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## Retirement Security Legislation in the States

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Even as they are living longer, many Americans are not saving enough to ensure a comfortable retirement. The problem is especially acute for workers in the private sector. Roughly **29 percent** of households age 55 and older had neither a traditional defined benefit pension plan nor defined contribution retirement savings—like 401(k)s or individual retirement accounts (IRAs)—in 2013. That leaves Social Security, with its funding challenges, as their only or main source of retirement income.

AARP **reports** that workers are 15 times more likely to save if they have access to retirement savings plans through their employers, but the likelihood of having a workplace retirement plan **varies** considerably by geography and employer size, not to mention worker earnings, education, race and ethnicity. Those with lower rates of **access** to on-the-job savings include small business employees; part-time, temporary and seasonal employees; members of minority groups; and people with low-to-moderate incomes.

Although a number of proposals have been introduced in Congress to address increasing access to workplace savings, these legislative efforts have not yet been enacted. Concerned about costs for public assistance programs if their citizens retire into poverty, states have begun exploring a spectrum of policy solutions to avert a retirement savings crisis. State policymakers face difficult decisions about how to best encourage retirement savings. Should states create and facilitate new retirement savings programs for private sector workers or encourage participation in existing plans?

One important consideration is how to take full advantage of the options the private financial services market already supplies. What is the appropriate role of financial literacy and general investment education versus state-administered initiatives? It's a balancing act as policymakers try to boost retirement savings for workers, limit burdens for employers, and manage legal and financial risks for their states.

### State Action

Since 2012, lawmakers in more than half the states have **introduced legislation** to study or create some type of state-sponsored retirement savings program for non-governmental workers. Some states have been studying how to increase individual retirement savings to determine if a state role is appropriate and could save taxpayer dollars. Others are setting up online portals, where small businesses and individuals can comparison shop for savings plans from financial services providers. Five states have adopted legislation to create state-sponsored retirement savings programs featuring IRAs that receive automatic deposits from workers' paychecks. One state, Massachusetts, is experimenting with a voluntary 401(k) plan for employees of small nonprofits.

### Did You Know?

- **Fifty-two percent** of working-age households risk not having enough money to maintain their standard of living in retirement.
- Less than a quarter of **baby boomers** and members of Generation X reported feeling confident they will have enough savings to last throughout their retirement years.
- More than **30 million** full-time, full-year private sector workers ages 18 to 64 lack access to an employer-based retirement plan.

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**State-Sponsored Automatic Enrollment IRAs.** California, Connecticut, Illinois, Maryland and Oregon have enacted legislation authorizing the creation of state-facilitated retirement programs aimed at private-sector employees without access to workplace retirement savings accounts. In these models, certain private employers are required to enroll their employees, but their employees can choose to opt out, save more or less than the default amount, and select different investment alternatives. For example, participation in Illinois' new program is mandatory for established employers that do not offer any other type of payroll deduction savings program and have 25 or more employees. It is optional for smaller and newer employers. Enrolled employees would automatically contribute 3 percent of their paychecks, unless they elect a different amount or opt out altogether. States including Arizona, Colorado, Iowa, Kentucky, Louisiana, Maine, New Jersey, New York, Ohio, Rhode Island and Utah have considered, but not approved, similar programs.

**Online Marketplaces.** Washington and New Jersey have enacted legislation to create state-wide small business retirement marketplaces. These are online portals designed to permit small businesses and self-employed people to comparison shop for low-cost and easy-to-use retirement savings plans. Employers with fewer than 100 employees are able to consult a centralized exchange that lists plans that meet standards set by each state. Plan fees cannot exceed 1 percent. The marketplaces are voluntary for employers and employees.

## Federal Action

Federal legislation that would automatically enroll workers in IRAs if they lack access to workplace savings plans has not advanced. States have been concerned about pre-emption provisions contained in the Employee Retirement Income Security Act (ERISA), a federal consumer protection law that governs private-sector retirement and health benefits. In August 2016, the U.S. Department of Labor (DOL) issued a [final regulation](#) to provide some clarity for the states interested in sponsoring their own auto-enrollment IRA plans. States with auto-IRA laws currently on the books were worried their programs might be subject to the extensive reporting, disclosure, fiduciary duty and other requirements of ERISA. The rule provides a limited safe harbor exemption from ERISA regulation if state plans meet certain requirements. Some in the financial services industry have expressed [concern](#) that the regulation will create an uneven playing field in the retirement plan marketplace, because the DOL considers auto-IRAs that are offered by private providers to be subject to ERISA.

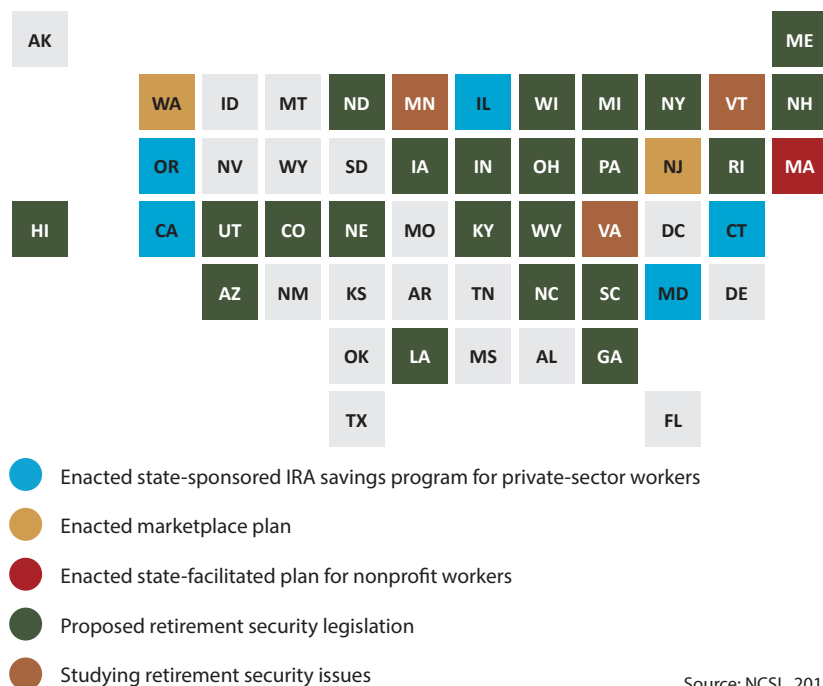
DOL has also issued [guidance](#) for states that want to develop programs regulated under the federal law. It has issued a [proposed rule](#) that would allow certain cities and local governments to sponsor their own IRA savings programs for non-governmental employees.

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### Retirement Security Legislation in the States, 2012-2016



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