

INVESTMENTS AND PENSIONS OVERSIGHT COMMITTEE

Gerri Madrid-Davis

Director

State Financial Security & Consumer Affairs

AARP

Room 322, State Capitol

Santa Fe

October 31, 2016

A Path to Retirement Security

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Reformist
Religious
Risky

Models Discussed in States

Studying Retirement Insecurity	Feasibility Study	Marketplace	Voluntary IRA	Auto IRA	ERISA Plans/ DB features
Utah	Minnesota	Washington*	West Virginia	Illinois*	Wisconsin
Virginia	California	New Jersey*	North Dakota	Oregon*	Massachusetts**
Vermont	Connecticut		Indiana	Connecticut*	
New Hampshire			Utah	Maryland*	
Nebraska				New Jersey	
NYC				Kentucky	
Philadelphia				Ohio	
				California	
				Colorado	
				New Jersey	
				New York	
				Arizona	
				Kentucky	
				Rhode Island	

• Legislation being implemented

** Massachusetts implementing a plan for small non profits

Note- double listings are not mistakes, they reflect multiple bills under consideration

Updated October 2016

Marketplace Model

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Reform
Relaxing
Reform

Marketplace: How it Works

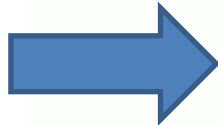
Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Retirement
Rethinking



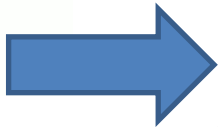
Retirement plan providers apply to be on marketplace



State agency vets plans for fees (100 basis points or less generally) & transparency. Accepted plans listed on website.



Employer voluntarily goes to marketplace to choose plan



Employer establishes and runs retirement plan for employees

Marketplace Allows for Apples to Apples Comparisons

Reimagine
Realizing
Reaching
Richer
Rewarding

	Max contribution	Employer contribution	Employee contribution	ERISA	Fees under 100 basis points (if on marketplace)
myRA	\$5,500 (\$6,500 50+) \$15,000 (lifetime)	x	✓	x	✓
SIMPLE IRA	\$12,500	✓	✓	✓	✓
Payroll IRA	\$5,500 (\$6,500 50+)	x	✓	x	✓

Marketplace Drawbacks

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Retirement
Roller



**Employer
must:**

- Choose type of plan, provider, and investment options
- Operate plan and fill out paperwork
- May act as fiduciary
- Remit payroll deduction

Auto IRA (aka Secure Choice)

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Reforming
Relaxing

Auto IRA: How it Works

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll



Employer is either required or voluntarily decides to offer a retirement plan to employees



Choice 1: Use a private sector provider to offer a plan chosen by the employer. This fulfills the state's requirement on the employer to offer his/her employees a way to save for retirement at work.



Choice 2: Use the default state option (often known as Secure Choice). Also fulfills state's requirement to offer a retirement plan.



Employer establishes and runs retirement plan for employees

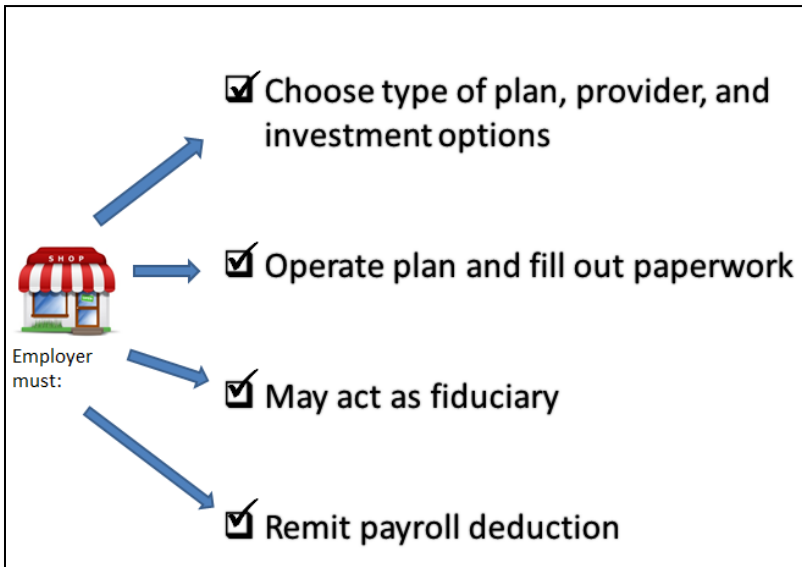


State runs the retirement plan through a public private partnership.

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing



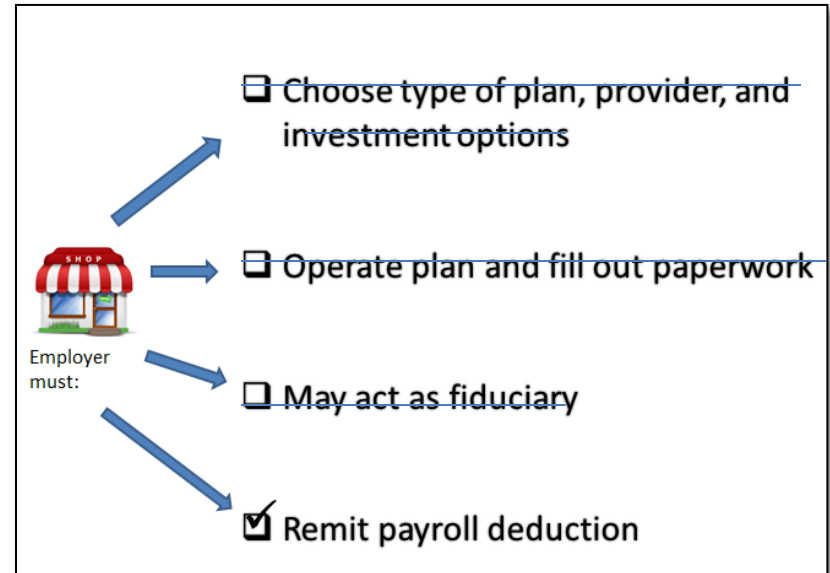
Private Sector Plan



✓ **May make Employer contributions**



State Auto IRA (aka Secure Choice)



✗ **No Employer contributions**

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Rising

Comparison of Auto IRA and Marketplace

Auto IRA vs. Marketplace

Reimagine
Realizing
Reaching
Richer
Rewarding
Ince
onsible
n' Roll
IRA
IRA

Improving the Regulatory and Operational Burdens on Small Businesses via auto IRA:



Under a Marketplace an Employer Must:

- ❖ Navigate the confusing regulatory environment of retirement plans.
- ❖ Choose a type of plan, provider, and investment options.
- ❖ Operate plan and fill out paperwork.
- ❖ May act as fiduciary.
- ❖ Remit payroll deduction.



Under Auto IRA an Employer Must:

- ❖ Remit payroll deduction

Auto IRA vs. Marketplace

Reimagine
Realizing
Reaching
Richer
Resounding
eng
e
ible
Roll

Feature	Illinois/ Oregon Model (Secure Choice)	Washington Model
Automatic IRA	x	
Marketplace	(Can include)	x
Requires access to payroll deduction for employees and provides access to automatic enrollment	x	
Businesses are only required to provide information to employees and run payroll deduction	x	
Provides plug-and-play plan option for small business owners that employers don't have to manage	x	
Optional for employees	x	x
Employee can chose which plan they want to offer	x	x
ERISA plan		Some, including SIMPLE
Fee cap	x	x
Public Private-Partnership	x	x

A Different Approach

- ❖ The Marketplace scheme has been discussed by some opponents as a better model and less regulatory on businesses.
- ❖ **Auto IRA creates a plug and play option for businesses that reduces their administrative, financial and legal burdens.**
- ❖ In contrast, the Marketplace scheme does not address the regulatory and administrative burden of operating a retirement plan.
- ❖ **In order to use the marketplace, small businesses would still need to choose a plan, choose a provider, hire lawyers and third party administrators,** potentially operate under ERISA and contribute employer dollars.
- ❖ This model is not self-sufficient and will have an ongoing operating expense to the state.

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Relaxing

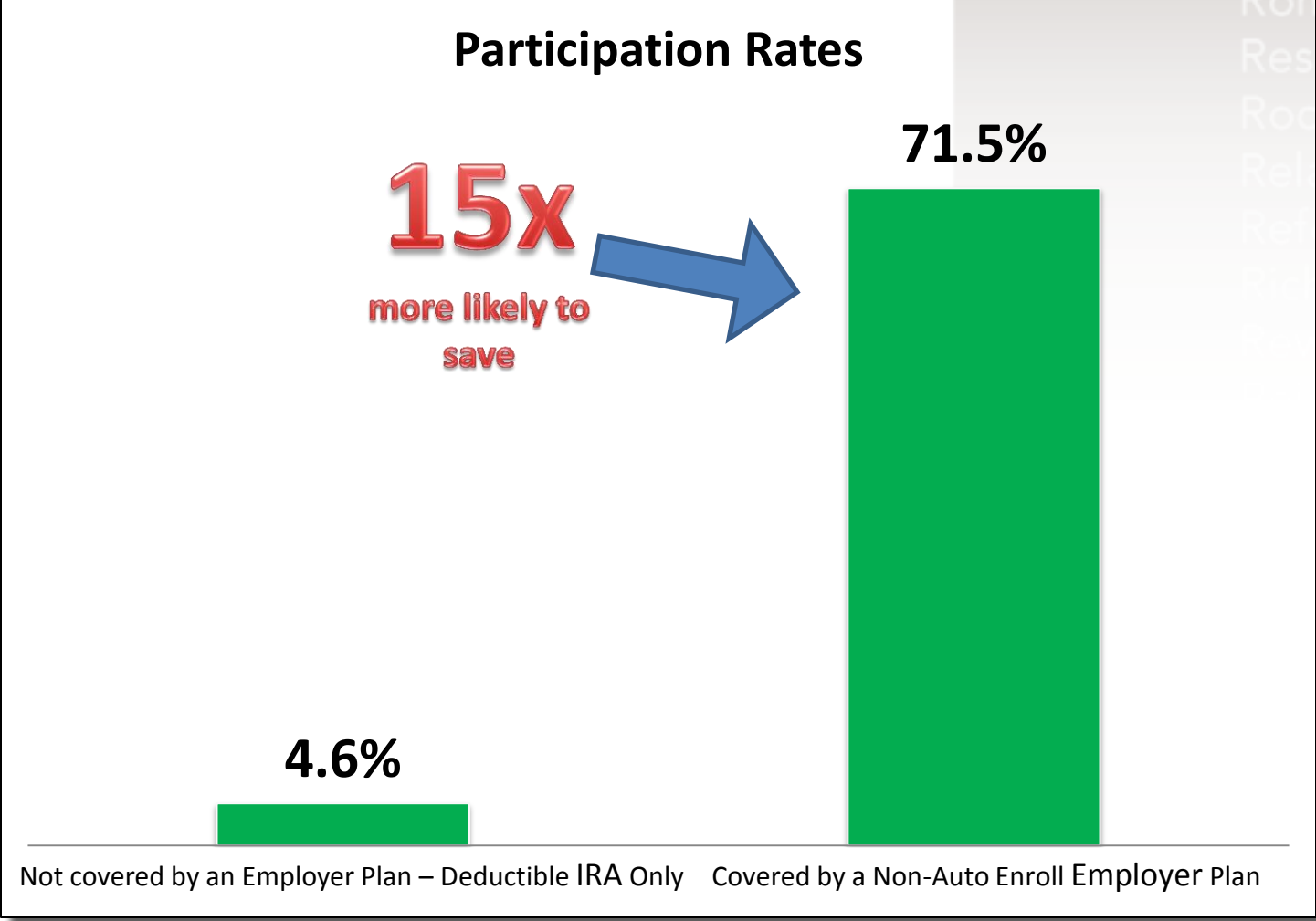
Auto IRA States

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible

Feature	Illinois	Oregon	Maryland	Connecticut	California
Automatic IRA	✓	✓	✓	✓	✓
Requires access to payroll deduction for employees and provides access to automatic enrollment	✓	✓	✓	✓	✓
Employee Treshold	25+	TBD	0+	5+	0+
Default Contribution	3%	TBD	TBD	3%	2%-5%
Plug-and-play Plan	✓	✓	✓	✓	✓
Voluntary for Employees	✓	✓	✓	✓	✓
Employers retain the option to set up an employer-sponsored plan	✓	✓	✓	✓	✓
ERISA plan					
Fee cap	75 Basis Points	✓	✓	75 Basis Points	✓
Public Private-Partnership	✓	✓	✓	✓	✓
Enrollment	Jan, 2018	July, 2017	TBD	January, 2018	TBD

Power of Payroll Deduction

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Returning
Pleasure
Resilience



Data compiled by AARP's Public Policy Institute from unpublished estimates from the Employee Benefit Research Institute of the 2004 Survey of income and Program Participation Wave 7 Topical Module (2006 data). See also Brookings' Retirement Security Project and Whitehouse.gov

ERISA

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Reforming
Real
Play

ERISA: The Basics

- ❖ ERISA, or the Employee Retirement Income Security Act of 1974, is the federal law governing retirement plans. Regulation and enforcement of ERISA is overseen by the Department of Labor (DOL).
- ❖ ERISA protects the retirement assets of millions of Americans so that funds placed in retirement plans during their working lives will be there when they retire.
- ❖ However, ERISA also imposes fiduciary responsibilities that are increasingly complex.



[Want more background? Click here.](#)

ERISA: Department of Labor Rules

States can design their Work and Save plans to be either under or outside of ERISA. Some specifics on Work and Save plans that states can create were outlined by the Department of Labor in two documents in 2015: an Interpretive Bulletin (IB) and a notice of proposed rulemaking (NPRM).



Notice of Proposed Rulemaking (NPRM) Covers:

**State plans that can be
*outside of ERISA:***

- **Automatic IRA**
- **Voluntary IRA**

Interpretive Bulletin Covers:

**State Plans that can be
*under ERISA:***

- **Prototype**
- **Multiple Employer Plan (MEP)**
- **Marketplace (also has non-ERISA plans)**

What's In the Interpretive Bulletin

The Department of Labor focused on three key areas in the Interpretive Bulletin:

- *Marketplace*: the state would establish a marketplace to connect eligible employers with retirement plans available in the private sector market. The marketplace would not itself be an ERISA-covered plan, and the arrangements available to employers through the marketplace could include ERISA-covered plans and other non-ERISA savings arrangements.
- *Prototype Plans*: the state would make available a "prototype plan" that individual employers could adopt. Each employer that adopts the prototype would sponsor an ERISA plan for its employees, and the state or a designated third-party could assume responsibility for most administrative and asset management functions of an employer's prototype plan.
- *MEPs*: Under a third approach, a state would establish a "multiple-employer plan" or MEP that eligible employers could join rather than establishing their own separate plan. The MEP would be run by the state or a designated third-party.

Interpretive Bulletin Covers:

State Plans that can be
under ERISA:

- Prototype
- Multiple Employer Plan (MEP)
- Marketplace (also has non-ERISA plans)

What's In the Notice of Proposed Rulemaking

Reimagine
Realizing
Reaching
Richer

The Department of Labor addresses three key areas in the Notice of Proposed Rulemaking:

- *State Law and Role of the State* –plans must be established and administered by a state. The state must be responsible for investing employee savings or for selecting investments from which employees may choose. The state must be responsible for the security of payroll deductions and employee savings. The state also must adopt measures to ensure that employees are notified of their rights under the program, and create a mechanism for enforcement of those rights. The state may administer its program or contract with private-sector providers to administer the state program.
- *Rights of Employees*-- participation in the program must be voluntary for employees. Thus, if the program requires automatic enrollment, employees must be given appropriate notice and have the right to opt out. Moreover, since employees own their IRAs, they must have the ability to withdraw their money under normal IRA rules without any other cost or penalties.
- *Limited Role of Employer* -- under the proposal, the employer's activities must be limited to activities such as collecting payroll deductions and remitting them to the program; providing program information to employees; maintaining records of payroll deductions and remittance of payments; and providing information to the state necessary to the operation of the program. The employer may have no discretionary authority or control over the employees' IRAs or the operation of the IRA program. Employers cannot contribute employer funds to the IRAs.

Notice of Proposed Rulemaking (NPRM) Covers:

**State plans that can be
outside of ERISA:**

- **Automatic IRA**
- **Voluntary IRA**

AARP's Comments to DOL

The interpretive bulletin (ERISA plans) goes into effect immediately, whereas the Notice of Proposed Rulemaking (non-ERISA plans) has to go through a comment period.

AARP, and many other organizations, submitted comments on the Notice of Proposed Rulemaking.

Our key points were as follows:

- 1) States should be provided the flexibility they need in order to implement Work and Save plans.
- 2) Automatic enrollment should be allowed whether a plan is mandatory or voluntary.
- 3) Large cities should be allowed to run Work and Save plans.

Want to read some of the comments? [Click here.](#)

Questions?

Gerri Madrid-Davis

Director

State Financial Security & Consumer Affairs

AARP

(202) 434-3797

gmadrid@aarp.org

Additional Resources:

AARP's Public Policy Institute State Retirement

Savings Resource Center

<http://www.aarp.org/ppi/state-retirement-plans/>

Reimagine
Realizing
Reaching
Richer
Rewarding
Romance
Responsible
Rock 'n' Roll
Relaxing
Returning
Relief