• Has wages allocable to Illinois during a calendar year under the Illinois Income Tax Act.</li> </ul> <p><i>Note:</i> the statute requires verification of an employee’s eligibility for auto-enrollment in accordance with the Internal Revenue Code and federal and state laws; such verification must include the rejection of any enrollee under age 18.</p>	Any individual who: <ul style="list-style-type: none"> <li>• Is at least 18 years old;</li> <li>• Is employed by an employer that is required to facilitate CalSavers; and</li> <li>• Receives a Form W-2 with California wages and has the status of an employee under California’s Unemployment Insurance Code.</li> </ul>	Generally, any individual who has been employed for at least 120 days by an employer that is subject to the mandate, is 19 years of age or older, and who performs services within Connecticut.

	OREGON	ILLINOIS	CALIFORNIA	CONNECTICUT
<b>OVERSIGHT/ STAFFING</b>	<p>Program oversight is provided by the <a href="#">Oregon Retirement Savings Board</a> (“Board”), which is within the office of and is chaired by the state treasurer.</p> <p>Day-to-day operations are led by the executive director of the Oregon Savings Network, which includes the state’s 529 college savings plan and ABLE savings plan.</p>	<p>Program oversight is provided by the <a href="#">Illinois Secure Choice Savings Board</a> (“Board”), which is chaired by the state treasurer.</p> <p>Administrative support is provided by the treasurer’s office, with day-to-day operations led by the program’s executive director, Christine Cheng.</p>	<p>Program oversight is provided by the <a href="#">CalSavers Retirement Savings Board</a> (“Board”), which is chaired by the state treasurer.</p> <p>Day-to-day operations are led by the program’s executive director, Katie Selenski.</p>	<p>Program oversight is provided by the <a href="#">Connecticut Retirement Security Authority</a> (“Authority”), a quasi-public state agency. The Authority is chaired by the state comptroller.</p> <p>An executive director was previously employed until the Authority encountered financial challenges.</p>
<b>THIRD-PARTY ADMINISTRATOR</b>	<p>Vestwell State Savings (d.b.a. Sunday)</p> <p><i>Note:</i> the program converted from Ascensus, the program’s initial administrator, to Sunday over the weekend of November 5, 2021.</p>	<p>Ascensus</p>	<p>Ascensus</p>	<p>Vestwell State Savings (d.b.a. Sunday)</p>
<b>INVESTMENT PROVIDER(S)</b>	<ul style="list-style-type: none"> <li>State Street (TDFs, growth, and capital preservation funds)</li> </ul> <p><i>Note:</i> program staff are considering options for the Board to expand the program’s investment menu, including potentially the addition of an ESG-focused fund.</p>	<ul style="list-style-type: none"> <li>BlackRock (TDFs)</li> <li>Schwab (conservative and growth funds)</li> <li>State Street (capital preservation and U.S. government money market funds)</li> </ul>	<ul style="list-style-type: none"> <li>BNY Mellon/Newton (sustainable balanced fund)</li> <li>State Street (TDFs, money market, core bond, and global equity funds)</li> </ul>	<p>A series of target retirement date portfolios (managed by Lockwood Advisors) and static portfolios (e.g., a moderate growth portfolio) are comprised of funds provided by:</p> <ul style="list-style-type: none"> <li>Fidelity</li> <li>Schwab</li> <li>Vanguard</li> </ul>
<b>EMPLOYER MANDATE</b>	<p>Unless exempt, all Oregon employers, regardless of size, are required to participate in OregonSaves.</p> <p>An employer may obtain an exemption by offering a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, multiemployer, or governmental 457(b) plan to “some or all” of its employees.</p>	<p>An Illinois employer that meets the following requirements is required to participate in Illinois Secure Choice:</p> <ul style="list-style-type: none"> <li>Has employed at least five employees in Illinois during every quarter of the previous calendar year;</li> <li>Has been in business at least two years; and</li> <li>Has not offered a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, multiemployer, or governmental 457(b) plan in the preceding two</li> </ul>	<p>California employers that have five or more employees with California wages, at least one of whom is an “eligible employee” (see row above on employees subject to automatic enrollment), are generally required to participate in CalSavers.</p> <p>An employer is exempt if it maintains or contributes to a 401(a), 401(k), 403(a), or 403(b) plan, SEP, SIMPLE, or offers an automatic enrollment payroll deduction IRA.</p>	<p>A nongovernmental employer doing business in Connecticut that meets the following requirements is generally required to participate in the program:</p> <ul style="list-style-type: none"> <li>Has employed at least five individuals in Connecticut and paid at least \$5,000 in wages to at least five such individuals;</li> <li>Has been in existence at all times during the current calendar year and the immediately preceding calendar year; and</li> <li>Does not maintain a 401(a),</li> </ul>

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		years.		403(a), 403(b), SEP, SIMPLE, or government plan, or any other retirement arrangement approved by the Authority.  <i>Note:</i> an employer that maintains a plan in which no new participants may be enrolled and to which no contributions by or on behalf of a participant were made within a certain time period is not treated as maintaining a plan.
<b>IMPACT ON EXEMPT PLAN SPONSORS</b>	<p>To avoid the requirement to facilitate OregonSaves, plan sponsors must obtain an exemption by filing a “certificate of exemption” unless the employer has received a “notice of presumed exemption” based on OregonSaves’ review of Form 5500 data.</p> <p>A certificate of exemption or notice of presumed exemption remains valid so long as the employer continues to offer a qualified plan.</p> <p>In addition, legislation enacted in 2019 (S.B. 165) requires employers to report on their annual tax return whether they offer a qualified plan that exempts them from OregonSaves.</p>	<p>Any employer who is not required to participate but receives a registration notification from the account administrator is required to indicate to the program, through the online portal or by contacting the account administrator, that it is not required to participate.</p> <p><i>Note:</i> exempt employers were initially required to indicate their exemption on Form IL-941, but that reporting requirement was excluded on the 2020 and 2021 versions of the Form IL-941.</p>	Exempt employers are invited, but not required, to inform the administrator of their exemption from CalSavers.	The program’s website includes a link for employers that already offer a retirement plan to certify their exemption using the employer’s EIN and an “invite code” sent by postal mail or email. In 2021, the Authority adopted policies regarding “Identifying Exempt Employers Through Form 5500 Filings”; the details of these policies are unknown.
<b>CONTRIBUTION AND INVESTMENT DEFAULTS</b>	<ul style="list-style-type: none"> <li>• 5% contribution rate</li> <li>• Auto-escalation 1% each year (maximum 10%)</li> <li>• Contributions are defaulted into the capital preservation fund during the first 90 days following the initial contribution, then all existing savings and any future contributions are defaulted into</li> </ul>	<ul style="list-style-type: none"> <li>• 5% contribution rate</li> <li>• Annual auto-escalation (maximum 10%) (first effective in 2022)</li> <li>• Contributions are initially invested in the money market fund for a 90-day hold period and then rolled into a TDF, along with subsequent contributions</li> </ul>	<ul style="list-style-type: none"> <li>• 5% contribution rate</li> <li>• Auto-escalation 1% each year (maximum 8%)</li> <li>• Until April 8, 2021: the first \$1,000 saved was defaulted into the capital preservation fund, and subsequent contributions were defaulted into a TDF</li> <li>• Beginning April 8, 2021: contributions are defaulted into</li> </ul>	<ul style="list-style-type: none"> <li>• 3% contribution rate</li> <li>• No provision for auto-escalation</li> <li>• Contributions are defaulted into a cash preservation fund for the first 60 days; after 60 days, any existing savings and new contributions are defaulted into the age-appropriate TDF</li> </ul>

	OREGON	ILLINOIS	CALIFORNIA	CONNECTICUT
	<p>a TDF</p> <p><i>Note:</i> prior to the program’s conversion to Sunday (described above), the first \$1,000 saved by a participant were defaulted into the capital preservation fund and subsequent contributions were defaulted into a TDF.</p>		<p>the capital preservation fund for the first 30 days and then rolled into a TDF along with subsequent contributions</p> <p><i>Note:</i> the change in default investments was made due to low interest rates.</p>	
<b>LIMITS ON FEES AND EXPENSES</b>	<p>Participants are charged a monthly fee of \$1.50 (assessed quarterly) and an asset-based fee of approximately 25 bps (generally consisting of 15 bps for program administration and 10 bps for investments).</p> <p>No employer fees.</p> <p><i>Note:</i> prior to the program’s conversion to Sunday (described above), participants paid an approximately 1% asset-based fee (with no monthly or other flat fee).</p>	<p>Total annual expenses for account owners may not exceed 0.75% of the total trust balance. The program website currently describes the fees as being “approximately 0.75% of assets per year.”</p> <p>A \$5 annual paper statement fee applies (waived if participant elects e-delivery).</p> <p>No employer fees.</p>	<p>The Board must “seek to minimize participant fees.” The only administrative fee that is currently charged to participants is an asset-based fee of approximately 0.825% to 0.95%.</p> <p>No employer fees.</p>	<p>The statute requires that total annual fees associated with the program must be minimized for participants. In addition, on and after the completion of the fourth calendar year following the first date on which the program becomes effective, the total annual fees may not exceed 0.75% of the total value of program assets.</p> <p>The program website states that participants pay a \$26 annual account fee (charged quarterly at \$6.50 each quarter) and an annual asset-based fee of approximately 0.22%.</p> <p>No employer fees.</p>
<b>EMPLOYER PENALTIES</b>	<p>Amendments enacted in 2019 (S.B. 164) made it an unlawful practice for an employer to fail to comply with the requirements of OregonSaves. Employees may file a complaint alleging such an unlawful practice with the Labor and Industries Bureau Commissioner, who may impose civil penalties. Employee complaints may be filed no sooner than two years following the date by which the employer was required to register with</p>	<p>An employer who fails to timely enroll an employee without reasonable cause (unless the employee opted out) is subject to a penalty of \$250 for each employee for the calendar year (or partial calendar year) during which the employee was not enrolled in the program. In subsequent calendar years, the penalty is \$500 per employee.</p> <p>Formal enforcement notices were expected to be sent to non-compliant</p>	<p>Eligible employers that, without good cause, fail to allow eligible employees to participate in the program may be subject to a penalty of \$250 per eligible employee if noncompliance extends 90 days or more after receipt of notice. If found to be in noncompliance 180 days or more after the notice, an additional penalty of \$500 per eligible employee applies.</p> <p>The program announced on January 12, 2022 it would begin sending</p>	<p>The statute provides that, if a qualified employer fails to enroll a covered employee as required under the program, such covered employee, or the state labor commissioner, (1) may bring a civil action to require the qualified employer to enroll the covered employee and (2) shall recover such costs and reasonable attorney’s fees as may be allowed by the court.</p> <p>The program’s website states, “[I]f a business falls out of compliance and</p>

	OREGON	ILLINOIS	CALIFORNIA	CONNECTICUT
	<p>OregonSaves.</p> <p>If certain conditions are met, the Board may request that the Commissioner of the Bureau of Labor and Industries investigate an employer to determine the employer’s compliance with OregonSaves requirements.</p> <p>Civil penalties are limited to \$100 per employee (aggregate \$5,000) per year.</p>	<p>employers beginning in Q1 2022.</p>	<p>penalty imposition letters to non-compliant “Wave 1” employers (i.e., those employers with more than 100 employees that were subject to a September 30, 2020 registration deadline) in January 2022.</p>	<p>fails to register, an investigation could occur and there may be penalties.”</p>

**Part II: Approved Programs / Under Development (1 of 3)** (in alphabetical order)

	COLORADO	MAINE	MARYLAND
<b>PROGRAM NAME</b>	Colorado Secure Savings Program, enacted July 14, 2020	Maine Retirement Savings Program, enacted June 23, 2021	Maryland Small Business Retirement Savings Program (“ <a href="#">MarylandSaves</a> ”), enacted May 10, 2016
<b>LEGISLATION / STATUTE</b>	<a href="#">H.B. 20-200</a> (see also <a href="#">S.B. 19-173</a> ); Colo. Rev. Stat. § 24-54.3-101 et seq.	<a href="#">L.D. 1622, S.P. 515</a> ; 5 M.R.S.A. c. 7-A	<a href="#">S.B. 1007</a> ; Maryland Labor and Employment Code <a href="#">§ 12-101</a> et seq.
<b>PROGRAM STATUS</b>	<p>The implementing board has been meeting regularly since October 2020. An executive director was hired in February 2021. On May 6, 2021, the implementing board approved a motion to begin the hiring process for a financial education coordinator and an investment and policy analyst. In August 2021, the board entered into contracts with AKF Consulting for program consulting services and with Segal for investment consulting services. An RFP for program administration services was issued February 7, 2022; submissions are due March 21, 2022 at 1:00 p.m. (Mountain).</p> <p>According to a timeline on the program’s website, formal rulemaking is expected to begin in March 2022, with rules finalized by July 2022. A pilot program is expected to launch in October 2022, and full program enrollment is slated for 2023.</p> <p>In late 2021, the board approved a memorandum of cooperation with New Mexico’s Work and Save, a voluntary IRA program, establishing a partnership relating to program design and administration and financial service partners, among other things. New Mexico’s governing board approved a similar memorandum around the same time. The program’s executive director reported during the board’s January 25, 2022 meeting</p>	No known program updates following the bill’s enactment in 2021.	The program is planning to launch a pilot on June 6, 2022, and is targeting September 6, 2022 to begin a full rollout of the program. The parameters of each employer “wave” for purposes of the rollout are not known; the program was recently considering alternatives to rolling out from the largest to smallest employers.



	COLORADO	MAINE	MARYLAND
	that he had officially begun meeting with his New Mexico counterpart to design the partnership.		
<b>SAVINGS VEHICLE</b>	Automatic enrollment payroll deduction IRA (with a Roth IRA as the default)	Automatic enrollment payroll deduction Roth IRA (the board may also make a traditional IRA available)	Automatic enrollment payroll deposit IRA
<b>EMPLOYEES SUBJECT TO AUTOMATIC ENROLLMENT</b>	Any individual who is 18 years of age or older, who is employed for at least 180 days by an employer that is subject to the mandate, and who earns wages subject to Colorado state income tax.	Generally, any individual who is age 18 or older, is employed by an employer that is subject to the mandate, and has wages or other compensation allocable to Maine, but excluding: <ul style="list-style-type: none"> <li>• Employees covered under the Railway Labor Act</li> <li>• Employees on whose behalf an employer contributes to a multiemployer plan</li> <li>• Government employees</li> </ul> In addition: <ul style="list-style-type: none"> <li>• Such individuals who opt out of participation will be automatically re-enrolled (with the opportunity to opt out again) at intervals determined by the board, but not more frequently than annually</li> <li>• The board is required to adopt rules that establish whether such individuals who are part-time, seasonal, or temporary employees will be subject to automatic enrollment</li> </ul>	Any individual employed by an employer that is subject to the mandate, but excluding: <ul style="list-style-type: none"> <li>• Employees covered under the Railway Labor Act</li> <li>• Employees engaged in interstate commerce so as not to be subject to the legislative powers of Maryland</li> <li>• Employees eligible to participate in a “qualifying retirement plan” (term undefined)</li> <li>• Employees covered by a CBA that expressly provides for a multi-employer retirement plan</li> <li>• Employees under age 18 before the beginning of the calendar year</li> </ul>
<b>OVERSIGHT / STAFFING</b>	Program oversight is provided by <a href="#">the Colorado Secure Savings Program Board</a> (“Board”), which is within the office of and is chaired by the state treasurer.  An executive director assists with program oversight and administration.	Program oversight is provided by the Maine Retirement Savings Board (“Board”), whose members will annually elect one member to serve as chair.	Program oversight is provided by the <a href="#">Maryland Small Business Retirement Savings Board</a> (“Board”), which includes as members the state treasurer and state secretary of labor. The Board is a “body politic and corporate” and is an instrumentality of the state.  Program staff are led by the acting executive director, Glenn Simmons.
<b>THIRD-PARTY ADMINISTRATOR</b>	TBD	TBD	Vestwell State Savings (d.b.a. Sunday)
<b>INVESTMENT PROVIDER(S)</b>	TBD	TBD	<ul style="list-style-type: none"> <li>• BlackRock (target date funds)</li> <li>• Lincoln Financial (stable value fund)</li> <li>• State Street (income fund)</li> </ul>

	COLORADO	MAINE	MARYLAND
<b>EMPLOYER MANDATE</b>	<p>A Colorado employer that meets the following requirements is required to participate in the program:</p> <ul style="list-style-type: none"> <li>• Has, at any time during the previous calendar year, employed five or more employees who would meet the requirements to be subject to automatic enrollment in the program (see row below);</li> <li>• Has been in business at least two years; and</li> <li>• Has not, in the preceding two years offered a qualified retirement plan “to any employees,” including a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, or 457(b) plan, or a “legally compliant” multiple employer plan.</li> </ul>	<p>A nongovernmental employer engaged in a business or other enterprise in Maine that meets the following requirements is required to participate in the program:</p> <ul style="list-style-type: none"> <li>• Has been in business during both the current and preceding calendar years;</li> <li>• Has five or more employees; and</li> <li>• Has not offered “to its employees” at any time within the current calendar year or two preceding calendar years a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, or 457(b) plan.</li> </ul> <p><i>Note:</i> the program is required to “[p]romote expanded retirement saving” by encouraging employers that would be subject to the mandate to instead adopt one of the types of plans listed above.</p>	<ul style="list-style-type: none"> <li>• T. Rowe Price (growth fund)</li> </ul> <p>An employer that is engaged in a business or any other enterprise in Maryland, whether for profit or not for profit, and that pays its employees through a payroll system or service, is generally required to participate in the program.</p> <p>The following are excepted from the employer mandate:</p> <ul style="list-style-type: none"> <li>• Federal, state, or local governments;</li> <li>• Employers that offer, or at any time during the preceding two calendar years offered, an employer-offered savings arrangement that was established separately from MarylandSaves (i.e., an IRA, defined benefit plan, 401(k) plan, SEP, SIMPLE, or another arrangement, if in compliance with federal law, that the Board specifies by regulation); and</li> <li>• Employers that have not been in business at all times during the current calendar year and the immediately preceding calendar year.</li> </ul>
<b>IMPACT ON EXEMPT PLAN SPONSORS</b>	<p>The Board is required to establish an exemption process and requirements for employers that offer a plan. The statute requires the exemption process to be “minimal for employers and the [B]oard shall use existing state forms and state compliance structures for exemption reporting.”</p>	<p>The Board is required to establish a process for determining whether an employer is exempt from the program. Although the Board may establish processes to verify whether an employer is subject to the mandate (including “reference to online data and possible use of questions in employer state tax filings”), the processes must be consistent with the objective of “avoiding to the fullest extent practicable any need to require employers that are not covered employers to register with the program or take other action to demonstrate that they maintain [a plan].”</p>	<p>TBD (not specified by statute). It is unclear what process, if any, exempt employers will be required to follow in order to indicate their exemption and/or claim the waiver of the annual state filing fee (described below under “Employer Penalties”).</p>
<b>CONTRIBUTION AND INVESTMENT DEFAULTS</b>	<ul style="list-style-type: none"> <li>• 5% contribution rate</li> <li>• The Board is required to adopt rules that establish “mechanisms for automatic adjustments of contribution levels”—in October 2021, the Board approved a 1% annual auto-escalation rate, up to 8%</li> </ul>	<ul style="list-style-type: none"> <li>• 5% contribution rate</li> <li>• Auto-escalation of up to 1% per year (up to a maximum contribution rate of 8%) may be provided at the Board’s discretion, either on a default basis or by affirmative participant election</li> </ul>	<ul style="list-style-type: none"> <li>• Default contribution rate to be set by the Board</li> <li>• No provision for auto-escalation</li> <li>• Funds are initially contributed to an “emergency savings account” using a stable value fund; after the emergency savings</li> </ul>

	COLORADO	MAINE	MARYLAND
	(with an option to increase to 10% in the future) <ul style="list-style-type: none"> <li>• Default investment fund TBD</li> </ul>	<ul style="list-style-type: none"> <li>• Default investment option to be a TDF or similar; Board may specify that initial contributions will be defaulted into a principal preservation option</li> </ul>	account is “funded” (details unknown), contributions are invested in an age-appropriate TDF
<b>LIMITS ON FEES AND EXPENSES</b>	Total annual fees may not exceed 1% of the total value of program assets for the first five years of program operation. In the sixth year and thereafter, such fees may not exceed 0.75%. Although not explicitly stated, the bill suggests that any fees are intended to be imposed on account owners and not employers.	The program must seek to keep fees, costs, and expenses “as low as practicable.” Any administrative fee imposed on participants “may not exceed a reasonable amount relative to fees charged by similar established programs in other states.”	The Board may assess fees on program accounts and must consider investment options that “minimize administrative expenses.” Ongoing annual administrative expenses may not exceed 0.5% of program assets under management.
<b>EMPLOYER PENALTIES</b>	The Board is required to set penalties for employers that do not comply with program requirements. Enforcement may not begin until the later of one year after the program is established or one year after an employer is scheduled to enter the program.  Fines for noncompliance may be up to \$100 for each employee per year who is eligible to participate, up to an aggregate amount of \$5,000 per calendar year.	Maximum employer penalties for a failure, without reasonable cause, to enroll an individual who is subject to automatic enrollment scale upward over time, starting at \$10 per covered employee for failures prior to April 1, 2024, and rising to \$100 per covered employee for failures on or after October 1, 2026.	Instead of a penalty, employers who comply with the mandate will have the state’s annual \$300 corporation or association filing fee waived. Per the program’s website, employers that otherwise “offer a qualified plan” will also be entitled to the fee waiver.

## **Part II: Approved Programs / Under Development (2 of 3)**

	NEW JERSEY	NEW YORK CITY	NEW YORK STATE
<b>PROGRAM NAME</b>	New Jersey Secure Choice Savings Program, enacted March 28, 2019	Savings Access New York Retirement Program, enacted on May 11, 2021	New York Secure Choice Savings Program, enacted on October 21, 2021
<b>LEGISLATION / STATUTE</b>	<a href="#">A. 4134 (2R)</a> NJ Rev Stat. § 43:23-13 et seq.	<a href="#">INT 888-2018</a> ; <a href="#">INT 901-2018</a>	<a href="#">A. 3213-A</a>  <i>Note: this law amends the previously enacted voluntary Secure Choice Savings Program law (A 9505-D (2018)) to require that certain employers automatically enroll certain employees in the program (subject to opt-out).</i>

	NEW JERSEY	NEW YORK CITY	NEW YORK STATE
<b>PROGRAM STATUS</b>	The New Jersey Senate was reportedly receiving and considering nominations to the program’s board in early 2020. The state’s appropriations bill for FY2022, which was approved on June 29, 2021, includes \$500,000 in funding for Secure Choice. The statute requires the program to be implemented within 24 months of enactment (i.e., March 28, 2021), although one 12-month extension is allowed.	No known program updates following the bills’ enactment in 2021.  <i>Note:</i> the law generally prohibits the program from being implemented (or requires that steps be taken to discontinue the program) if the State of New York establishes a mandatory auto-IRA program of similar scope. (See the description of the New York State law in the column to the right.)	The Board (defined below) held its first meeting on January 26, 2022, during which it delegated its authority and responsibility under the law for the program’s development and implementation to the Department of Taxation and Finance.
<b>SAVINGS VEHICLE</b>	Automatic enrollment payroll deduction traditional or Roth IRA	Automatic enrollment payroll deduction traditional or Roth IRA (default type of IRA may be determined by the Board)	Automatic enrollment payroll deduction Roth IRA
<b>EMPLOYEES SUBJECT TO AUTOMATIC ENROLLMENT</b>	An individual who is 18 years of age or older, who lives in New Jersey or is employed by an employer in New Jersey, and whose wages are subject to withholding as provided under the New Jersey Gross Income Tax Act.	An employee who is 21 years of age or older, who is employed for compensation by an employer that is subject to the mandate in a position in which he or she is regularly scheduled to work at least 20 hours per week, and whose regular duties “occur in the city.”	An individual who: <ul style="list-style-type: none"> <li>• Is age 18 or older;</li> <li>• Is employed by an employer that is subject to the mandate; and</li> <li>• Earned wages working for an employer in the state during a calendar year.</li> </ul>
<b>OVERSIGHT / STAFFING</b>	Oversight to be provided by the New Jersey Secure Choice Savings Board (“Board”), which is established within the state’s treasury department and is chaired by the state treasurer.	Oversight to be provided by the Retirement Savings Board (“Board”), the chair of which is appointed by the mayor.  The city comptroller is required to establish an investment strategy and policy, which is subject to the Board’s approval.	Oversight to be provided by the New York Secure Choice Savings Program Board (“Board”), with the state commissioner of taxation and finance serving as chair.
<b>THIRD-PARTY ADMINISTRATOR</b>	TBD	TBD	TBD
<b>INVESTMENT PROVIDER(S)</b>	TBD	TBD (any contracts with a person for investments or investment management services would be entered into with the city comptroller)	TBD
<b>EMPLOYER MANDATE</b>	A non-governmental employer that is engaged in a for-profit or nonprofit business or other enterprise in New Jersey is required to facilitate the program if the employer: <ul style="list-style-type: none"> <li>• Had at least 25 employees in New Jersey on a continuous basis during the previous calendar year;</li> <li>• Has been in business at least two years; and</li> <li>• Has not, in the preceding two years, offered</li> </ul>	A non-governmental person, corporation, limited liability company, or association that employs any individual in any occupation, industry, trade, business, or service is required to facilitate the program if such employer: <ul style="list-style-type: none"> <li>• Employs no fewer than five employees whose regular duties “occur in the city” (currently and without interruption for the previous calendar year);</li> </ul>	All “employers” are required to facilitate access to the program.  An employer is defined as a for-profit or not-for-profit person or entity engaged in a business or other enterprise in New York state that: <ul style="list-style-type: none"> <li>• Has at all times during the previous calendar year employed at least 10</li> </ul>

	NEW JERSEY	NEW YORK CITY	NEW YORK STATE
	<p>a “qualified retirement plan,” including a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, or 457(b) plan, or a plan sponsored by a professional employer organization (PEO).</p> <p>In addition to the types of “qualified retirement plans” listed above, the statute separately specifies that employers may opt to set up or provide coverage under “any type of employer-sponsored retirement plan,” which further includes a defined benefit plan or automatic enrollment payroll deduction IRA, in lieu of facilitating Secure Choice.</p>	<ul style="list-style-type: none"> <li>• Has been in continuous operation for at least two years; and</li> <li>• Has not offered or maintained in the preceding two years a 401(a), 403(a), 403(b), SEP, SARSEP, SIMPLE IRA, or SIMPLE 401(k) plan, or a payroll deduction IRA (including the state’s Secure Choice program).</li> </ul> <p>The Board may establish a “hardship exemption” process for employers otherwise subject to the mandate who demonstrate that participation in the program would be unduly burdensome.</p>	<p>employees in the state;</p> <ul style="list-style-type: none"> <li>• Has been in business at least two years; and</li> <li>• Has not offered a qualified retirement plan (including, but not limited to a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, or 457(b) plan) in the preceding two years.</li> </ul>
<b>IMPACT ON EXEMPT PLAN SPONSORS</b>	<p>TBD. It is unclear whether exempt employers will be required to report their exemption to the program.</p> <p>It is also unclear whether the required process to allow individuals to voluntarily make contributions to the program could affect plan sponsors, such as by requiring plan sponsors to allow employees who voluntarily participate in the program (in addition to or in lieu of the employer’s plan) to make contributions via payroll deduction. To date, however, the implemented programs (described in Part I above) that include a similar provision for voluntary participation by individuals have not required such individuals’ employers to offer payroll deduction or take other action with respect to the program.</p>	<p>TBD. It is unclear whether exempt employers will be required to report their exemption to the program. The Board is empowered to establish “procedures and requirements, which may apply to participating employers and any other employer. . . to enable the [B]oard, or the enforcement agency . . . to ascertain whether such an employer is subject to [the mandate].” Any such procedures and requirements could potentially include reporting requirements for exempt employers.</p>	<p>TBD. It is unclear whether an exempt employer would be required to inform the state that it is not subject to the participation requirement. The Board is empowered to “exercise any and all other powers reasonably necessary for the effectuation of the purposes” of the law, which presumably could include the power to mandate reporting requirements.</p> <p>In addition, the law prohibits plan sponsors from terminating their qualified retirement plan “for the purposes of participating in the program.”</p>
<b>CONTRIBUTION AND INVESTMENT DEFAULTS</b>	<ul style="list-style-type: none"> <li>• 3% contribution rate</li> <li>• Default investment option is a life-cycle fund unless the Board selects a different default investment option</li> <li>• The Board may provide that the first \$1,000 in contributions made by an enrollee will be deposited into a capital preservation fund (if available)</li> </ul>	<ul style="list-style-type: none"> <li>• 5% default contribution rate (may be increased or decreased by the Board)</li> <li>• Default automatic escalation (or reduction) of contribution rates may be adopted by the Board</li> <li>• Default investment option may be determined by the Board</li> </ul>	<ul style="list-style-type: none"> <li>• 3% default contribution rate</li> <li>• Default investment option to be selected by the Board</li> </ul>
<b>LIMITS ON FEES</b>	<p>Annual administrative fees, which are allocated to program accounts, may not exceed 0.75% of</p>	<p>To the extent practicable and consistent with the purpose of the program, all administrative fees</p>	<p>No overall limits on program fees, which are paid out of moneys on deposit (or, initially,</p>

	NEW JERSEY	NEW YORK CITY	NEW YORK STATE
AND EXPENSES	the program fund's total balance during the first three years after the program's establishment, and 0.6% thereafter.	"shall be borne by participants" or paid with funds received as loans, grants, or other contributions to the program. Fees and costs to participants may be maintained "at a level determined by the [B]oard to be reasonable."	out of any funds appropriated by the state), are specified, although the Board must "keep its annual administrative expenses as low as possible."
EMPLOYER PENALTIES	<p>An employer subject to the mandate that, without reasonable cause, fails to enroll an employee in the program within the required time period is subject to:</p> <ul style="list-style-type: none"> <li>• A written warning, for the first calendar year during which a violation occurs;</li> <li>• A \$100 fine, for the second calendar year during which a violation occurs;</li> <li>• A \$250 fine for each employee who was neither enrolled in nor opted out of participation, for the third and fourth calendar years during which a violation occurs; and</li> <li>• A \$500 fine for each employee who was neither enrolled in nor opted out of participation, for the fifth and any subsequent calendar years during which a violation occurs.</li> </ul> <p>An employer that fails to remit employee contributions to the program fund is subject to a \$2,500 penalty for the first offense and a \$5,000 penalty for the second and each subsequent offense.</p>	<p>Employer penalties for noncompliance with the requirements to automatically enroll covered employees and remit funds deducted from participants' earnings may not exceed \$250 per covered employee or other eligible individual for a one-time offence. The penalty for a violation that occurs within two years of a previous violation may not exceed \$500, and the penalty for any subsequent violations within the two-year period may not be more than \$1,000. Other civil penalties apply for other participating employer violations such as failing to retain records.</p> <p>Any covered employee or other eligible individual alleging a violation by an employer may file a complaint with the enforcement agency, which may also initiate its own investigations. In addition, any covered employee or other eligible individual alleging certain forms of employer noncompliance may bring a civil action against a participating employer in certain circumstances.</p>	The Board determines the enforcement of penalties.

## Part II: Approved Programs / Under Development (3 of 3)

	SEATTLE	VIRGINIA
<b>PROGRAM NAME</b>	Seattle Retirement Savings Plan (“SRSP”), enacted November 22, 2017	State-facilitated IRA Savings Program, enacted April 15, 2021
<b>LEGISLATION / STATUTE</b>	<a href="#">C.B. 119113</a>	<a href="#">H.B. 2174</a>
<b>PROGRAM STATUS</b>	Early reports indicated that Seattle put its program development efforts on hold because Washington state was considering a state-wide auto-IRA program. Legislation for a state-run auto-IRA program, however, did not pass in the 2019 or 2020 legislative sessions and was not reintroduced in 2021. No recent updates on the SRSP are known, and non-archival information about the program appears to have been removed from the city’s website.	The Program Advisory Committee (described below) has been holding meetings since its first meeting on October 21, 2021. An <a href="#">RFP</a> seeking a third-party program administrator was issued on February 1, 2022; proposals will be accepted until 5:00 p.m. (EST) on March 25, 2022. The RFP indicates a program launch date of on or before July 1, 2023.
<b>SAVINGS VEHICLE</b>	Automatic enrollment payroll deduction traditional or Roth IRA	Automatic enrollment payroll deduction traditional and/or Roth IRA (to be determined by the Board)
<b>EMPLOYEES SUBJECT TO AUTOMATIC ENROLLMENT</b>	An employee who is at least 18 years old who is customarily employed for compensation by a covered employer in the Seattle city limits.  <i>Note: the law requires the Board to adopt processes and rules that establish whether employees subject to automatic enrollment should be limited to employees customarily working a certain number of hours per month in the Seattle city limits.</i>	An individual who is age 18 or older, who is currently employed at least 30 hours a week by an employer that is subject to the mandate, and who is “receiving wages” (the bill does not limit “wages” to Virginia wages, which could have implications for Virginia employers with out-of-state employees).
<b>OVERSIGHT / STAFFING</b>	Oversight to be provided by the Seattle Retirement Savings Plan Board of Administration (“Board”).	Oversight is provided by the governing board of the Virginia College Savings Plan (“Board”), with assistance from a Program Advisory Committee appointed by the Board.  Peter Thompson has served as the program’s director since September 2021. His previous experience includes working with the Virginia Retirement System’s defined contribution plans.
<b>THIRD-PARTY ADMINISTRATOR</b>	TBD	TBD
<b>INVESTMENT PROVIDER(S)</b>	TBD	TBD
<b>EMPLOYER MANDATE</b>	An employer is required to facilitate the SRSP if the employer: <ul style="list-style-type: none"> <li>• Employs at least one eligible employee;</li> <li>• Has been in business more than 24 months;</li> </ul>	A non-governmental, for-profit or non-profit employer in Virginia would be required to facilitate the program if the employer: <ul style="list-style-type: none"> <li>• Employed at least 25 “eligible employees” (see row below) for the</li> </ul>

	SEATTLE	VIRGINIA
	<ul style="list-style-type: none"> <li>• Is not a federal, state, or local government entity;</li> <li>• Meets any other requirements the Board may establish; and</li> <li>• With respect to employees working within the Seattle city limits, does not offer a qualified retirement plan or participate in a qualified MEP or multiemployer plan (e.g., a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, or 457(b) plan).</li> </ul> <p><i>Note: the law requires the Board to adopt processes and rules that establish whether employers subject to the mandate should be limited to employers with at least a certain number of eligible employees.</i></p>	<p>quarter ending December 31 and the preceding three quarters of the preceding calendar year;</p> <ul style="list-style-type: none"> <li>• Has been “operating for at least two years prior to Program implementation”; and</li> <li>• Does not sponsor, maintain, or contribute to an automatic enrollment payroll deduction IRA or a qualified retirement plan in compliance with federal law for its employees, including a 401(a), 403(a), 403(b), SEP, or SIMPLE plan.</li> </ul> <p>An employer would become subject to the mandate at any time that the above conditions are met.</p>
<b>IMPACT ON EXEMPT PLAN SPONSORS</b>	The law requires the Board to develop the process and requirements “for an employer to obtain an exemption from offering the SRSP by showing the employer is not a covered employer.”	TBD. It is unclear whether employers that provide a qualified plan would be required to inform the state that they are not subject to the mandate. The bill requires the Board to establish procedures for receiving and providing data relevant to program administration, which could potentially include tracking employer exemptions.
<b>CONTRIBUTION AND INVESTMENT DEFAULTS</b>	<ul style="list-style-type: none"> <li>• Default contribution rate to be set by the Board</li> <li>• Default escalation must be “offer[ed]”</li> <li>• The Board “may” designate a default investment fund</li> </ul>	<ul style="list-style-type: none"> <li>• Default contribution rate to be determined by the Board</li> <li>• Default annual escalation rate to be determined by the Board</li> <li>• Default investment fund to be determined by the Board</li> </ul>
<b>LIMITS ON FEES AND EXPENSES</b>	Administration fees must be kept low but “sufficient to ensure that the SRSP is sustainable.” Although not explicitly stated, the bill suggests that any fees are intended to be imposed on account owners and not employers.	None specified. A fee structure is to be developed by the Board, where “fee” means any investment management charges, administrative charges, investment advice charges, trading fees, marketing and sales fees, revenue sharing, broker fees, and other costs necessary to run the program. Although not explicitly stated, the bill suggests that any fees are intended to be imposed on account owners and not employers.
<b>EMPLOYER PENALTIES</b>	The SRSP is required to require a penalty, as recommended by the Board and approved by the City Council by ordinance, for employers subject to the mandate that fail to: (1) offer an eligible employee the opportunity to contribute; (2) withhold an eligible employee’s contributions; (3) send an eligible employee’s contributions to the investment administrator; or (4) provide an eligible employee with required disclosures.	Employer penalties are limited to \$200 per eligible employee annually. The Board is required to determine enforcement mechanisms and exact penalties at a later date.



**Part III. Active Legislation (1 of 3)** (in alphabetical order)

	DELAWARE	HAWAII	KANSAS
<b>PROGRAM / PLAN NAME</b>	Expanding Access for Retirement and Necessary Saving Program (“EARNs Program”)	Hawaii Retirement Savings Program (“Program”)	Kansas Work and Save Program (“Program”)
<b>LEGISLATION</b>	<a href="#">H.B. 205</a>	<a href="#">H.B. 2046</a> / <a href="#">S.B. 3289</a>	<a href="#">H.B. 2378</a>
<b>STATUS</b>	H.B. 205 was introduced on May 20, 2021. The bill was reported out of the Labor Committee on June 9, 2021. Amendments were introduced and placed with the bill on June 11, 2021 and June 21, 2021. The bill carried over to the 2022 session.	S.B. 3289 was introduced on January 26, 2022, and referred on January 28, 2022 to the Labor, Culture and the Arts (“LCA”) Committee and Ways and Means Committee. On February 9, 2022, the LCA Committee held a hearing on the bill and recommended that it be passed with amendments. (Recommended amendments are unknown.)  H.B. 2046 was introduced on January 26, 2022, and referred to multiple committees on January 28, 2022.	H.B. 2378 was introduced and referred to the Committee on Insurance and Pensions on February 12, 2021. The bill carried over to the 2022 session.
<b>SAVINGS VEHICLE</b>	Automatic enrollment payroll deduction Roth IRA (traditional IRAs may be authorized by the Board)  <i>Note:</i> House Amendment No. 2 would eliminate the bill’s automatic enrollment feature.	Automatic enrollment payroll deduction Roth IRA (traditional IRAs may be offered at the Board’s discretion)	“Forced-choice” payroll deduction Roth IRA arrangement (i.e., employees of employers subject to the mandate must be required to elect whether to contribute to a Program IRA)  The state treasurer would have authority to make a traditional IRA available.
<b>EMPLOYEES SUBJECT TO AUTOMATIC ENROLLMENT</b>	An individual who is employed by an employer that is required to participate and who has wages or other compensation allocable to Delaware.  Exceptions: <ul style="list-style-type: none"> <li>• Governmental employees;</li> <li>• Any employee covered under the federal Railway Labor Act; and</li> <li>• Any employee on whose behalf an employer makes contributions to a multiemployer plan.</li> </ul> <i>Notes:</i> under House Amendment No. 1, the	An individual age 18 or older who: is a resident of Hawaii; is in the employment of an employer that is subject to the mandate; and receives wages or other remuneration from such employer that is subject to income tax as compensation paid in Hawaii.  Exceptions: <ul style="list-style-type: none"> <li>• Any individual covered under the federal Railway Labor Act; and</li> <li>• Any individual on whose behalf the employer makes contributions to a multiemployer plan.</li> </ul>	An individual is subject to the “forced-choice” election if he or she is: <ul style="list-style-type: none"> <li>• Employed by a covered employer</li> <li>• Paid wages in the state of Kansas; and</li> <li>• Age 18 or older.</li> </ul> Although the bill is unclear, any employee who is (i) covered under the Federal Railway Labor Act; (ii) whose employer makes contributions to a multiemployer pension trust fund; or (iii) who is a governmental employee does not appear to be subject to the forced-choice election even if the employee’s employer is otherwise required to participate in the Program.

	DELAWARE	HAWAII	KANSAS
	<p>Board would be permitted to limit eligibility for specific categories of employees in order to “avoid creating accounts that could increase administrative or management fees associated with available investment options.” The amendment would also exclude from automatic enrollment (1) any employee who is ineligible for covered employee status under regulations promulgated by the Board and (2) any employee under age 18.</p> <p>House Amendment No. 2 would exclude from automatic enrollment any employee who has been employed by their employer for a period of less than 90 consecutive days.</p>		
<b>OVERSIGHT</b>	<p>The EARNS Program would be overseen by the Delaware EARNS Program Board (“Board”), the members of which would include the state treasurer, secretary of finance, insurance commissioner, and secretary of labor (or their designee). The Board would include two members of the public, one of whom would be appointed by the governor as chair.</p> <p>Unless terminated earlier, the Board would disband and cease to exist effective December 31, 2025, upon which time all duties and functions of the Board would be transferred to the state’s Plans Management Board, which oversees the state’s 529 and ABLE plans, among others. The Board may, however, disband at any time after full program implementation by majority vote, provided that the Plans Management Board agrees to assume all duties of the Board prior to December 31, 2025.</p>	<p>Program oversight would be provided by the Hawaii Retirement Savings Board (“Board”), which would be established within the Department of Budget and Finance. Members of the Board would be required to be appointed no later than 60 days after enactment of the Act, for terms of office beginning in October 2022.</p> <p>The Board would be permitted to employ an executive director and other staff.</p>	<p>Program oversight would be provided by the state treasurer, who is authorized to employ or retain an executive director.</p>
<b>EMPLOYER MANDATE</b>	<p>“Covered employers” are required to participate.</p> <p>A covered employer means any for-profit or</p>	<p>“Covered employers” are required to participate.</p> <p>A covered employer means any person who has been in business in Hawaii for more than two</p>	<p>“Covered employers” are required to participate.</p> <p>A covered employer means a for-profit or not-for-profit nongovernmental entity engaged in a</p>

	DELAWARE	HAWAII	KANSAS
	<p>nonprofit nongovernmental person or entity engaged in a business or other enterprise in Delaware that:</p> <ul style="list-style-type: none"> <li>• Employs, and during the previous calendar year employed, at least five employees who are subject to automatic enrollment in the EARNS Program (described above);</li> <li>• Has been in business in Delaware for at least six months in the immediately preceding calendar year; and</li> <li>• Does not maintain a specified tax-favored retirement plan (defined as an automatic enrollment payroll deduction IRA or a qualified retirement plan, including a 401(a), 401(k), 403(a), 403(b), SEP, or SIMPLE plan).</li> </ul> <p><i>Note:</i> House Amendment No. 1 would modify the definition of “specified tax-favored retirement plan” by (1) specifying that an automatic enrollment payroll deduction IRA must be applicable to all covered employees and meet all other qualifications that may be established by the Board and (2) limit the definition with respect to retirement plans that are “qualified under, or described in, and in compliance with” sections 401(a), 401(k), 403(b), 408(k) (SEP), or 408(p) (SIMPLE IRA) of the Code.</p>	<p>years and has one or more individuals in employment.</p> <p>Exclusions:</p> <ul style="list-style-type: none"> <li>• Governmental employers; or</li> <li>• A person that has been maintaining “for all employees” during the preceding two years a retirement plan that is tax-qualified or is described in and satisfies the requirements of Code section 401(a), 401(k), 403(a), 403(b), 408(k) (SEP), or 408(p) (SIMPLE IRA).</li> </ul>	<p>business or other enterprise in Kansas that does not already maintain a 401(a), 401(k), 403(a), 403(b), SEP, or SIMPLE plan “for such employer’s employees” within the current or two preceding calendar years.</p>
<p><b>IMPACT OF MANDATE ON PLAN SPONSORS THAT OFFER A RETIREMENT PLAN TO SOME (BUT NOT ALL) EMPLOYEES (e.g., PART-</b></p>	<p>Unclear. The bill suggests that an employer is exempt if it maintains a plan at all, but it may have been intended that uncovered <i>employees</i> (including those who will be eligible for the plan in the future) may be swept into the mandate. The failure to specifically address those employees not covered by and/or ineligible for the plan creates uncertainty with respect to how the Board would ultimately implement the bill.</p>	<p>Because the bill would only exempt plan sponsors whose plan is maintained “for all employees,” it appears that plan sponsors whose plan does not meet that standard would be subject to the employer mandate.</p>	<p>Unclear. The bill merely states that an employer that maintains a specified tax-favored retirement plan for “such employer’s employees” is not required to participate in the Program. It is unclear if the intent is to exempt an employer that already offers <i>any</i> type of plan, including one that is offered only to certain employees. The ambiguity creates uncertainty with respect to how the treasurer would ultimately implement the bill.</p>

	DELAWARE	HAWAII	KANSAS
<b>TIME WORKERS)</b>			
<b>OTHER IMPACTS ON EXEMPT PLAN SPONSORS</b>	The Board is required to ensure that the EARNS Program is designed and operated to “[m]inimize any need for employers that are not covered employers to register with the Program.”	Unclear. The bill does not specify whether exempt employers would be required to inform the state that they are not subject to the participation requirement. The bill does, however, empower the Board to “[t]ake any other action the [B]oard deems reasonably necessary to carry out the purpose of [the law],” which presumably could include reporting requirements.	The bill gives the state treasurer the power to establish processes that the treasurer reasonably deems necessary or advisable to verify whether an employer is subject to the mandate, including reference to online data and possible use of questions in employer state tax filings. Such processes must, however, be “consistent with the objective of avoiding any requirement that an [exempt employer] register with the Program or take other action to demonstrate that such employer maintains a specified tax-favored retirement plan or is exempt from being treated as a covered employer.”
<b>INVESTMENT OPTIONS</b>	Investment options would be selected by the Board and “may encompass a range of risk and return opportunities.” The menu of options must be determined taking into account: <ul style="list-style-type: none"> <li>• The nature and objectives of the EARNS Program;</li> <li>• The diverse needs of participants;</li> <li>• The desirability of limiting investment choices to a reasonable number; and</li> <li>• The extensive investment choices available if an account is rolled over to an IRA outside of the EARNS Program.</li> </ul>	Unspecified.	Investment options would be determined by the state treasurer. The treasurer must “tak[e] into account the nature and objectives of the [P]rogram, the desirability, based on behavioral research findings, of limiting investment choices under the [P]rogram to a reasonable number and the extensive investment choices available to participants in the event that they roll over to an IRA outside the [P]rogram.”
<b>CONTRIBUTION AND INVESTMENT DEFAULTS</b>	<ul style="list-style-type: none"> <li>• 3% to 6% default contribution rate, to be determined by the Board</li> <li>• Auto-escalation of 1% or 2% (to be determined by the Board) no more frequently than annually and up to a maximum of 15%</li> <li>• Default investment options would be determined by the Board.</li> </ul>	<ul style="list-style-type: none"> <li>• 5% default contribution rate</li> <li>• Board may elect to utilize auto-escalation of 1% per year up to a maximum of 8%, either as a default or upon participant election</li> <li>• Default investment option is unspecified</li> </ul>	<ul style="list-style-type: none"> <li>• The state treasurer would be responsible for determining an investment and contribution rate “standard package,” and a participating employee could either accept the standard package or make an election for another option.</li> <li>• The default investment options would include “a mix of assets classes, such as target date and balanced funds.”</li> <li>• Annual increases in the contribution rate up to a maximum of 8% must be provided, either by default or upon affirmative participant election.</li> </ul>

	DELAWARE	HAWAII	KANSAS
<b>LIMITS ON FEES AND EXPENSES</b>	The Board may charge and collect “reasonable” administrative fees from participants.	Total fees and expenses must be kept “as low as practicable” and may not exceed 75 basis points following the initial three-year period after the Program’s establishment.	Fees and expenses must be kept “as low as practicable” and must not exceed 0.75% of the total assets of the Program, except that this limit would not apply during the first three years of the Program, beginning with the initial implementation date. Although not explicitly stated, the bill suggests that any fees are intended to be imposed on account owners and not employers.
<b>EMPLOYER PENALTIES</b>	The Department of Labor may bring “any legal action necessary to address...noncompliance.”	<p>The Director of Finance and any employee denied automatic enrollment in violation of the law would be allowed to file a civil action against the covered employer.</p> <p>Any covered employer that fails to enroll a covered employee in accordance with the law “without equitable justification” would be liable for penalties ranging from \$25 to \$50 for each month the covered employee was not enrolled. The covered employer would also be liable to the covered employee for an amount equal to the contribution amount that would have been made by the employee into the Program, plus interest at a rate of 6% per year; such amount “shall be transmitted by the covered employer to the program to be paid into the covered employee’s IRA.” No such penalties would be imposed, however, if the covered employer can establish by a preponderance of the evidence that it:</p> <ul style="list-style-type: none"> <li>• Exercised reasonable diligence to meet the Program requirements;</li> <li>• Did not know or reasonably should not have known that the failure existed; and</li> <li>• Cures the failure within 90 days of the earlier of (1) receiving actual notice or (2) the day the employer should have known that the failure existed.</li> </ul>	<p>Employer penalties for noncompliance would equal \$250 per covered employee per year.</p> <p>The bill would allow covered employees or an appropriate state official to bring a civil action to require the covered employer to enroll the covered employee in the Program, and provides for the recovery of such costs and reasonable attorney fees as may be allowed by the court.</p>
<b>LAUNCH DATE</b>	To the extent practicable, the Board would be required to implement the EARNs Program so that covered employees can participate and make contributions by January 1, 2025.	July 1, 2024	The treasurer must implement the Program so that individuals can begin contributing no later than July 1, 2023.

	DELAWARE	HAWAII	KANSAS
	The section of the Act providing for the EARNNS Program takes effect following the date of publication of a notice submitted by the state treasurer that funding necessary to implement the EARNNS Program has been received from the state legislature or other sources.		

**Part III. Active Legislation (2 of 3)** (in alphabetical order)

	MASSACHUSETTS 1	MASSACHUSETTS 2	MINNESOTA	NEW MEXICO
<b>PROGRAM / PLAN NAME</b>	Massachusetts Secure Choice Individual Retirement Account Program (“IRAP”)  <i>Note:</i> the Act would also establish the voluntary Secure Choice Multiple-Employer Retirement Account Program.	Massachusetts Secure Choice Savings Program (“Program”)	Minnesota Secure Choice Retirement Program (“Program”) <i>Note:</i> The Program would have two available plans, the voluntary Multiple Employer Retirement Plan (“MERP”) and the “mandatory” Individual Retirement Account Plan (“IRAP”) addressed below.	New Mexico Work and Save Program (“Program”)
<b>LEGISLATION</b>	<a href="#">H. 1138</a> ; <a href="#">S. 653</a> (similar bill)	<a href="#">H. 1067</a>	<a href="#">H.F. 1258</a> / <a href="#">S.F 976</a>	<a href="#">S.B. 187</a> / <a href="#">S.B. 94</a> / <a href="#">H.B. 176</a> (the bills are identical except that S.B. 187 and H.B. 176 include an appropriation of \$203,000 to fund staff in FY2023, whereas S.B. 94 does not)  <i>Note:</i> the bills would amend the previously enacted voluntary IRA and marketplace law, the New Mexico Work and Save Act (H.B. 44) (2020), as amended in 2021 (S.B. 129), to require that certain employers automatically enroll certain employees in the program (subject to opt-out).
<b>STATUS</b>	H. 1138 was filed on February 19, 2021. S. 653 was filed on January	Filed on February 18, 2021, and referred to the Financial Services	H.F. 1258 was introduced and referred to the State Government	S.B. 94 was introduced and referred to the Senate Finance Committee, Senate

	MASSACHUSETTS 1	MASSACHUSETTS 2	MINNESOTA	NEW MEXICO
	<p>26, 2021. Both bills were referred to the Financial Services Committee on March 29, 2021. A hearing on the bills was held on October 26, 2021.</p> <p><i>Note:</i> the legislature meets throughout the year. Legislation to expand the state’s existing multiple employer plan for small nonprofits (the CORE 401(k) plan) to nonprofits of any size is also under consideration.</p>	<p>Committee on March 29, 2021. A hearing on the bill was held on October 26, 2021.</p> <p><i>Note:</i> the legislature meets throughout the year. Legislation to expand the state’s existing multiple employer plan for small nonprofits (the CORE 401(k) plan) to nonprofits of any size is also under consideration.</p>	<p>Finance and Elections Committee on February 18, 2021. S.F. 976 was introduced and referred to the State Government Finance and Policy and Elections Committee on February 15, 2021. The bills carried over to the 2022 session.</p>	<p>Tax, Business and Transportation Committee, and Senate Committees’ Committee on January 19, 2022. S.B. 187 was introduced and referred to the same committees on January 31, 2022.</p> <p>H.B. 176 was introduced and referred to the House Commerce and Economic Development Committee (“HCEDC”) and the House Appropriations and Finance Committee on January 31, 2022. On February 7, 2022, the bill was reported by the HCEDC with a “do pass” recommendation.</p> <p><i>Note:</i> the previously enacted voluntary IRA and marketplace program is currently under development.</p>
<b>SAVINGS VEHICLE</b>	Automatic enrollment payroll deduction “individual account”	Automatic enrollment payroll deduction Roth IRA	The IRAP would consist of an automatic enrollment “payroll deduction arrangement”	Automatic enrollment payroll deduction Roth IRA
<b>EMPLOYEES SUBJECT TO AUTOMATIC ENROLLMENT</b>	<p>Subject to the exceptions listed below, a person that:</p> <ul style="list-style-type: none"> <li>• Is employed by an eligible employer; and</li> <li>• Provides (or is expected to provide) 750 or more hours of service for any calendar year, with eligibility continuing even if service in later years is less than 750 hours.</li> </ul> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• An active participant in a 401(a), 403(a), 403(b), governmental (including 457(b)), SEP, or SIMPLE plan, or an individual who makes deductible contributions to a 501(c)(18)</li> </ul>	<p>An individual that:</p> <ul style="list-style-type: none"> <li>• Is 18 years of age or older;</li> <li>• Is employed by an employer that is required to participate; and</li> <li>• Has wages allocable to Massachusetts during a calendar year.</li> </ul>	<p>A person:</p> <ul style="list-style-type: none"> <li>• Who is employed by an eligible employer that does not participate in the MERP;</li> <li>• Who worked 500 or more hours for the eligible employer during the immediately preceding calendar year;</li> <li>• Whose primary work location is in Minnesota; and</li> <li>• Who, on December 31 of the preceding calendar year, was at least 18 years of age.</li> </ul> <p>Once becoming an eligible employee, the employee remains an eligible employee even if he or she works fewer than 500 hours in a future year.</p>	<p>The bills would require an employer that is subject to the mandate to automatically enroll “its employees” (subject to opt out).</p> <p>Although unclear from the bill language, it may have been intended that those employees subject to automatic enrollment are limited to persons that:</p> <ul style="list-style-type: none"> <li>• Are at least 18 years of age;</li> <li>• Earn income subject to New Mexico’s Income Tax Act; and</li> <li>• For at least 180 days are employed, either full time or part time, by an employer that is required or eligible to participate.</li> </ul>

	MASSACHUSETTS 1	MASSACHUSETTS 2	MINNESOTA	NEW MEXICO
	<p>trust);</p> <ul style="list-style-type: none"> <li>• Employees enrolled in a payroll deduction IRA maintained or offered by their employer;</li> <li>• Employees covered by a collective bargaining agreement that does not provide for participation in the IRAP; and</li> <li>• Employees who are not at least age 18 before the beginning of the calendar year.</li> </ul> <p><i>Note:</i> although not explicitly stated, the bill suggests that the IRAP would be limited to individuals employed for compensation in Massachusetts.</p>			<p>Exceptions:</p> <ul style="list-style-type: none"> <li>• Employees covered under the Railway Labor Act;</li> <li>• Employees on whose behalf an employer makes contributions to a multiemployer Taft-Hartley plan; and</li> <li>• Governmental employees.</li> </ul>
<b>OVERSIGHT</b>	IRAP oversight would be provided by the Secure Choice Retirement Savings Board (“Board”), with the state treasurer serving as the chair.	Program oversight would be provided by the Massachusetts Secure Choice Savings Board (“Board”), with the state treasurer serving as the chair.	Program oversight would be provided by the Secure Choice Retirement Program Board of Directors (“Board”), which would include the executive director of the Minnesota State Retirement System. A member of the Board would be appointed chair by the Legislative Commission on Pensions and Retirement.	Program oversight would be provided by the existing New Mexico Work and Save Board (“Board”), which currently oversees the state’s voluntary IRA and marketplace program.
<b>EMPLOYER MANDATE</b>	<p>“Eligible employers” are required to participate except to the extent that they offer “each” eligible employee the opportunity to participate in a plan described in Code section 401(a), 403(a), 403(b), or 457(b), or in a payroll deduction IRA.</p> <p>An eligible employer is a for-profit or not-for-profit person or entity engaged in a business or</p>	<p>“Employers” are required to participate.</p> <p>An employer means a for-profit or not-for-profit person or entity engaged in a business or other enterprise in Massachusetts that:</p> <ul style="list-style-type: none"> <li>• Has at no time during the previous calendar year employed fewer than 25 employees in the state;</li> <li>• Has been in business at least</li> </ul>	<p>“Eligible employers” are required to participate in the IRAP unless they voluntarily participate in the MERP.</p> <p>An eligible employer is a for-profit or not-for-profit nongovernmental person or entity engaged in a business or other enterprise in Minnesota that:</p> <ul style="list-style-type: none"> <li>• Employs one or more eligible employees or is a sole</li> </ul>	<p>“Covered employers” that are not participants in the Program’s marketplace are required to participate in the Program’s IRA component.</p> <p>A covered employer is a non-governmental person engaged in a business or other enterprise in New Mexico that:</p> <ul style="list-style-type: none"> <li>• Employed five or more employees at any time during the previous calendar year;</li> </ul>



	MASSACHUSETTS 1	MASSACHUSETTS 2	MINNESOTA	NEW MEXICO
	<p>other enterprise in Massachusetts unless the employer has not been in business “at all times during the preceding calendar year.” [Note that this quoted language is from S. 653. H. 1138 states: “at all during the preceding calendar year.”]</p> <p>Governmental employers are generally excluded except that the state of Massachusetts is deemed an eligible employer if employees are not eligible to participate in a Massachusetts public employee pension fund.</p>	<p>two years; and</p> <ul style="list-style-type: none"> <li>• Has not offered a qualified plan (including, but not limited to, a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, or 457(b) plan) in the preceding two years.</li> </ul> <p><i>Note:</i> the bill specifies that employers shall retain the option at all times to set up “any type of employer-sponsored retirement plan,” where such plan includes a defined benefit plan or 401(k), SEP, or SIMPLE, or the offer of an automatic enrollment payroll deduction IRA, which suggests that employers offering such arrangements would also be exempt.</p>	<p>proprietor; and</p> <ul style="list-style-type: none"> <li>• Does not already sponsor or contribute to a retirement savings plan (including, but not limited to, a plan that satisfies the requirements under Code sections 401(a), 403(a), 403(b), or 457(b), a multiemployer pension plan described in 414(f), a SEP or SIMPLE plan, or an automatic enrollment payroll deduction IRA) “for its employees” or for the sole proprietor, as applicable.</li> </ul> <p>An eligible employer does not include an employer that has not engaged in a business or other enterprise in the state at any time during the immediately preceding calendar year.</p> <p><i>Note:</i> If an eligible employer has offered a retirement savings plan within the last two years, the employer cannot participate in the MERP, but instead must automatically enroll eligible employees in the IRAP.</p>	<ul style="list-style-type: none"> <li>• Has operated for at least 24 consecutive months; and</li> <li>• In the preceding two calendar years, has not offered to “all employees” a qualified retirement plan (including a 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, or 457(b) plan).</li> </ul>
<p><b>IMPACT OF MANDATE ON PLAN SPONSORS THAT OFFER A RETIREMENT PLAN TO SOME (BUT NOT ALL) EMPLOYEES (e.g., PART-TIME</b></p>	<p>The requirement that employers participate except to the extent that they offer “each” eligible employee the opportunity to participate in a qualified plan or a payroll deduction IRA indicates that plan sponsors may be required to participate in the IRAP with respect to those employees who are not eligible for the employer’s plan.</p>	<p>Unclear. The bill suggests that an employer is exempt if it offers a plan at all, but it may have been intended that uncovered <i>employees</i> (including those who will be eligible for the plan in the future) may be swept into the mandate. The failure to specifically address those employees not covered by and/or ineligible for the plan creates uncertainty with respect to how</p>	<p>Unclear. The bill merely states that an employer who already sponsors or contributes to a retirement savings plan “for its employees” is not an eligible employer. It is unclear if the intent is to exempt an employer that already offers <i>any</i> type of plan, including one that is offered only to certain employees. The ambiguity creates uncertainty with respect to how the Board would</p>	<p>A covered employer that is required to participate in the Program includes (in addition to meeting other requirements) an employer that has not offered to <i>all</i> employees a qualified retirement plan. This indicates that plan sponsors may be required to participate with respect to those employees who are not eligible for the employer’s plan.</p>

	MASSACHUSETTS 1	MASSACHUSETTS 2	MINNESOTA	NEW MEXICO
WORKERS)		the Board would ultimately implement the bill.	ultimately implement the bill.	
<b>OTHER IMPACTS ON EXEMPT PLAN SPONSORS</b>	<p>Unclear. The bill does not specify whether exempt employers would be required to inform the state that they are not subject to the participation requirement. The bill does, however, provide the Board “with the authority to establish such rules and regulations as it considers appropriate for the administration of the IRAP,” which presumably could include reporting requirements.</p> <p>It is also unclear whether the bill’s requirement that the IRAP “[a]llow eligible <i>individuals</i> employed for compensation in this state to contribute...through payroll deduction[s]” (emphasis added) could have implications for employers that are not subject to the participation requirements, such as by requiring plan sponsors to allow employees who voluntarily participate in the program (in addition to or in lieu of the employer’s plan) to make contributions via payroll deduction. To date, however, the implemented programs (described in Part I above) that include a provision for voluntary participation by individuals have not required such individuals’ employers to offer payroll deduction or take other action with respect to the program.</p>	<p>Unclear. The bill provides that the Department of Revenue may require employers to report information relevant to their compliance with the bill on returns that are otherwise due from the employers. The failure to provide the requested information would cause the employer’s tax return to be treated as unprocessable. It is unclear whether this provision’s use of the term “employer” excludes plan sponsors (in accordance with the bill’s definition of “employer”), or if the provision is intended to apply to all employers.</p> <p>It is also unclear whether the bill’s requirement that the Board establish a process by which an individual may voluntarily enroll in the Program could have any implications for employers that are not subject to the participation requirement, such as by requiring plan sponsors to allow employees who voluntarily participate in the program (in addition to or in lieu of the employer’s plan) to make contributions via payroll deduction. To date, however, the implemented programs (described in Part I above) that include a similar provision for voluntary participation by individuals have not required such individuals’ employers to offer payroll deduction or take other action with respect to the program.</p>	<p>Unclear. The bill is silent on whether an exempt employer would be required to inform the state that it is not subject to the participation requirement. The bill does, however, provide the Board with the power to “adopt rules to implement the [P]rogram,” which presumably could include reporting requirements.</p>	<p>Unclear. The bills do not specify whether exempt employers would be required to inform the state that they are not subject to the participation requirement.</p>

	MASSACHUSETTS 1	MASSACHUSETTS 2	MINNESOTA	NEW MEXICO
<b>INVESTMENT OPTIONS</b>	Investment options would be determined by the Board. The Board would “[e]xplore and establish investment options that offer employees ways to secure retirement income without incurring debt or liabilities to the state.”	The Board would be required to establish a “life-cycle fund with a target date based upon the age of the enrollee.”  The Board would also have the power to establish the following additional investment options: <ul style="list-style-type: none"> <li>• Conservative principal protection fund;</li> <li>• Growth fund;</li> <li>• Secure return fund; and/or</li> <li>• Annuity fund.</li> </ul>	The Board would be responsible for making available for investment a “diversified array of investment funds.”	The Board would be required to develop and implement an investment policy and designate appropriate default investments for the Program that include a mix of asset classes, including target date funds and index funds, that minimize program participant fees and total expenses.
<b>CONTRIBUTION AND INVESTMENT DEFAULTS</b>	Default contribution rates and auto-escalation policies would be determined by the Board.	<ul style="list-style-type: none"> <li>• 3% default contribution rate</li> <li>• The default investment option would be an age-based target date fund (unless the Board elects to use a secure return fund as the default instead)</li> </ul>	The default contribution rates, auto-escalation requirements, and investment option would be set by the Board.	<ul style="list-style-type: none"> <li>• Default contribution rates and escalation policies would be established by the Board</li> <li>• The default investment would be a target date fund, although the Board may provide that initial savings would be defaulted into a principal protection fund</li> </ul>
<b>LIMITS ON FEES AND EXPENSES</b>	The Board must keep annual administrative expenses, which would be allocated to participant accounts, “low, but in no event shall they exceed [1%] of the total trust balance.”	Fees, which would be paid out of “moneys on deposit,” must be kept “as low as possible,” and in no event may exceed 0.75% of the total trust balance.	Annual administrative expenses, which would be allocated to participant accounts, must be kept “as low as possible” and must not exceed 1% of the total trust balance.	Total fees and expenses must not exceed: (1) 1% of the total value of program assets during each of the initial five years of operation; and (2) 0.75% of the total value of program assets thereafter. (This would modify the previously enacted Work and Save Act, which currently requires that total fees and expenses are kept below 1% of Program assets.)
<b>EMPLOYER PENALTIES</b>	The state attorney general may impose penalties of up to \$250 per eligible employee on eligible employers that fail to comply with the requirement to automatically enroll eligible employees in the IRAP.  Penalties equal to lost earnings and interest may also be imposed	An employer that fails to enroll an employee without reasonable cause would be subject to a penalty of \$250 for each employee for each calendar year (or portion thereof) during which the employee was not enrolled (and had not opted out).  Subsequent penalties in	The Minnesota attorney general may impose monthly or quarterly penalties for noncompliance. Proceeds of penalties, after deducting enforcement expenses, would be deposited in the Program administrative fund.	No employer penalties. However, an employer that complies with the Program participation mandate may apply for a \$300 income tax credit for taxable years before January 1, 2028. The credit would be non-refundable but could be carried forward for up to three years. Taxpayers that offered an employer-sponsored retirement plan prior to July 1, 2022, would be

	MASSACHUSETTS 1	MASSACHUSETTS 2	MINNESOTA	NEW MEXICO
	on employers that make late contributions, with such penalties to be credited to the accounts of the affected employees.	subsequent years would equal \$500 per employee.		ineligible for the credit.
<b>LAUNCH DATE</b>	Not specified.	The Program must be implemented, and enrollment of employees must begin, within 24 months after the effective date of the Act. New laws typically take effect after 90 days.  If the Board does not obtain adequate funds to implement the Program within the time frame set forth in the Act, the Board may delay implementation of the Program.	The IRAP must be designed and established no later than January 1, 2023, which is two years earlier than the deadline for the MERP.	The previously enacted New Mexico Work and Save Act, as amended in 2021, provides that the IRA program must be implemented on or before July 1, 2024.

**Part III. Active Legislation (3 of 3)** (in alphabetical order)

	OHIO	OKLAHOMA	PENNSYLVANIA	RHODE ISLAND
<b>PROGRAM / PLAN NAME</b>	Ohio Retirement Savings Program (“Program”)	Oklahoma Prosperity Act Program (“Program”)	Keystone Saves Program (“Program”)	Rhode Island Secure Choice Retirement Savings Program (“Program”)
<b>LEGISLATION</b>	<a href="#">H.B. 416</a>	<a href="#">H.B. 2302</a> ; <a href="#">S.B. 527</a> (as amended)	<a href="#">H.B. 2156</a>	<a href="#">S. 2014</a>
<b>STATUS</b>	Introduced on September 8, 2021, and referred to the Insurance Committee on September 21, 2021. A hearing was held on October 27, 2021, with Representative Stephanie D. Howse, who introduced the bill, testifying in favor of the bill. The bill carried over to the 2022 legislative session.	H.B. 2302 was referred to the House Rules Committee on February 2, 2021. S.B. 527 reported “do pass” as amended by the Senate Appropriations Committee on March 3, 2021, although the bill’s title was stricken the same day. The bills carried over to the 2022 legislative session.	Introduced and referred to the Commerce Committee on February 3, 2022.	Introduced and referred to the Senate Finance Committee on January 6, 2022.

	OHIO	OKLAHOMA	PENNSYLVANIA	RHODE ISLAND
<b>SAVINGS VEHICLE</b>	<p>Automatic enrollment payroll deduction “defined benefit retirement program”</p> <p><i>Note:</i> The Board (defined below) would be required to establish “schedules of retirement eligibility and benefit amounts.”</p>	<p>Automatic enrollment payroll deduction IRA (the bill suggests that both traditional and Roth IRAs would be available)</p>	<p>Automatic enrollment payroll deduction IRA (the default would be a Roth IRA, although a traditional IRA may be offered)</p> <p><i>Note:</i> The bill provides that the Program may offer “an alternative investment option for a participant to select that facilitates access, in the event of emergency, to the participant’s contributions comparable to that allowed by a Roth IRA.”</p>	<p>Automatic enrollment payroll deduction IRA (the bill suggests that the type(s) of IRA(s) offered by the Program would be determined by the Board)</p>
<b>EMPLOYEES SUBJECT TO AUTOMATIC ENROLLMENT</b>	<p>Subject to the exceptions listed below, a person employed by an eligible employer.</p> <p>Exceptions:</p> <ul style="list-style-type: none"> <li>• Employees covered under the Railway Labor Act; and</li> <li>• Employees covered by a collective bargaining agreement that expressly provides for a multiemployer Taft-Hartley plan.</li> </ul>	<p>An individual who:</p> <ul style="list-style-type: none"> <li>• Is age 18 or older;</li> <li>• Is employed by an employer that is subject to the mandate; and</li> <li>• Has wages allocable to the state of Oklahoma.</li> </ul>	<p>An individual who:</p> <ul style="list-style-type: none"> <li>• Is employed by an employer that is subject to the mandate;</li> <li>• Has gross wages or other compensation allocable to Pennsylvania in a calendar year; and</li> <li>• Is age 18 or older.</li> </ul> <p>Exclusions:</p> <ul style="list-style-type: none"> <li>• An employee covered under the federal Railway Labor Act;</li> <li>• An employee on whose behalf an employer makes contributions to a multiemployer plan; or</li> <li>• A federal, state, or local government employee.</li> </ul>	<p>A person age 18 or older who is employed by an employer that is subject to the mandate.</p> <p>Exclusions:</p> <ul style="list-style-type: none"> <li>• Any employee covered under the federal Railway Labor Act;</li> <li>• Any employee engaged in interstate commerce not subject to the legislative powers of Rhode Island, except to the extent that the act is authorized under federal law or the U.S. Constitution; or</li> <li>• Any employee on whose behalf an employer makes contributions to a multiemployer plan.</li> </ul>
<b>OVERSIGHT</b>	<p>Program oversight would be provided by a board established within the Ohio Public Employees Retirement Board (“Board”), whose members would include the state treasurer and the state director of administrative services.</p>	<p>Program oversight would be provided by the state treasurer, who would be required to design, establish, and operate the Program.</p>	<p>The Program would be implemented and administered by the state’s treasury department (“Department”). The Keystone Saves Program Advisory Board (“Board”), chaired by the treasurer (or designee) would be required to consider, study, and review the work of the Program; advise the Department upon request; and make recommendations on the Board’s own initiative for the</p>	<p>Program oversight would be provided by the Rhode Island Secure Choice Retirement Savings Board (“Board”), which would be a public corporation and instrumentality and agency of the state established within the treasurer’s office. The general treasurer (or his or her designee) would serve as the chairperson of the corporation.</p>

	OHIO	OKLAHOMA	PENNSYLVANIA	RHODE ISLAND
<b>EMPLOYER MANDATE</b>	<p>“Eligible employers” are required to participate, except to the extent that they “maintain an employer-sponsored retirement program that is tax-exempt” under the Code.</p> <p>An eligible employer is a for-profit or not-for-profit person or entity engaged in a business, industry, profession, trade, or other enterprise in Ohio, excluding governmental entities.</p> <p><i>Note:</i> the term “employer-sponsored retirement program” is not defined in the bill.</p>	<p>A “covered employer” would be required to participate in the Program.</p> <p><i>Note:</i> as detailed below, “covered employer” is defined differently in the House and Senate versions of the bill.</p> <p>A covered employer is generally a for-profit or not-for-profit non-governmental person or entity engaged in a business or other enterprise in Oklahoma that employs one or more individuals in the state, and that:</p> <ul style="list-style-type: none"> <li>• Has employed at least 10 employees in Oklahoma at all times during the previous calendar year [in S.B. 527, the number of employees is 25];</li> <li>• Has been in business at least two years; and</li> <li>• Has not been a participating or contributing employer in a 401(a), 401(k), 403(a), 403(b), SEP, or SIMPLE plan at any time during the preceding two calendar years [under S.B. 527: has not been a participating or contributing employer in a retirement plan, automatic enrollment payroll deduction IRA, or a qualified retirement plan under Code sections 401(a), 401(k), 403(a), 403(b), SEP, SIMPLE, 457(b), or 457(f), or any deferred compensation plan offered by any employer at any time during the preceding two</li> </ul>	<p>improvement of the Program.</p> <p>A “covered employer” would be required to participate in the Program.</p> <p>A covered employer is generally a for-profit or non-for-profit person engaged in a business or other enterprise in Pennsylvania.</p> <p>A covered employer does not include an employer that:</p> <ul style="list-style-type: none"> <li>• Has four or fewer employees “as of July 1 or later of a current calendar year, for at least six months of that calendar year” and for at least six consecutive months of the preceding calendar year;</li> <li>• Has been in business at all times for less than 15 consecutive months; or</li> <li>• Maintains or contributes to a “specified tax-favored retirement plan” (i.e., a 401(a), 401(k), 403(a), 403(b), SEP, or SIMPLE plan) for its employees or has done so “effective in form and operation” at any time within the current or three preceding calendar years. (If an employer does not maintain a specified tax-favored retirement plan for a portion of a calendar year ending on or after the effective date of this definition and adopts a specified tax-favored retirement plan for the remainder of the calendar year, the employer is not included in this term for the remainder of the calendar year.)</li> </ul>	<p>An “eligible employer” would be required to participate in the Program.</p> <p>An eligible employer is generally a for-profit or not-for-profit non-governmental person or entity engaged in a business or other enterprise in Rhode Island that:</p> <ul style="list-style-type: none"> <li>• Has five or more employees;</li> <li>• “[S]atisfies the requirements to establish or participate in a payroll deposit retirement savings arrangement”; and</li> <li>• Does not (1) provide an employer-sponsored retirement plan, such as a defined benefit plan or a 401(k), 403(b), 457(b), SEP, or SIMPLE plan, or (2) offer an automatic enrollment payroll deduction IRA, provided that the plan or IRA qualifies for favorable federal income tax treatment.</li> </ul>

	OHIO	OKLAHOMA	PENNSYLVANIA	RHODE ISLAND
		calendar years].		
<b>IMPACT OF MANDATE ON PLAN SPONSORS THAT OFFER A RETIREMENT PLAN TO SOME (BUT NOT ALL) EMPLOYEES (e.g., PART-TIME WORKERS)</b>	Unclear. The bill provides that only eligible employers that do not “maintain an employer-sponsored retirement program that is tax-exempt” under the Code are required to participate in the Program. This could suggest that an employer is exempt if it offers a tax-exempt employer-sponsored retirement program at all. The failure to specifically address those employees not covered by and/or ineligible for the plan creates uncertainty with respect to how the Board would ultimately implement the bill.	Unclear. The bill states that a covered employer is one that has not been a participating or contributing employer to a specified retirement plan. It is unclear if the intent is to exempt an employer that already offers <i>any</i> type of plan, including one that is offered only to certain employees. The ambiguity creates uncertainty with respect to how the treasurer would ultimately implement the bill.	Unclear. The bill states that a covered employer is one that does not maintain or contribute to a specified tax-favored retirement plan. It is unclear if the intent is to exempt an employer that maintains or contributes to a plan only with respect to certain employees. The ambiguity creates uncertainty with respect to how the Department would ultimately implement the bill.	Unclear. The bill would exclude from the mandate an employer that provides an employer-sponsored retirement plan. It is unclear if the intent is to exempt an employer that offers such a plan only to certain employees. The ambiguity creates uncertainty with respect to how the Board would ultimately implement the bill.
<b>OTHER IMPACTS ON EXEMPT PLAN SPONSORS</b>	Unclear. The bill does not specify whether exempt employers would be required to inform the state that they are not subject to the participation requirement. The bill does, however, require the Board to “exercise any and all . . . powers as may be reasonably necessary to implement” the implementation and administration of the Program, which could include reporting requirements. The bill also requires the Board to design, establish, and operate the Program “with simplicity.”	Unclear. The bill is silent on whether an exempt employer would be required to inform the state that it is not subject to the participation requirement. The bill does, however, give the state treasurer the power to “adopt rules and procedures for the . . . operation of the Program and to take such other actions as necessary to operate the Program,” which presumably could include the power to mandate reporting requirements.	Unclear. The bill is silent on whether an exempt employer would be required to inform the state that it is not subject to the participation requirement. The bill does, however, empower the Department to take actions deemed “necessary or advisable for the implementation of [the Act] and the administration and operation of the [P]rogram,” which presumably could include the power to mandate reporting requirements.	Unclear. The bill is silent on whether an exempt employer would be required to inform the state that it is not subject to the participation requirement. The bill does, however, authorize the Board to “exercise any and all other powers as appropriate for the effectuation of the purposes, objectives, and provisions” of the Program, which presumably could include the power to mandate reporting requirements.
<b>INVESTMENT OPTIONS</b>	The Board would be required, “to the extent possible and prudent,” to invest in low-fee index funds “or create an investment portfolio that mirrors such funds.” Any investments would be required to be consistent with the primary objective of the investment policy, which would be to “preserve the	One or more investment funds must be established by the state treasurer or an investment adviser retained by the treasurer.	The Department would be required to establish investment options that include, at a minimum, a life-cycle target date fund, equity index fund, bond index fund, and capital preservation fund.	The Program must include a “limited number of investment options” that include either: <ul style="list-style-type: none"> <li>• Investment portfolio options that are “constructed to reflect different risk profiles such as a conservative, moderate and aggressive”; and/or</li> <li>• Options “constructed to reflect</li> </ul>

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	safety of principal of the fund and provide a stable and low-risk rate of return.”			<p>different risk profiles that automatically reallocate and rebalance contributions as an employee ages. There shall be investment options that prioritize the securities of companies that demonstrate good governance, efficient use of environmental resources and thoughtful management of social impact.”</p> <p><i>Note:</i> the Program would be required to “provide education, counseling, and objective employee-specific plan advice to participants.” In addition, the Board would have authority to collaborate with, and evaluate the role of, “licensed insurance agents and financial advisors in assisting and providing guidance for eligible employees.”</p>
<b>CONTRIBUTION AND INVESTMENT DEFAULTS</b>	<ul style="list-style-type: none"> <li>• 3-5% default contribution rate, to be determined by the Board.</li> <li>• Although the bill provides that default investments would be determined by the Board, as noted in the row above, it appears that the Board (and not individual participants) would be responsible for investing program assets.</li> </ul> <p><i>Note:</i> the bill appears to contemplate that contributions could be paid by both employees and employers, but it does not clarify whether employers would be required (or allowed) to make separate contributions or if the bill is simply referring to</p>	<ul style="list-style-type: none"> <li>• 3% default (and minimum) contribution rate</li> <li>• Default investment option “may” be designated</li> <li>• The bill would permit the first \$1,000 in contributions made by, or on behalf of, an enrollee to be deposited into a default capital preservation investment fund</li> </ul>	<ul style="list-style-type: none"> <li>• 4% default contribution rate (unless the Department specifies otherwise)</li> <li>• Automatic escalation of 1% per year (unless the Department specifies otherwise), up to 10%</li> <li>• Default investment option to be selected by the Department</li> </ul>	<ul style="list-style-type: none"> <li>• Default contribution rate “may” be set by the Board</li> <li>• Automatic escalation “may” be implemented, with annual increases capped at 1% per year up to a maximum of 8%</li> <li>• Default investment option not addressed in the bill</li> </ul>



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	employers “paying” to the program amounts withheld from employees’ paychecks.			
<b>LIMITS ON FEES AND EXPENSES</b>	Except during a “transition period,” which would be determined by the Board, the Board must pay all administrative costs out of the administrative account established by the Program.	No limitations on fees are specified, although the state treasurer would have the power to collect fees to defray the costs of administering the Program. Although not explicitly stated, the bill suggests that any fees are intended to be paid from participants’ accumulated IRA assets and not by employers.	All fees, costs, and expenses of administering and operating the program and investing assets would be paid from assessments against participants’ accounts. Assessments would be limited to 75 basis points per year, although such limit would not apply during certain initial periods.	No overall limits on fees and expenses are specified. Expenses would be paid from contributions to, or investment returns or assets of, the Program or IRAs established under the Program.
<b>EMPLOYER PENALTIES</b>	Beginning six months after the date on which the Program is operational, an employer that fails to provide its eligible employees an automatic contribution arrangement would be fined \$100 per employee.	The bill is silent on employer penalties.	The bill states that a covered employer “shall not be subject to a penalty for not participating” in the Program.	An eligible employer that, without good cause, fails to allow its eligible employees to participate in the Program within 30 days from the date a “notice of penalty” was issued would be subject to a penalty of \$250 per eligible employee.
<b>LAUNCH DATE</b>	Not specified.	The Program must be established so that covered employees may begin making contributions within 24 months of the Act’s November 1, 2021 effective date. This deadline may be delayed by 12 months at the state treasurer’s discretion.	The Department would be required to begin Program implementation no later than 24 months from date of enactment, although the Department may delay implementation for up to one year if a delay would be in the best interests of the Program.	The Program is established “effective upon receipt of funds.” After the Board opens the Program for enrollment, eligible employers would be required to begin participating within 12, 24, or 36 months, depending on the size of the eligible employer.