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The States of Reform

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The States of Reform

By Alex Pavlakis and Teresa Ghilarducci

Abstract: The recent proliferation of state level retirement reform proposals indicates a broad recognition of the looming retirement crisis, and suggests that the political will for reform is present. In this paper, we detail the proximate causes of American workers' shortage of retirement savings, evaluate the variety of state level programs that are emerging in response to the crisis, and draw some conclusions about what effective reform should look like.

Introduction

The history of American social policy is a history of incremental change based on state-level experiments. When Social Security was established in 1935, 30 states had enacted, or were about to enact, old-age pension plans of their own. [Social Security Administration. "Historical Background and the Development of Social Security," retrieved from http://www.ssa.gov/history/briefhistory3.html] The Affordable Care Act, which became law in 2010, has a similar if less dramatic story, having been based on Massachusetts' 2006 health insurance reform—so called "Romneycare." In this context, the rapid emergence of state level retirement reform proposals should be viewed as a harbinger of federal retirement reform to come, and as a useful batch of experiments for evaluating how to best ensure all working Americans are enrolled in a pre-funded retirement plan.

This study describes which workers would benefit most from mandated retirement plan coverage, and evaluates which state level reforms are good models for an effective federal program. The Secure Choice Pension model is the most common, having been enacted in California, Oregon, and Illinois, and proposed in 12 other states. Less ambitious programs have been implemented in Massachusetts and Washington State. All state plans and proposals go far beyond the current federal initiative to cover the uncovered—the Obama Administration's myRA program. We conclude that effective federal reform needs to be bolder than any existing state model, and that the rapid emergence of state-level action suggests a strong political will for pension reform that will increase coverage and returns, and stave off an imminent retirement crises.

A Deteriorating System

For much of the last century, older Americans have relied on three sources of income in retirement: Social Security, employer-sponsored retirement accounts, and personal savings. Though often called a three-legged stool, the system is really a pyramid, with a base of Social Security supporting a small layer of income from workplace retirement plans and an even smaller layer from wealth and home equity. The federal government has actively supported all three layers. In 2014, Social Security benefits were $600 billion and federal and state subsidies for workplace retirement plans and mortgage debt (in the form of indirect tax subsidies) were nearly $200 billion. Despite the expense and effort, Americans are ill-prepared for retirement. [Federal Budgeting for Retirement Security: Tax Expenditures are Entitlements Focus on Retirement http://www.economicpolicyresearch.org/presentations/157-federal-budgeting-for-retirement-security-tax-expenditures-are-entitlements-focus-on-retirement.html]

An increasing number of American workers, including those squarely in the middle-class, will face downward mobility in retirement if current trends continue. The number of poor or near-poor 65-year-olds will increase by 146 percent by 2022. Of the 18 million workers aged 55-64 in 2012, 4.3 million will be poor or near poor by the time they are 65. [Ghilarducci, T., Fisher, B., Knauss Z. (2015) "Increasing Poverty in Old Age: More Middle Class Workers Will Be Poor Retirees," Schwartz Center for Economic Policy Analysis and Department of Economics, The New School for Social Research, Policy Note Series] In 2013, almost 30 percent of American families on the verge of retirement—aged 50-64—had no retirement savings whatsoever; 50 percent had retirement account balances valued at under $12,000 [Ghilarducci, T., Radpour, S., Fisher. B., and Saad-Lessler, J. (2015) "Inadequate Retirement Account Balances for Workers Nearing Retirement," Schwartz Center for Economic Policy

Analysis and Department of Economics, The New School for Social Research, Policy Note Series]. The decline in retirement security has two proximate causes that have animated state action: the sharp decline in workers' access to employer-sponsored retirement plans, and the transformation of workplace retirement plans from safer defined benefit to riskier and more voluntary defined contribution plans.

Decreased Access to Retirement Accounts

Fewer employers are sponsoring retirement plans for a smaller share of the labor force. From 2001 to 2012, the share of all workers without an employer-sponsored plan, including both defined benefit and defined contribution plans, rose from 39 percent to 47 percent [Ghilarducci, T., Saad-Lessler, J. (2014) "Explaining the Decline in the Offer Rate of Employer Retirement plans between 2001 and 2012," Schwartz Center for Economic Policy Analysis and Department of Economics, The New School for Social Research, Policy Note Series]. State and city officials, alarmed that coverage rates are falling, are seeking to mitigate the costs of the poor and near poor elderly in their localities and states by mandating that every employer offer some kind of retirement plan.

The Switch from Defined Benefit Plans to Defined Contribution Plans

As access rates have fallen, so has the quality of plan most employers offer. From the end of World War II until the mid-1980s, most workers who had a retirement plan were covered by defined benefit plans, which guarantee a set payment for life commonly based on years of service and salary. Now the most commonly offered plans are defined contribution, such as 401(k)s, which shift all the risks and potentially all or some of the costs of retirement planning to workers, may charge high retail-based fees that erode returns, and commonly pay out lump sums, not annuities. Many contribution plans require workers to choose from an opaque menu of inappropriate short term and liquid investment options that often lead to poor choices and smaller account balances for retirement.

The unfortunate consequence is that retirees who have defined contribution plans or no savings report more stress and anxiety than those with adequate savings and defined benefit plans. Researchers have concluded that people who rely on defined contribution plans report lower levels of well-being than those with defined benefit plans because they fear they will outlive their savings and suffer chronic economic deprivation. [Nyce, S., Quade, B.J. (2012). "Annuities and Retirement Happiness,"Towers Watson]

The inadequacy of retirement savings will not only lower the living standards of older Americans, it also threatens future government budgets—especially those of state and local governments —that pay directly for programs that support vulnerable and poor elderly people. In New York, for example, 37 percent of workers who live near metropolitan areas and are approaching retirement will be in poverty or close to it when they retire. [Ghilarducci, T., Saad-Lessler, J., Schmitz, L. (2012) "New York's Retirees: Falling into Poverty," Schwartz Center for Economic Policy Analysis and Department of Economics, The New School for Social Research, Policy Note Series]

Who Will Benefit Most From Universal Access to an Employer-Sponsored Retirement Plan?

Over 45 percent—56 million—of the 124 million private sector workers aged 25 to 64 are uncovered by a retirement plan; they do not have access to an employer-sponsored retirement plan. The majority of uncovered and covered workers are men, who account for 53 percent of the total workforce and 53 percent of the uncovered workers. Uncovered and covered workers are about the same age: workers between the ages of 55 and 64 are 18 percent of the total workforce and 17 percent of uncovered workers. Mandatory pension coverage would help employees of small businesses more than those working for larger firms. Employees working for employers with fewer than 100 employees constitute 40 percent of the workforce, but almost 60 percent of the uncovered workers; only 34 percent of small business employees have access to an employer-sponsored retirement plan. White and nonwhite workers have severe deficits in retirement plan coverage but nonwhites are less likely than whites to have access to a workplace plan. Whites constitute 65 percent of the workforce but only 58 percent of uncovered workers. Asian, Black, and Hispanic coverage rates are lower than national averages, and Hispanic workers are the most at risk; they constitute 15 percent of the total workforce but 21 percent of uncovered workers, with a coverage rate of only 39 percent. Thus, there is some irony in the quest for retirement reform. Workers in minority categories—by race or firm size—are often the most likely to be uncovered. But since they are a minority of the population, they represent a smaller share of all uncovered workers. The bottom line is that White workers and employees of medium and large firms will receive the majority of resources spent from implementing universal pension plans, even though they are the most likely to be covered. This fact—that the majority of beneficiaries come from politically- empowered groups—increases the probability of state and federal pension action to mandate pension reform. The challenge is to ensure the reform is effective. [All workforce data from Current Population Survey, US Census Bureau and Bureau of Labor Statistics. 2012-2014]

Qualities of Effective Reform

Retirement USA, a Washington, DC-based advocacy group representing workers and retirees, promotes 12 principles for effective retirement reform that can be summarized into four criteria to evaluate the state plans and proposals: universal access, mandatory participation, pooled assets, and guaranteed benefits. [Our Principles: Principles for an Effective Retirement System, retrieved from http://www.retirement-usa.org/our-principles]

Universal availability is the *sine-qua-non* of effective retirement reform. The only universal retirement plan currently available is Social Security, which ensures retirees can survive—but not thrive. Retirement experts recommend that Americans save 20 percent of their income for retirement. Social Security accounts for 12.4 percent between worker and employer contributions, leaving a 7.5 percent gap between what experts recommend and what Social Security provides.

Mandatory participation has two important components: everyone must be enrolled, and participation must span a full work-life; reform must ban preretirement withdrawals.

The pooling of assets will increase returns by diversifying investment vehicles, which lowers risk, and lowering management fees.

Finally, effective retirement reform must guarantee life-long benefits. The switch from the reliable income stream of defined benefit plans to the uncertainties of defined contribution plans increases retirees' stress and anxiety. Confidence in a steady income stream is an important part of a secure and comfortable retirement.

State-Level Proposals and Plans

Twenty-six states have either proposed or enacted some type of retirement reform, ranging from resolutions for further study to legislation that provides all private sector workers with access to sponsored retirement savings accounts. Fifteen of the twenty-six proposals follow the so-called "Secure Choice" model, and have emerged over a relatively short time, starting with California in 2012. A key takeaway is that the first states to act have had considerable influence over how others have proceeded. Proposed legislation in Ohio, Arizona, Maryland,

and Maine is based on California's plan; and proposed legislation in New Jersey and New York is based on Illinois' plan. Connecticut, Vermont, Nebraska, Minnesota, Virginia, Colorado, West Virginia, and North Carolina have passed or proposed resolutions to conduct studies of the need for and feasibility of retirement reform. Washington State, Utah, and Massachusetts have proposed modest programs targeted at employees of small-businesses and non-profits.

The Secure Choice Model

Secure Choice Pensions (SCPs) are state-level retirement programs that require certain employers to automatically deposit payroll deductions into IRAs on behalf of their employees. [Kranc, J. (2015) "States Move to Implement Retirement Accounts," *Institutional Investor*] Participants are fully vested in their accrued benefits, and their contributions and earnings are overseen by an independent board of trustees appointed by state officials. Secure Choice programs have been enacted in California, Illinois, and Oregon, and have been proposed but not enacted in Ohio, Arizona, Louisiana, Indiana, Kentucky, Maryland, Wisconsin, New Jersey, Massachusetts, Rhode Island, New York, and Maine.

The specificities of Secure Choice Pension models vary among states, but all have the potential to provide a universal guaranteed retirement income and all propose some kind of pooled investments. SCPs could dramatically decrease the number of workers without access to a sponsored retirement account. If enacted in every state, they could reach 56 million currently uncovered workers. The primary weakness of SCPs is that workers can opt out. Though most programs feature automatic enrollment at a satisfactory contribution amount (typically three percent), they all allow workers to adjust their contributions at any time, or to cease to contribute altogether.

Illinois

Almost 2.5 million private-sector workers in Illinois—43 percent—do not have a retirement plan at work. In response, Illinois became the second state, after California, to enact an SCP in January 2015. Though Illinois' law was enacted after California's, it took effect immediately, while California's must survive a period of further study and subsequent legislative approval. As a result, Illinois will provide the first batch of results for evaluating an SCP. The goal of Illinois' program is to promote retirement savings among private sector workers in convenient, low cost, and portable accounts.

Like the California SCP, the Illinois' plan compels certain employers to make automatic payroll deductions on behalf of their employers and deposit them in Roth IRAs. All employers must enroll their employees, except those who have had fewer than 25 employees at any time in the past year and who have been in business for fewer than two years, or have offered their employees a retirement plan within the previous two years. Those who do not offer a plan will be subject to a fine of $250 per employee for the first year they are not enrolled, and $500 per employee per year for subsequent years. All workers will be automatically enrolled at a default contribution rate of three percent, unless they choose to opt out or to change their contribution amount. Contributions are subject to the current annual maximum for Roth IRAs of $5,500 for workers under 50 and $6,500 for workers 50or older. The tenth amendment made in the Illinois State Senate to the legislation that created the program specifies that it cannot be implemented if it is found that the state or employers could be liable under the Employee Retirement Income Security Act of 1974 ("ERISA"). [Retrieved from http://www.ilga.gov/legislation/BillStatus_pf.asp?DocNum=2758&DocTypeID=SB&LegID=78572&GAID=12&SessionID=85&GA=98]

If implemented, the Illinois Secure Choice Savings Program will ensure that most workers in Illinois have access to a retirement savings account, except those who work in small businesses with fewer than 25 employees, or those who work for brand new companies. Participation in the program by employers is mandatory, but workers can choose to opt out at any time. Funds are pooled for investment. But benefits are not guaranteed; Roth IRAs are subject to the whims of the market, and no state or employer will be liable to any party for the payment of benefits accrued under the program.

California

California workers have one of the lowest coverage rates in the country. Only 50 percent of private-sector workers in California have access to a retirement plan at work, compared with 55 percent nationally, leaving 7.3 million people without access to an employer-sponsored retirement accounts. This is partially because California's workforce has a greater share of non-citizens than the national workforce, at 20 percent compared to 11 percent, and only 34 percent of non-citizens have access to employer-sponsored retirement accounts in California (the same rate as non-citizens nationally). But that is not the whole story. American citizens in California are also less likely than American citizens nationally to have access to an employer-sponsored retirement account. Exactly why California pension coverage rates are so low is beyond the scope of this study, but the low rates are likely caused by California having smaller firms, industries less likely to cover their workers, a larger than average portion of non-citizens in its workforce and in most parts of the state a higher cost of living.

In 2012, California became the first state to enact an SCP, though implementation is still pending legal review. Once effectuated, it will be administered by a nine-member California Secure Choice Retirement Savings Investment Board, and will require any employer with five or more employees that does not offer a retirement savings program to automatically enroll its employees in state sponsored IRAs. Employees will be able opt out, but the default option will be a contribution of three percent of each paycheck. IRAs will be professionally managed by the California Public Employees' Retirement System, or a different contracted entity if the board so chooses. Accounts will be portable and invested as pooled assets.

The program's implementation hinges on the results of a preliminary legal and market analysis by a nine-member board made up of government officials and governor's appointees. This analysis must determine that the program fulfills three requirements before it can be submitted to the legislature to approve its implementation: it must receive the same tax treatment as an IRA plan; it must be exempt from ERISA; and it must not draw on state funds for its operating expenses. Once it passes legal review, it will return to the legislature for final approval. [Retrieved from http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB1234]

How does California's SCP measure up when evaluated by the four criteria for effective reform: universal availability, mandatory participation, pooled assets, and lifetime benefits? Passably. If implemented, it will be available to all workers, and thus has the potential to extend access to a retirement savings vehicle to the more than 7 million workers currently without access to one. Assets will be pooled, allowing for safer and lower-cost investments. But it fulfills neither aspect of mandatory participation. The default contribution rate is three percent, but employees may reduce their contributions or opt out at any time. It also permits hardship withdrawals. And benefits are not guaranteed; retirees' incomes are not robust if they are linked to the state of the economy and the quality of investments made on their behalf.

Maryland

In February 2015, lawmakers in Maryland proposed legislation that would create Maryland Secure Choice Savings Board to administer the Maryland Secure Choice Retirement Savings Program. The legislation was the direct result of the "Task Force to Ensure Retirement Security for all Marylanders," created by Governor Martin O'Malley and chaired by retirement security expert Kathleen Kennedy Townsend.

Maryland's proposed legislation has yet to be enacted. It is based on California's, which underscores the important position held by the first states to draw up legislation. It would create a state-sponsored payroll deduction IRA into which all employers with five or more employees would be required to enroll their workers at a default contribution rate of three percent, which could be changed or reduced by the employee to zero at anytime. Similar to other states, implementation would be contingent on establishing that the law will qualify for favorable tax treatment, and will avoid employer or state liability under ERISA. Assets would be pooled and professionally managed, and a there would be a guaranteed minimum rate of return--though implementation would require that the program was found to be self-sustaining. [Retrieved from http://mgaleg.maryland.gov/webmga/frmMain.aspx?id=sb0312&stab=01&pid=billpage&tab=subject3&ys=2015RS]

If implemented, Maryland's program will go a distance toward ensuring the universal availability of access to sponsored retirement accounts among workers in Maryland. Assets will be pooled for investment, but participation will not be strictly mandatory. Through its minimum rate of return feature, it has the potential to guarantee lifetime benefits.

New York City and State

Similar to their counterparts California, workers in New York State have access to an employer-sponsored retirement plan at a rate below the national average. Of the 7.7 million private sector workers age 25 to 64 in New York, 3.6 million do not have access to an employer-sponsored retirement plan, a rate of 47 percent, compared to 45 percent nationally. Though only 44 percent of New Yorkers work for small businesses, they account for 62 percent of the state's uncovered workers; only 31 percent of small business employees have access to an employer-sponsored retirement account. Whites and Blacks have above-average coverage rates. Whites make up almost 60 percent of the state's workforce but only 53 percent of the uncovered; Blacks make up 14 percent of the state's workforce but only 13 percent of the uncovered. Like California, Hispanics are the worst off; they make up 16 percent of the state's workforce but 21 percent of its uncovered workers, with a coverage rate of only 37 percent.

Fast growing industries account for large numbers of unsponsored workers. Since educators, health workers, and social service workers compose a large part of the state's workforce, they account for high percentage of unsponsored workers despite their relatively high sponsorship rates. Together, these fields make up 26 percent of all unsponsored workers in New York State.

In August of 2015, lawmakers in the New York State Assembly proposed a SCP almost identical to Illinois'. Employers would be required to enroll their employees in an automatic payroll deduction IRA at a default rate of three percent, but they could change the amount or opt out entirely at any time. The burden would be on employers to ensure their workers were signed up. As with other state level reforms, the law would set up a board with significant discretion over the set-up of the program. [Retrieved from http://www.nysenate.gov/legislation/bills/2015/a8332]

In New York City, the office of the comptroller and the public advocate have both expressed interest in a municipal SCP-style program, but have yet to agree on a proposal or take concrete steps toward enacting one.

How does New York's SCP measure up when evaluated by our four criteria? Similar to California's. If implemented, the program will be universally available, and assets will be pooled. However, participation is not mandatory and benefits are not guaranteed.

Connecticut

Workers in Connecticut enjoy access to employer-sponsored retirement savings accounts at a rate significantly above the national average, almost 62 percent compared to 55 percent nationally. Still, Connecticut has pursued retirement reform vigorously with a plan that may turn out to be the most ambitious yet. A relatively high access rate still leaves many workers uncovered--over 600,000 in Connecticut—and belies low access rates among certain constituencies. Like their counterparts in other states, small business workers in Connecticut have a much lower rate of coverage than other workers, at only 40 percent. Construction workers, who make 6 percent of the state's private sector workforce, account for 8 percent of uncovered workers because of their low access rate of only 49 percent.

Retirement reform in Connecticut has taken a different route than in most other states, having been initiated through the 2015 budget, where $400,000 was set aside to establish a Retirement Security Board. The Board is tasked with completing a study to evaluate the feasibility of, and possible routes to implementation of an automatic payroll deduction IRA, in which all employers with more than five employers would have to enroll their employees. Unlike typical IRAs, however, those established under the Connecticut program will pay out money as a lifetime annuity, unless workers specifically choose to receive a lump sum. The Connecticut Retirement Security Board's report is due in April 2016. [Retrieved from https://www.cga.ct.gov/asp/cgabillstatus/cgabillstatus.asp?selBillType=Bill&bill_num=249&which_year=2014&SUBMIT1.x=0&SUBMIT1.y=0]

If implemented, the Connecticut plan will go further than the other Secure Choice models we have discussed. Since it would be required of all employers with five or more employees, its reach would be significant--particularly into a typically underserved group, small business employees—and it will more closely approach the ideal of universal availability. Assets will be pooled for investment, but participation is not strictly mandatory--workers will be able to opt-out. The structuring of payouts from IRAs as an annuity is a notable departure from other models and could provide workers with lifetime benefits, as long as they do not choose to receive a lump sum.

Washington State

Small businesses employ 38 percent of Washington State's workforce, but account for 57 percent of its uncovered workers. Recognizing this problem, lawmakers in Washington have passed legislation aimed at solving one aspect of the retirement crisis: that workers in small businesses are particularly vulnerable. In May 2015, Washington enacted a program that creates a marketplace in the State Department of Commerce to promote participation in retirement plans to businesses with 100 or fewer employees. The goal of the marketplace is to remove what some small businesses consider barriers to offering retirement plans, including high costs, administrative burdens, and liability. The plan would be voluntary both for employers to offer and employees to use.

The plan is a public-private hybrid, and employers have significant leeway in determining the extent and success of the program. The Washington marketplace will work with the private sector to connect eligible businesses with retirement savings plans. Default contributions are not specified. Payroll deductions are not automatic unless otherwise instituted by participating employers.

Participating financial services firms will be subject to requirements on the number and types of investment funds they can offer. Two or more must be target date mutual funds, and two or more must be balanced mutual funds. These options must include an IRA that allows for employer contributions to participating enrollees' accounts. The plans also must be portable, allowing contributions to roll over to different retirement accounts. [Retrieved from http://app.leg.wa.gov/billinfo/summary.aspx?bill=5826&year=2015]

These voluntary features and dependence on the IRA format limit the effectiveness of Washington State's program. It has the potential to provide retirement plan access to the roughly 650,000 uncovered workers in Washington who work for small businesses. But enrollment is voluntary for both employers and employees, so not all who are eligible will participate. Furthermore, it does nothing for the roughly 500,000 uncovered workers whose firms have more than 100 employees.

Though it is doubtlessly a step in the right direction, the Washington State small business marketplace meets none of the four criteria for effective reform. It is not universally available; participation is not mandatory; assets are not pooled; and benefits are not guaranteed. However, it is influential. In early January 2016, New Jersey Governor Chris Christie rejected a Secure Choice plan passed by his state legislature in favor of a small business marketplace based on Washington State's.

Massachusetts

Workers in Massachusetts are more likely to have access to an employer-sponsored retirement account than workers nationally, at 58 percent compared to 55 percent. However, that leaves over 1.2 million uncovered workers. Though only 40 percent of Massachusetts' workforce is employed by businesses with fewer than 21 employees, they account for 54 percent of all uncovered workers in the state. In response, Massachusetts enacted a limited program targeted at small non-profits. Its plan provides state-sponsored 401(k) plans to employees of non-profits with fewer than 20 employees. Employer participation in the plan is not mandatory, but employers are permitted to contribute to their employees' accounts if they so choose. There is no automatic enrollment; employees must actively choose to opt-in. Since it is available only to a small subset of the state workforce and does not feature automatic enrollment, the scope of this program is limited.

Nonetheless, Massachusetts' program has a number of recommending qualities. It is explicitly covered by the ERISA and must follow its rules and regulations for safe and responsible employee investment plans. Employees in non-profit organizations usually receive lower compensation and benefits than similarly situated employees in the for-profit sector, so this plan may help employers attract quality employees through access to a retirement savings account. It represents a significantly different approach to retirement reform from the Secure Choice programs; rather than blanketing all industries with the same mandate, it provides an opportunity for employees in a vulnerable niche to access coverage if they so choose. [Retrieved from https://malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter60]

Like Washington State's small business marketplace, Massachusetts plan for nonprofits fulfills none of our four criteria. It is not universally available; participation is not mandatory;

assets are not pooled; and benefits are not guaranteed. Massachusetts also proposed a Secure Choice Pension program in early 2015, but has yet to enact it.

State-Sponsored Savings Plans and ERISA

An important aspect of the legal reviews on which the implementation of SCPs rely is whether they are subject to ERISA. California, Illinois, and Oregon—the only states that have enacted a SCP—must be sure their plans are exempt from ERISA before they can take effect. A major element of ERISA is the requirement that retirement plans be managed by those acting as fiduciaries and subject to legislated duties, particularly that all decisions made by those managing the plans must benefit workers and retirees. As California deliberates whether its SCP will be covered by ERISA, it is awaiting guidance from the federal government on the topic.

On November 16th, 2015, the Department of Labor released a proposed regulation to clarify how ERISA affects state reforms. The proposed regulation describes "a safe-harbor for state laws that require employers to facilitate enrollment in state-administered payroll deduction individual retirement accounts (IRAs)." If state programs meet the conditions of the safe-harbor, they will not be covered by ERISA. These conditions are constricting: employee participation must be voluntary, states cannot place further restrictions on withdrawing funds beyond normal IRA rules, employers must not contribute or have any authority over the operation of the program, and states must be responsible for securing payroll deductions and employee savings, and informing employees of their rights. State policymakers will likely interpret this as a go-ahead to approve and begin to implement their programs.

The Department of Labor also released guidance for states that wish to encourage firms to enroll their employees in ERISA plans. The guidance suggests state-sponsored marketplaces which would offer both ERISA and non-ERISA plans; state-administered "prototype plans" that employers can choose to offer; and state-administered multiple-employer plans, managed by the state or a state-designated third party. States cannot mandate universal participation in ERISA plans. Those that wish to mandate universal coverage and encourage participation in ERISA programs would want to enact SCPs and establish marketplaces that facilitate enrollment in ERISA plans for eligible employers who so choose. [Retrieved from http://www.dol.gov/ebsa/newsroom/fsstatesavingsprogramsfornongovernmentemployees.html]

A strong system protects employees who participate in state-run plans with the same basic protections that are required by ERISA. Multiple-employer employer plans have ERISA protection. The Department of Labor has in the past issued regulations and opinions for private providers who aren't employers and want to administer multiple-employer plan. They conclude that an employee relationship is a proper "nexus" to have a common plan under ERISA, but geographic proximity is not. However, recent regulations seem to suggest that the DOL is changing its position by implying that since a state is a geographical nexus, a state run plan can be an ERISA plan. But we don't think this is the case. People in a state are bounded by more than geography; they are a democratic political unit, joined by public policies and institutions, and the ability to collectively choose their state's leadership. There is more commonality for state-run plans for employers than just geographic proximity.

Going Forward

The recent proliferation of retirement reform proposals—from calls for further study to SCPs—reflects the need for retirement reform, and demonstrates that the political will for it exists. State level reform, while a useful first step, cannot be an end in itself. While California's SCP could give over 7 million workers access to a retirement account whose employers currently do not offer one, it does nothing for the 500,000 workers in Mississippi whose state legislature is not among the 26 who have expressed interest in reform, and does not appear to be eager to join them. Mississippi workers have access to employer-sponsored retirement accounts at a rate of 53 percent, which is below the national average. Only 25 percent of small business employees—who make up more than half of Mississippi's workforce—are currently covered.

At the federal level, the Obama Administration's myRA program is a limited step toward improved retirement security, but its retirement accounts are more suitable for rainy day or emergency funds than as a solution to retirement crisis. MyRAs are government-sponsored Roth IRAs, designed as starter retirement savings accounts for workers without access to a retirement plans at work, to which workers can contribute up to $5,500 per year. To avoid competition with financial-services firms, the U.S. Treasury will administer myRA accounts (in cooperation with a private-sector bank) only while they are small. Once account balances are greater than $15,000, or after thirty years (whichever comes first), myRAs must be turned over to private sector IRAs. [Munnell, A. (2015) "The myRA Addresses a Serious Problem," *Marketwatch*] Enrollment in myRAs is entirely voluntary, and there is no employer match. The impact of myRAs is likely to be modestly beneficial for households who need a rainy day fund for emergencies, but they have little chance of significantly closing a household's gap between what they have in retirement savings and what they need.

The nature of the retirement crisis and our analysis of current federal and state level programs point toward what comprehensive reform might look like. The optimal policy solution is Guaranteed Retirement Accounts (GRAs): mandatory, professionally managed accounts that supplement Social Security. Workers and their employers should split annual contributions of at least five percent of their salary to adequately close the gap between income from Social Security and the expert-recommended income necessary for a secure and comfortable retirement. These accounts must be mandatory, and early withdrawals must be prohibited. They should guarantee all workers the return of their principal, plus an appropriate rate-of-return. Given the recent spate of action at the state-level, and modest federal proposals, we should expect that comprehensive federal retirement reform will begin to take shape within the next generation.

Conclusion

America's retirement system is expensive but ineffective. Fewer employers are providing retirement plans to fewer employees, and they increasingly offer defined contribution plans, which burden workers with potential high costs and uncertainty. As a result, more Americans are unprepared for retirement; almost half of the American workforce has no retirement savings. Against this backdrop, state policymakers have begun to propose and enact state-level retirement reforms, which include resolutions for further study, limited programs targeted at small pockets of workers, and ambitious Secure Choice Pensions, which could make retirement security universal. Since federal social policy often takes inspiration and justification from state-level experiments, Secure Choice Pensions can be viewed as predecessors of federal reform, without which a large portion of the population will be left without access to a retirement plan. The next generation of retirees will be worse off than their parents and grandparents and federal and state government will spend even more to care for poor and near poor retirees. Mandated pension plans can go a long way to help Americans support their own dignified retirement and relieve some pressure on future government budgets.

Table that can be placed at the end of the state section, right before the ERISA section.

State-Plan Timeline			
STATE	**PLAN TYPE**	**PROPOSED**	**ENACTED**
Massachusetts	Non-Profit 401(k)s	10/17/2011	3/22/2012
California	Secure Choice	2/23/2012	9/28/2012
Maine	Secure Choice	4/30/2013, 3/5/2015	
Nebraska	Research	5/20/2013	
Ohio	Secure Choice	10/2/2013	
Connecticut	Research	2014	2015
Vermont	Research	2014	
Illinois	Secure Choice	1/1/2014	1/4/2015
Arizona	Secure Choice	1/22/2014	
Minnesota	Research	2/27/2014	5/11/2014
Louisiana	Secure Choice	5/11/2014	
North Dakota	Small Business	1/12/2015	
Indiana	Secure Choice	1/13/2015	
Virginia	Research	1/14/2015	7/1/2015
Utah	Joint Resolution for Further Action	1/30/2015	3/8/2015
Kentucky	Secure Choice	2/3/2015	
Washington	Small Business Marketplace	2/4/2015	5/18/2015
Maryland	Secure Choice	2/9/2015	
Oregon	Secure Choice	2/10/2015	6/25/2015
Colorado	Research	2/19/2015	
Wisconsin	Secure Choice	2/24/2015	
New Jersey	Secure Choice	3/2/2015	
West Virginia	Research	3/6/2015	
Massachusetts	Secure Choice	3/10/2015	
North Carolina	Research	4/2/2015	
Rhode Island	Secure Choice	4/15/2015	
New York	Secure Choice	8/5/2015	
New Jersey	Small Business Marketplace	1/11/2016	1/12/2016
Source: www.pensionrights.org/issues/legislation/state-based-retirement-plans-private-sector			