Resources for tracking state and local retirement initiatives

By Margaret Berger and Brian J. Kearney
Last updated April 5, 2024

In this article
California | Colorado | Connecticut | Delaware | Hawaii | Illinois | Maine | Maryland | Massachusetts | Minnesota | Missouri | Nevada | New Jersey | New Mexico | New York | New York City | Oregon | Puerto Rico | Vermont | Virginia | Washington | Seattle, WA | Related resource

This article summarizes state and local retirement initiatives for private-sector workers and rounds up relevant Mercer and third-party resources. This listing will be updated periodically and may not always reflect the latest developments in every locality.

California

In 2012, the state legislature passed the California Secure Choice Retirement Savings Trust Act, creating the CalSavers program. CalSavers is a mandatory payroll-deduction Roth IRA program for nongovernmental employers — both for profit and not for profit — that have at least one employee in California and don't offer a retirement plan or an auto-enrollment payroll-deduction IRA.

The program originally covered employers with five or more employees in California, but legislation (Ch. 192) enacted in August 2022 reduced the threshold to one employee. However, sole proprietorships, self-employed individuals and other businesses without employees are exempt.

Covered employers must register new eligible employees within 30 days of hire. CalSavers will send an information packet to the employee, who will then have 30 days to opt out. An eligible employee is one who is at least 18 years old, is covered by the state's unemployment insurance laws and receives a W-2 with California wages.

The default contribution rate is 5% of an employee's gross pay. Under the program's auto-escalation provision, after employees have participated for at least six months, contributions increase by 1% every Jan. 1 until the contribution rate reaches 8%. Employees can opt out of auto-escalation or change their contribution rate at any time.

Employers are prohibited from making contributions, pay no program fees and have no fiduciary liability. Employers must remain neutral about the program, neither endorsing nor discouraging employee participation.

The CalSavers Retirement Savings Board will send a penalty notice to employers that do not comply with the program. Employers face a penalty of $250 per eligible employee if they fail to comply within 90 days after receiving the notice. An additional penalty of $500 per eligible employee applies if the employer is still not in compliance 180 days after receiving the notice.

Employer enrollment deadlines. CalSavers opened for employers to enroll on July 1, 2019, with phased-in enrollment deadlines based on an employer's number of eligible employees (although employers can join at any time). Registration deadlines have already passed for covered employers with five or more employees. Employers with one to four employees must register by Dec. 31, 2025. Each spring, the state reassesses employers' status under the program's mandate based on prior-year employee data. Newly covered employers will be notified and have until Dec. 31 to register. Employers can register for the program at https://employer.calsavers.com/.

Court challenge. In 2018, a self-described pro-taxpayer group filed a lawsuit to stop CalSavers from taking effect, arguing that ERISA preempts the program. The district court disagreed and dismissed the case on the grounds that CalSavers isn't an ERISA plan. After the 9th US Circuit Court of Appeals upheld the dismissal, the plaintiffs then appealed to the US Supreme Court, which declined to hear the case. CalSavers remains operational today.

Non-Mercer resources

- CalSavers Retirement Savings Program
- CalSavers webpage for employers
- 2022 Ch. 192, SB 1126 (CA Legislative Information, Aug. 26, 2022)
- CalSavers regulations (CalSavers Retirement Savings Board, Jan. 1, 2023)
- CA Gov't Code tit. 21, the CalSavers Retirement Savings Trust Act (CA Legislative Information)
- *Howard Jarvis Taxpayers Ass'n. v. Cal. Secure Choice Ret. Sav. Program*, No. 20-15591 (9th Cir. May 6, 2021)
- *Howard Jarvis Taxpayers Ass'n. v. Cal. Secure Choice Ret. Sav. Program*, No. 2:18-CV-01584-MCE-KJN (E.D. Cal. March 29, 2019)

Mercer Law & Policy resource

- Judge finds CalSavers not preempted by ERISA (April 2, 2019)

Colorado

The state enacted legislation to create (2019 Ch. 236) and implement (2020 Ch. 295) the Colorado Secure Savings Program, a mandatory state-run, payroll-deduction IRA program. Private-sector Colorado employers — for profit and not for profit — have to participate in the program if they meet all of the following criteria:

- Have been in business for at least two years
- Had five or more employees in Colorado at any time during the previous calendar year
- Have not offered a tax-favored retirement plan (e.g., a 401(a), 401(k), 403(b) or 457(b) plan) for at least two years

Employers in Colorado that aren't required to participate in the program can do so voluntarily. Employers participating in a multiple-employer plan are exempt.

The final registration deadline for employers was June 30, 2023. Newly eligible employers can register for the program or certify their exemption on the Colorado SecureSavings portal website.

Covered employers must auto-enroll employees and deduct 5% of their pay, unless an employee opts out or elects a different amount. A covered employee is anyone age 18 or older employed by a covered employer for at least 180 days and earning wages subject to Colorado state income tax.

Employers that fail to comply face fines of up to $100 per year for each eligible employee not enrolled, with a maximum penalty of $5,000 in a calendar year. Employers have no fiduciary responsibility for the program.

In August 2023, Colorado partnered with Maine to help launch that state's program. Under the Partnership for a Dignified Retirement, the states will share a program administrator providing recordkeeping, custodial and administrative services to participating employers and employees in each state. In December 2023, the board for Delaware EARNs program also voted to join the partnership.

Non-Mercer resources

- Colorado SecureSavings web portal
- Memorandum of cooperation between Colorado Secure Savings Program Board and New Mexico Work and Save Board (NM State Treasurer's Office, Nov. 9, 2021)
- Colorado Secure Savings Program
- 2020 Ch. 295 (CO General Assembly, July 14, 2020)
- 2019 Ch. 236 (CO General Assembly, May 20, 2019)

Mercer Law & Policy resource

- Colorado enacts state-run auto-IRA program (Aug. 27, 2020)

Connecticut

State legislation (2016 Act 29 and 2016 Act 3, §§ 95–108) established a mandatory auto-IRA payroll-deduction program known as the Connecticut Retirement Security Program (called the Connecticut Retirement Security Exchange before July 1, 2022). The Office of the State Comptroller is responsible for administering the program, though the state-appointed board originally responsible for designing, implementing and maintaining the program continues to serve in an advisory capacity. The pilot program launched in October 2021, followed by the official program kickoff on April 1, 2022.

Private-sector Connecticut employers — whether for profit or not for profit — must participate in the program if they meet all of the following criteria:

- Have been in business for at least two years
- Had five or more employees in Connecticut as of Oct. 1 of the previous year
- Paid five or more Connecticut workers at least $5,000 in the prior calendar year
- Do not offer a tax-qualified retirement plan

The final registration deadline was March 30, 2023. Newly eligible employers can register or certify their exemption here.

Private-sector employers with fewer than five Connecticut employees may elect to participate in the program.

Participating employers can't make any contributions but must automatically enroll covered employees (unless they opt out), timely remit payroll-deduction contributions, and distribute board-prepared enrollment materials and other communications. Employers have no fiduciary liability for the program.

A covered employee is anyone age 19 or older who is employed for at least 120 days in Connecticut by a nonexempt employer and whose service with that employer is recognized for unemployment compensation purposes under state law.

More information about the program is available on the MyCTSavings website.

Non-Mercer resources

- MyCTSavings (CT Retirement Security Authority)
- Connecticut Retirement Security Authority (CT Comptroller's Office)
- Press release (CT Comptroller's Office, April 20, 2020)

- 2016 Act 3 (CT General Assembly, June 2, 2016)
- 2016 Act 29 (CT General Assembly, May 27, 2016)

Delaware

State legislation (Ch. 405, HB 205) enacted in August 2022 creates the Delaware Expanding Access for Retirement and Necessary Saving Program (Delaware EARNS), an auto-enrollment payroll-deduction IRA. The program is mandatory for private-sector for-profit and not-for-profit employers in the state that do not offer a tax-favored retirement plan. New employers become subject to the program in the calendar year after the first year in which they have at least five covered employees and have been in business in the state for at least six months. Employers have no fiduciary responsibility for the program but will be responsible for informing employees about it and timely remitting their contributions.

Any employee age 18 or older with Delaware wages from a covered employer is eligible for the program, unless the employee participates in a multiemployer plan or is covered by the federal Railway Labor Act (which applies to certain railroad and airline employees). The program's board can issue regulations further limiting employee eligibility.

The board has discretion to make the program available on a voluntary basis to employers that are not covered employers. The board can also make the program available on a voluntary basis to people who aren't employees, including self-employed individuals, independent contractors and unemployed individuals. The default savings vehicle will be a Roth IRA, but the board will have the authority to add an option for a traditional IRA.

In December 2023, the program's board voted to join the Partnership for a Dignified Retirement, a multistate consortium led by the Colorado SecureSavings Program. States in the partnership will share a program administrator that provides recordkeeping, custodial and administrative services to participating employers and employees in each state. Maine is also a member of the partnership.

To the extent practical, the program will be implemented by Jan. 1, 2025.

Non-Mercer resources

- Delaware EARNS Program website (DE Office of State Treasurer)
- Delaware EARNS Program Board website (DE Office of State Treasurer)
- 2022 Ch. 405, HB 205, the Delaware EARNS Act (DE State Legislature, Aug. 18, 2022)
- Implementation of Delaware EARNS to begin (DE Office of State Treasurer, Aug. 18, 2022)

Hawaii

In July 2022, Hawaii enacted legislation (Act 296) to create the Hawaii Saves Retirement Program, a state-facilitated payroll-deduction IRA program for private-sector employees. The program does not require auto-enrollment, so employees will have to elect to participate. To encourage participation, the state will make a matching contribution of up to $500 for each of the first 50,000 employees who elect to participate and stay enrolled for 12 consecutive months. Employer matching contributions are prohibited.

Private-sector employers in Hawaii will have to offer the program unless they have offered a workplace retirement plan any time during the past two years. Unlike other state programs, this exemption apparently applies only if the employer offers its plan to all employees. Employers will not be considered fiduciaries for the program. However, employers will be responsible for providing employees written notice of their right to opt into the program and for withholding and timely transmitting employee contributions.

Employers that fail to enroll an employee who has opted in will face a $25 penalty for each month the employee remains unenrolled, and penalties will increase to $50 per month after the initial penalty is assessed. For each missed employee contribution, the employer will also have to deposit a make-up contribution equal to the employee's contribution rate plus 6% interest.

Employees age 18 or older will be eligible to participate if they are Hawaii residents, work for an employer required to offer the program and receive wages subject to Hawaii state income tax. The default deferral rate is 5%, but employees can elect a different percentage. The legislation calls for holding contributions in Roth IRAs, but a state-appointed board responsible for the program has authority to add a traditional IRA option. The statute leaves the board responsible for determining an implementation time frame.

Non-Mercer resources

- Hawaii Saves Retirement Program (HI Department of Labor and Industrial Relations, May 15, 2023)
- 2022 Act 296, the Hawaii Retirement Savings Act (HI State Legislature, July 12, 2022)

Illinois

In 2015, the state enacted legislation creating the Illinois Secure Choice Savings Program, an auto-enrollment payroll-deduction Roth IRA that launched in 2018. As originally enacted, the program generally covered any employer with 25 or more workers in the state, but amendments passed in 2021 expanded the program to cover employers with five or more workers. The final registration deadline was Nov. 1, 2023. Newly eligible employers may register or certify their exemption here.

Employers are exempt if they sponsor a tax-favored retirement plan (e.g., a 401(a), 401(k), 403(b) governmental 457(b) or multiemployer plan) — even if the plan doesn't cover any Illinois workers or all workers — or have been in business less than two years. Amendments to the law adopted in June 2023 exempt governmental employers.

The program is available to employees age 18 or older who have wages subject to Illinois income tax. The default contribution rate is 5% of an employee's compensation, which generally includes wages, salaries, professional fees and other amounts received for services rendered — the same definition that applies for IRA contributions. The 2021 amendments provide for automatic increases in the default contribution rate up to 10% of an employee's compensation.

Covered employers must register eligible new employees with the program within 30 days of hire unless they elect to opt out. Noncompliant employers could face a fine of $250 per employee for the calendar year in which the employee should have been enrolled. The penalty increases to $500 per employee for each subsequent year an eligible employee who hasn't opted out remains unenrolled. Employers have no fiduciary responsibility for the program.

Non-Mercer resources

- Pub. Act 103-0043, amendments to Illinois Secure Choice Retirement Savings Program (IL General Assembly, June 9, 2023)
- Pub. Act 102-0179, amendments to Illinois Secure Choice Retirement Savings Program (IL General Assembly, July 30, 2021)
- Illinois Secure Choice Retirement Savings Program
- IL Admin. Code tit. 74, §§ 721.100–721.720, Secure Choice Savings Program regulations
- 820 IL Comp. Stat. 80, the Illinois Secure Choice Savings Program Act (IL General Assembly)

Maine

In January 2024, Maine launched the ME Retirement Investment Trust (MERIT), an auto-enrollment payroll-deduction IRA. Enacted in 2021 (Ch. 356), the program is mandatory for private-sector for- and not-for-profit employers in the state with five or more employees, unless one of two exceptions applies:

- The employer has offered a tax-favored retirement plan at any time in the current or past two calendar years.
- The employer has not been in business during both the current and previous calendar year.

Any employee age 18 or older with Maine wages from a covered employer is eligible for the program, unless the employee participates in a multiemployer plan or is covered by the federal Railway Labor Act (which applies to certain railroad and airline employees). Employers with fewer than five employees may (but don't have to) participate in the program, in accordance with rules established by the board. The board has discretion to make the program available to self-employed individuals and independent contractors as well.

Employers can register or certify their exemption here. Registration deadlines for nonexempt employers are based on employee head count:

- April 30, 2024, for employers with 15 or more employees
- June 30, 2024, for employers with five–14 employees

Participating employers auto-enroll employees and deduct 5% of their pay, unless they opt out or choose a different percentage. The board has discretion to reenroll participants periodically, even after they have opted out. The default savings vehicle is a Roth IRA, but the program's board has the authority to add an option for a traditional IRA.

In August 2023, MERIT joined the Partnership for a Dignified Retirement agreement with the Colorado Secure Savings Program. Under the partnership, a shared program administrator provides recordkeeping, custodial and administrative services to participating employers and employees in each state. In December 2023, the board for Delaware's EARNS program voted to join the partnership.

Non-Mercer resources

- MERIT employee/employer website
- MERIT program website
- 2023 Ch. 167 (LD 1082, SP 451) (ME Legislature, June 12, 2023)
- 2021 Ch. 356 (LD 1622) (ME Legislature, June 23, 2021)

Maryland

The state legislature enacted the Maryland Small Business Retirement Savings Program (2016 Ch. 324), an auto-enrollment payroll-deduction IRA program. The program applies to for-profit and not-for-profit employers doing business in the state that pay employees through a payroll system or service, unless one of these exclusions apply:

- The employer currently offers — or has offered at any time in the past two calendar years — a tax-favored retirement plan or IRA separate from the state-run program.
- The employer has not been in business for two full calendar years.

Employees age 18 or older are eligible for the program if they work for a covered employer, unless any of the following apply:

- The employee is eligible for a "qualifying retirement plan" or participates in a multiemployer plan.
- The employee is covered by the federal Railway Labor Act (which applies to certain railroad and airline employees).

The program officially launched Sept. 15, 2022. Participating employers must auto-enroll employees at a default contribution rate determined by the Maryland Small Business Retirement Savings Board. The board has set an initial default rate of 5%, with 1% auto-escalation each year. Covered employees can opt in or out or choose a different deferral rate at any time. An employee's first $1,000 in contributions will be earmarked as emergency savings and held in a capital preservation investment fund. Any additional contributions will be held for retirement and invested in a target-date fund.

Covered employers that fail to comply do not face any penalties. However, employers that participate in the program will receive a waiver of the $300 filing fee for the annual report that business entities must file. Employers do not have fiduciary responsibility for the program.

Non-Mercer resources

- Maryland$aves website
- Maryland Small Business Retirement Savings Board website
- 2016 Ch. 324 (MD General Assembly, May 10, 2016)

Massachusetts

In 2012, the state legislature enacted the Massachusetts Defined Contribution CORE Plan (MA Gen. Laws Ch. 29, § 64E). The CORE Plan is a multiple-employer 401(k) plan open to not-for-profit employers with 20 or fewer employees. Employer participation is voluntary. All employees of a participating employer are eligible to participate and are automatically enrolled, but they can opt out.

The program launched in October 2017. The Massachusetts legislature is currently considering legislation that would expand the CORE Plan to all employers in the state and create a separate, mandatory auto-enrollment payroll-deduction IRA program.

Non-Mercer resources

- CORE Plan website
- CORE Plan statutory and regulatory information
- MA Gen. Laws Ch. 29, § 64E

Minnesota

Legislation enacted in May 2023 established Minnesota Secure Choice, a mandatory state-run, payroll-deduction IRA program. Private-sector Minnesota employers — for profit and not for profit — have to participate in the program if they meet all of the following criteria:

- Have operated in Minnesota at any time in the past year

- Have five or more employees in Minnesota
- Have not offered nor contributed to a retirement savings plan (e.g., a 401(a), 403(b), simplified employee pension (SEP), automatic payroll deduction individual retirement account plan or multiemployer plan) in the previous year

Any employee age 18 or older who works for a covered employer is eligible for the program, unless the employee participates in a multiemployer plan or is covered by the federal Railway Labor Act (which applies to certain railroad and airline employees). The program's board may establish other eligibility criteria and may also allow noncovered individuals to participate in the program. Employers must auto-enroll employees unless they opt out of the program. Contributions will be made on a Roth basis unless an employee elects to make pretax contributions.

The law requires the appointment of the program's board by Jan. 15, 2024, with the first board meeting held by March 1, 2024. The board will open the program in phases beginning no earlier than Jan. 1, 2025. All other details of the program's operation — including the default contribution rate and any auto-escalation provisions — will be established by the board.

Non-Mercer resource

- 2023 Ch. 46, Minnesota Secure Choice Retirement Program Act (MN Legislature, May 19, 2023)

Missouri

In July 2023, Missouri enacted legislation to create the Show-Me MyRetirement Savings Plan, a voluntary ERISA-covered multiple-employer 401(k) plan for small private-sector employers. Employees will be able to make pretax and Roth contributions, and employers will be able to contribute to the plan.

The plan will be available to private-sector employers (both for profit and nonprofit) with 50 or fewer employees. If a participating employer's workforce increases to more than 50 employees, the employer will become ineligible to stay in the plan after five years, unless its workforce drops back below the 50-employee threshold.

For the first five years after the program's commencement, any employer that satisfies the 50-employee threshold can join the state's plan. After this period, the plan will not be available to any employer that has maintained its own tax-favored retirement plan at any time during that year or the two preceding calendar years. The plan also will be available to self-employed workers with self-employment income allocable to the state and members of associations that don't sponsor another retirement plan.

The program's board will be ERISA plan fiduciaries responsible for the plan's design and administration, including selecting vendors (e.g., recordkeeper and investment managers), choosing investment options and establishing claims procedures. Employers will not be liable for the program's design or administration, the board's or employees' investment decisions, employees' investment losses or benefits paid to employees.

The law requires implementation of the plan to be substantially completed by Sept. 1, 2025.

Non-Mercer resource

- MO Rev. Stat. §§ 285.1000 to 285.1055; 2023 SB 20 and SB 75 (MO Legislature, July 6, 2023)

Nevada

Legislation enacted in June 2023 (Ch. 461, S B 305) creates the Nevada Employee Savings Trust Program, a state-run, auto-enrollment payroll-deduction IRA program. The program will cover for-profit and not-for-profit private-sector employers that:

- Employ more than five people in Nevada
- Have been in business for at least three years
- Haven't offered a tax-favored retirement plan in the current or prior three calendar years

The program is mandatory for employers, unless they enroll employees in a similar program offered by a trade association or chamber of commerce.

Covered employees include individuals age 18 or older who have Nevada wages from a covered employer and have worked at least 120 days for the employer. The program excludes employees covered by the federal Railway Labor Act or participating in a multiemployer plan. Employees can opt out or choose to contribute at a different rate than the program's default (which will be set by the program's board).

The program will take effect July 1, 2025, although the board may choose to implement the program in phases starting on that date.

Non-Mercer resource

- 2023 Ch. 461, SB 305 (Nevada Legislature, June 13, 2023)

New Jersey

The state legislature enacted (2019 Ch. 56) the New Jersey Secure Choice Savings Program in March 2019. For-profit and not-for-profit employers with 25 or more employees that have been in business at least two years and have not offered tax-favored retirement plans in the past two years will have to participate in the program. Smaller or newer employers will be able to join voluntarily.

Covered employers will auto-enroll employees in the program and deduct 3% of employees' pay, unless employees opt out or elect a different amount. Participating employers will have no fiduciary responsibility for the program.

A pilot program will launch in the spring of 2024, with full implementation planned for the summer.

Non-Mercer resources

- New Jersey Secure Choice Savings Program website (NJ Treasury Department)
- 2019 Ch. 56, New Jersey Secure Choice Savings Program Act (NJ Legislature, March 28, 2019)

Mercer Law & Policy resource

- New Jersey to enact retirement savings plan for private-sector workers (March 5, 2019)

New Mexico

Enacted in February 2020, the New Mexico Work and Save Act (Ch. 7) creates both a state-run, payroll–deduction Roth IRA savings program and a retirement plan marketplace. Participation is voluntary for both employers and employees.

Employers eligible to participate include private-sector for-profit and not-for-profit employers that have a primary place of business physically located in New Mexico. Participating employers will not have fiduciary responsibility for the payroll-deduction IRA program, but plans offered through the marketplace will generally be subject to ERISA.

Covered employees include all full- and part-time employees of a covered employer who are at least 18 years old, unless the employee is covered by a multiemployer pension plan or the federal Railway Labor Act. The programs are also available to self-employed individuals.

The marketplace originally was slated to start operating by July 1, 2021, and the auto-IRA program by Jan. 1, 2022. However, due to delays caused by the COVID-19 pandemic, a 2021 law (Ch. 46) extends both deadlines to July 1, 2024, and makes a number of other changes.

Non-Mercer resources

- Work and Save website (NM State Treasurer's Office)
- Memorandum of cooperation between Colorado Secure Savings Program Board and New Mexico Work and Save Board (NM State Treasurer's Office, Nov. 9, 2021)
- 2021 Ch. 46 (NM Legislature, April 5, 2021)
- 2020 Ch. 7 (NM Legislature, Feb. 26, 2020)

Mercer Law & Policy resource

- New Mexico enacts retirement and savings plan marketplace (May 13, 2020)

New York

State legislation enacted in 2018 (Ch. 55) established the New York Secure Choice Savings Program, a state-run Roth IRA program. The program will cover private-sector employers — both for profit and not for profit — operating in New York for at least two years that had at least 10 employees in the state during the previous year and haven't offered a qualified retirement plan in the last two years. (A bill — S 7885 — introduced in January 2024 would reduce the threshold to five employees.)

Employees age 18 or older who have New York wages from a covered employer can participate in the program's payroll-deduction IRA. Legislation passed in 2022 would have extended eligibility to anyone age 18 or older with New York taxable income (for these individuals, the program would provide personal IRAs). However, the governor vetoed the bill, and it is currently listed as tabled on the New York State Assembly's website. Legislation (Ch. 20) enacted in 2024 requires the program's board to establish an enrollment process for employees of nonparticipating employers and other individuals to voluntarily participate in the program.

Although the law originally made participation voluntary, 2021 legislation (Ch. 452) makes the program mandatory for covered employers and requires them to automatically enroll employees who don't opt out. Participating employers will have no fiduciary responsibility for the program.

Originally scheduled to launch by April 2020, the program has not yet opened for enrollment, but the board continues to hold occasional meetings as the program develops.

Non-Mercer resources

- New York State Secure Choice Savings Program Board website
- 2024 Ch. 20 (NY Assembly, Jan. 26, 2024)
- S 7885 (NY Senate, Jan. 3, 2024)
- 2021 Ch. 452 (NY Assembly, Oct. 21, 2021)
- 2018 Ch. 55 (NY Senate, April 12, 2018)

Mercer Law & Policy resource

- NY state mandates Secure Choice, putting fate of NYC plan in doubt (June 16, 2021)

New York City

In May 2021, New York City enacted two measures (Chs. 51 and 52) to create the Savings Access New York Retirement Program, a city-run auto-enrollment payroll-deduction savings program for employees age 21 or older whose regular duties occur in the city. The program covers any private-sector employer — whether for profit or not for profit — with five or more employees working in the city if the employer has operated for at least two years and hasn't maintained a retirement plan for that time (including a payroll-deduction IRA or the SCSP described in the previous section).

The program is mandatory for covered employers, but other employers can elect to participate. Covered employees can opt out, while self-employed individuals and other employees who aren't covered may voluntarily opt in. The program's default contribution rate is 5% of pay, but employees may change the rate and may also make lump sum contributions. Employers will be responsible for enrolling employees and remitting their salary deferrals, but will not make additional contributions to the program.

The laws took effect in August 2021 with a two-year period for implementation, but included a provision to discontinue the program if the state enacted a similar mandate covering most employers otherwise subject to the city program. The city doesn't appear to have made any efforts to implement the program, likely due to state legislation passed in June 2021 to make the New York SCSP mandatory.

Non-Mercer resources

- 2021 Ch. 51 (New York City Council, May 11, 2021)
- 2021 Ch. 52 (New York City Council, May 11, 2021)

Mercer Law & Policy resource

- NY state mandates Secure Choice, putting fate of NYC plan in doubt (June 16, 2021)

Oregon

In 2015, the state enacted the Oregon Retirement Savings Plan, known as OregonSaves, an auto-enrollment payroll-deduction Roth IRA. Employers of all sizes must participate unless they offer a qualified retirement plan. Employers register or certify their exemption on the OregonSaves website.

OregonSaves opened for employer registration in 2017, starting with the largest employers and working down. The last registration deadline for employers was July 31, 2023. Newly eligible employers in Oregon will receive notices from the state that they must sign up for the program or certify their exemption. The next deadline for employers that have received such a notice is July 31, 2024.

The program covers employees age 18 or older who are subject to Oregon's unemployment insurance laws. Employers must register employees within 30 days of their hire date. The default contribution rate is 5% of an employee's W-2 compensation, with 1% increases every Jan. 1 up to 10%. Employees can change their contribution rates at any time or opt out of the program altogether.

In addition to enrolling employees and facilitating payroll deductions, employers must distribute informational materials to employees (among other administrative duties). Employers are not program fiduciaries and must remain neutral about the program, neither endorsing nor discouraging employee participation. Employers that fail to comply with the program face civil penalties of up to $100 per affected employee, capped at $5,000 total per calendar year.

Non-Mercer resources

- OregonSaves website
- Oregon Retirement Savings Board website (OR Treasury)
- OR Admin. R. 170-080-0001 to 170-080-0065, Oregon Retirement Savings Program regulations (OR Treasury)
- OR Rev. Stat. §§ 178.010–178.990, Oregon Retirement Savings Plan (OR Legislature)

Mercer Law & Policy resource

- Employers now face penalties for failure to comply with OregonSaves (June 3, 2019)

Puerto Rico

In February 2023, Puerto Rico enacted a law (42) to establish a financial literacy public policy program aimed at increasing financial security and retirement readiness for the territory's labor force. One of the law's provisions creates a task force to develop a voluntary retirement savings program for private-sector employees that will draw upon work-and-save programs in other US jurisdictions. The task force has a year from the law's enactment to report its recommendations back to the Puerto Rico legislature.

Non-Mercer resource

- 2023 Law 42 (in Spanish) (PR Office of Legislative Services, Feb. 27, 2023)

Vermont

In June 2023, Vermont enacted a law (Act 43, S 135) establishing VT Saves, a mandatory state-run, payroll-deduction Roth IRA program. The program will cover private-sector employers — both for profit and not for profit — operating in Vermont during the current and previous year if they haven't offered (or been part of a controlled group that offers) a tax-favored retirement plan in the current or prior two calendar years. Although the law doesn't specify a minimum number of employees for covered employers, enrollment deadlines apply only to employers with at least five employees.

Covered employees include individuals age 18 or older who have Vermont wages from a covered employer. The law excludes employees covered by the federal Railway Labor Act or participating in a multiemployer plan. The state's treasurer can adopt rules treating part-time, seasonal or temporary employees as covered employees.

The program's default contribution rate is 5% of pay, but employees may change the rate or opt out. The treasurer will be responsible for setting an auto-escalation rate that's between 1% and 8%. Employers will be responsible for enrolling employees and remitting their salary deferrals but will not make additional contributions to the program. The statute calls for contributions to be made on a Roth basis but allows the treasurer to add a traditional IRA option.

Phased-in employer enrollment deadlines are based on an employer's number of eligible employees:

- Employers with 25 or more employees: July 1, 2025
- Employers with 15 to 24 employees: Jan. 1, 2026
- Employers with five to 14 employees: July 1, 2026

The law also repealed the Vermont Green Mountain Secure Retirement Plan (2017 Act 69, § C.1), a state-run, voluntary multiple-employer plan initially set to launch in early 2019 but never implemented.

Non-Mercer resources

- 2023 Act 43, S 135 (VT General Assembly, June 1, 2023)
- 2017 Act 69, § C.1, the Green Mountain Secure Retirement Act (VT General Assembly, June 8, 2017)

Virginia

In April 2021, the state enacted (Ch. 556) RetirePath Virginia, an automatic-enrollment payroll-deduction IRA program for private-sector employees. For-profit and not-for-profit employers with at least 25 employees that have been operating for at least two years must participate unless they offer an auto-enrollment payroll-deduction IRA or qualified retirement plan. Other employers may elect to participate voluntarily but must ensure their participation does not create an ERISA plan. Participating employers will have no fiduciary responsibility for the program.

Employees age 18 or older who work at least 30 hours per week and have Virginia taxable income are eligible to participate. Employers must auto-enroll eligible employees, but employees may opt out at any time. Employer contributions are prohibited.

The program began operating on July 1, 2023. Employers eligible for RetirePath in 2023 had to register before Feb. 15, 2024. Employers can register or certify their exemption here.

Non-Mercer resources

- RetirePath Virginia website (Virginia529)
- 2021 Ch. 556 (VA General Assembly, April 15, 2021)

Washington

Enacted in 2015 (Ch. 296), the Washington Small Business Retirement Marketplace provides a website where self-employed individuals and employers with fewer than 100 employees can compare and shop for state-verified simple, low-cost retirement savings plans and IRAs. Participation is voluntary.

The Retirement Marketplace, which opened in March 2018, offers 401(k) plans with and without auto-enrollment, a safe harbor plan, a profit-sharing plan (employer-only contributions), as well as Roth and traditional IRAs. The website also provides links to educational materials and other resources for employers and individuals.

In March 2024, the state also enacted legislation to create to a new auto-enrollment IRA program for employees of private sector employers, both for profit and nonprofit. Employers will be covered by the program if they've been in business in the state for at least two years, maintain a physical presence in the state, don't offer a tax-favored retirement plan to their employees and had employees in the prior year who worked at least 10,400 combined hours. The program's board must consult with covered employers and employees on the program's design and implementation issues and provide periodic reports to the appropriate legislative committees. The program is expected to launch by July 1, 2027.

Non-Mercer resources

- 2024 Ch. 327 (WA Legislature, March 28, 2024)
- Retirement Marketplace (WA Department of Commerce)
- Retirement Marketplace information page (WA Department of Commerce)

Seattle, WA

In 2017, Seattle approved an ordinance (Ord. 125467) establishing a savings program, known as the Seattle Retirement Savings Plan (SRSP), for employees working for a covered employer within the city limits. The plan applies to private-sector employers that do not offer their own retirement plan or participate in a multiple-employer or multiemployer plan. Covered employers must offer the plan to employees age 18 or older. However, the city apparently decided not to move forward with the plan after a 2017 US Senate vote repealing the 2016 Department of Labor rule that would have exempted state and city auto-enrollment programs from ERISA. (Later court rulings in favor of California's CalSavers bolstered these programs, but Seattle hasn't revived t he SRSP.)

Non-Mercer resources

- 2017 Ord. 125467 (Seattle City Council, Nov. 22, 2017)
- Seattle Retirement Savings Plan FAQs (Seattle City Council, March 30, 2017)

Related resource

- Georgetown University Center for Retirement Initiatives (registration required for some content)

Note: Mercer is not engaged in the practice of law, accounting or medicine. Any commentary in this article does not constitute and is not a substitute for legal, tax or medical advice. Readers of this article should consult a legal, tax or medical expert for advice on those matters.