Evaluation of the Maryland Small Business Retirement Savings Program



Department of Legislative Services 2024

Evaluation of the Maryland Small Business Retirement Savings Program

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Office of Policy Analysis
Maryland General Assembly

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December 2024

The Honorable William C. Ferguson IV, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates
Members of the General Assembly

President Ferguson, Speaker Jones, and Members:

The Tax Expenditure Evaluation Act (formerly the Tax Credit Evaluation Act) establishes a process for evaluating certain tax credits, exemptions, and preferences. The Department of Legislative Services (DLS) is required to evaluate a tax credit, exemption, or preference on a number of factors, including (1) the purpose for which the tax credit, exemption, or preference was established; (2) whether the original intent of the tax credit, exemption, or preference is still appropriate; (3) whether the tax credit, exemption, or preference is meeting its objectives; (4) whether the goals of the tax credit, exemption, or preference could be more effectively carried out by other means; and (5) the cost of the tax credit, exemption, or preference to the State and local governments. DLS is taking this evaluation approach to evaluating the Maryland Small Business Retirement Savings Program, commonly referred to as MarylandSaves.

DLS has conducted its evaluation of the program and makes several findings and recommendations about the program. The document is divided into six chapters.

- **Chapter 1** provides an overview of the MarylandSaves program.
- **Chapter 2** provides a discussion of the program's objectives and goals.
- **Chapter 3** provides information on federal laws governing retirement savings and other states' retirement savings programs.
- **Chapter 4** provides information on the fiscal impact of the MarylandSaves program.

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- **Chapter 5** discusses the effectiveness of the MarylandSaves program to date.

- **Chapter 6** summarizes the findings of the report and discusses recommended changes to the program.

We wish to acknowledge the cooperation and assistance provided by the Maryland Small Business Retirement Savings Board. DLS trusts that this report will be useful to members of the General Assembly in future deliberations about MarylandSaves.

Sincerely,

Victoria L. Gruber
Executive Director

Ryan Bishop
Director

VLG:RB/GHB/bao

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Executive Summary

Under the Tax Expenditure Evaluation Act, the Department of Legislative Services (DLS) is required to evaluate a tax credit, exemption, or preference on a number of factors, including (1) the purpose for which the tax credit, exemption, or preference was established; (2) whether the original intent of the tax credit, exemption, or preference is still appropriate; (3) whether the tax credit, exemption, or preference is meeting its objectives; (4) whether the goals of the tax credit, exemption, or preference could be more effectively carried out by other means; and (5) the cost of the tax credit, exemption, or preference to the State and local governments. DLS has taken this evaluation approach to evaluating the Maryland Small Business Retirement Savings Program, commonly referred to as MarylandSaves.

In response to concerns regarding the lack of opportunities for workers to save for retirement, legislatures across the country began exploring the idea of state-established retirement savings programs for private sector employees who lacked employer-provided options. As of June 30, 2024, retirement savings programs have been enacted in 20 states.

Chapters 323 and 324 of 2016 established the Maryland Small Business Retirement Savings Board as program fiduciaries to administer the Maryland Small Business Retirement Savings trust and program. MarylandSaves launched on September 15, 2022, so the program is still in its early stages, and the board is working on boosting business enrollment in the program.

Employers participating in MarylandSaves must establish a payroll deposit retirement savings arrangement that allows employee participation in the program. All covered employees must be automatically enrolled in the program by their employers, unless the employees have opted out. Any participating employees may terminate their participation at any time in a manner prescribed by the board.

The program is authorized to consist of one or more payroll deposit Individual Retirement Account (IRA) arrangements. Unless otherwise specified by the employee, a participating employee contributes a fixed percentage or dollar amount of the employee’s salary or wages to the program. By regulation, the board must set and may adjust the default employee contribution. The assets in a participating employee’s account are the property of the employee. Employers may elect to establish alternative payroll deposit retirement savings arrangements for their employees rather than participate in the program.

DLS makes several findings and recommendations related to MarylandSaves, as follows.

MarylandSaves Is the Only Mandatory Auto-Individual Retirement Account Program Without Penalties

The MarylandSaves program is unique among other states' programs, as it waives the annual filing fee of generally $300 collected by the State Department of Assessments and Taxation for a business that participates in the program or otherwise offers a retirement savings arrangement for its employees. Other states' programs impose penalties for noncompliant employers.

As of June 30, 2024, there were 3,812 businesses enrolled in MarylandSaves, with 1,189 businesses actively submitting payroll deductions. MarylandSaves notes that employers are registering at comparable rates to the first four state auto-IRA programs (California, Illinois, Oregon, and Connecticut). However, due to not imposing noncompliance penalties, MarylandSaves does not believe this trend will continue, and increased participation will be needed for MarylandSaves to become self-sufficient.

Recommendation: DLS recommends that MarylandSaves continue to monitor employer participation rates. If participation rates become significantly lower than other states' auto-IRA employer participation rates, DLS recommends that the General Assembly consider imposing noncompliance penalties with revenues going to support MarylandSaves until it becomes self-sufficient.

Higher Investment Fees Are Detrimental to Retirement Savings

Plan fees and expenses are important considerations for all types of retirement plans as the cumulative effect of fees and expenses on retirement savings can be substantial. The MarylandSaves website has a chart of investment fees that was last updated in September 2022. However, the investment fee for the Global Growth Index has since increased.

Recommendation: DLS recommends that the MarylandSaves Board continue to monitor investment fees and continue to keep investment fees low.

Recommendation: DLS recommends that the MarylandSaves Board ensure transparency when it comes to investment fees and update the chart of investment fees on the MarylandSaves website whenever investment fees change.

MarylandSaves Has Limited Investment Options Compared to Other Programs

Several states offer a broader selection of investment funds than MarylandSaves.

Recommendation: DLS recommends that the MarylandSaves Board continue to monitor investment options and consider adding additional investments, especially those with higher Morningstar ratings, if investment fees can remain low.

Multistate Agreements Provide an Opportunity to Increase Returns and Reduce Costs

Colorado expects its consortium, the Partnership for Dignified Retirement, to increase returns through economies of scale and reduce costs for savers with more assets and accounts under management. The partnership also enables Vermont Saves to launch faster than anticipated, with an expected launch by the end of 2024.

Recommendation: DLS recommends that the MarylandSaves Board consider exploring opportunities to partner with other states.

MarylandSaves Has Not Published Regulations

Chapters 323 and 324 required the MarylandSaves Board to adopt regulations, but the board is unfamiliar with the process for adopting regulations.

Recommendation: DLS recommends that either the MarylandSaves Board obtain assistance to publish regulations as required by statute or the General Assembly eliminate that requirement in statute.

Chapter 1. Overview and Background of the Maryland Small Business Retirement Savings Program

Overview

Under the Tax Expenditure Evaluation Act, the Department of Legislative Services (DLS) is required to evaluate a tax credit, exemption, or preference on a number of factors, including (1) the purpose for which the tax credit, exemption, or preference was established; (2) whether the original intent of the tax credit, exemption, or preference is still appropriate; (3) whether the tax credit, exemption, or preference is meeting its objectives; (4) whether the goals of the tax credit, exemption, or preference could be more effectively carried out by other means; and (5) the cost of the tax credit, exemption, or preference to the State and local governments. DLS is taking this evaluation approach to evaluating the Maryland Small Business Retirement Savings Program, commonly referred to as MarylandSaves.

The Maryland Small Business Retirement Savings Program and Board

Background

Beginning in the 1980s, and accelerating through the 1990s, workers' access to defined benefit (DB) pension plans dropped considerably. According to the Center for Retirement Research at Boston College, the share of employees with at least a DB pension plan dropped from 88% in 1983 to just 32% in 2010. The trend was most pronounced in the private sector, as most public employers have retained their DB plans. In most cases, DB plans were replaced by defined contribution (DC) plans, with coverage from DC plans growing from 38% in 1983 to 81% in 2010 (these figures include workers covered by both types of plans).

DC plans place both the investment risk and the burden to contribute enough money on the employee rather than the employer, and research has consistently concluded that current generations approaching retirement have not set aside sufficient resources to provide a comfortable and secure retirement. In the private sector, the lack of retirement savings stems in part both from lack of access and from low participation rates for DC plans. According to the U.S. Department of Labor, as of March 2022, 69% of private-sector employees had access to a retirement savings plan sponsored by their employer, and 52% of private-sector employees participate in a plan; thus, 75% of employees with access to a plan participate in the plan. Among those that do participate in a DC plan, however, there is no guarantee that they contribute sufficient savings during their working years to ensure a secure retirement, which can lead to overreliance on Social Security benefits. Access to any employer-based retirement plan is even lower for low-wage workers and those who work for small businesses.

In response to the concerns regarding obstacles leading to the lack of opportunities for workers across the country to save for retirement, legislatures across the country began exploring the idea of state-established retirement savings programs for private-sector employees who lacked employer-provided options.

Program Establishment and Board Responsibilities

Chapters 323 and 324 of 2016 established the Maryland Small Business Retirement Savings Board as program fiduciaries to administer the Maryland Small Business Retirement Savings trust and program, known as MarylandSaves. MarylandSaves launched on September 15, 2022. The legislation established staggered terms for specified members of the board, required the board to designate a chair, and established conditions for removing members. All expenses, including employee costs, for the board are paid by the trust or program; however, administrative fees assessed on employee accounts to fund the program may not exceed 0.5% of total assets in the trust. Members of the board and its staff must act solely in the interest of the program participants and establish a written investment policy that includes a risk management and oversight program. The board is also required to enter into an agreement delegating the administration of the trust to a third-party administrator.

The board is required to adopt regulations and take any other action necessary to implement the program consistent with the federal Internal Revenue Code and ensure that the program meets the criteria for tax-deferral or tax-exempt status, or both. As of September 2024, MarylandSaves has not issued any regulations and noted that they were unfamiliar with the requirement and process for publishing regulations.

The legislation established additional requirements and authority related to the board's administration of the trust and program, including:

- the authority to borrow funds from the State or any other entity for start-up costs until the board becomes self-sufficient;
- a requirement to establish a range of investment options, including a default option, that minimize the risk of significant investment losses and are consistent with other specifications in the legislation;
- a requirement to establish minimum and maximum employee contribution levels in accordance with federal limits on Individual Retirement Accounts (IRA); and
- a requirement to take any action necessary to ensure that the program is not preempted by federal law.

The State may not be held liable for the payment of retirement savings benefits payable by the program or trust. The debts, contracts, and obligations of the board, trust, or program are not the debts, contracts, or obligations of the State, and neither the State's full-faith and credit nor taxing powers are pledged directly or indirectly to the payment of the debts, contracts, and obligations. The State may not transfer assets in the trust to the General Fund or any other State fund, nor can the State otherwise encumber assets in the trust. The board must conduct an annual audit by an independent certified public accountant and submit copies of the audit report to the Governor and General Assembly.

Finally, the board must establish procedures and disclosures to protect the interests of participants and employers. Before opening the program to enrollees, the board must design and disseminate information regarding the program to employers and employees. The information must include appropriate background and disclosures about the program and other retirement savings options, including information on how employees can opt out of the program.

Participants and Contributions

Under the program, "covered employers" are nongovernmental for-profit and nonprofit employers in the State that (1) pay employees through a payroll system or service; (2) have been in business for at least the last two years; and (3) do not currently offer, or have not offered in the previous two years, an employer-offered savings arrangement.

Employers may elect to establish alternative savings arrangements for their employees rather than participate in the program. Participation in the program does not create a fiduciary obligation of the employers; specifically, employers are not liable for an employee's decision to participate in or to opt out of the program or for their investment decisions, and they are not responsible for program design, administration, investment, or performance.

Generally, "covered employees" are those who are at least age 18 and without access to an employer-sponsored retirement plan. Participating covered employers must establish a payroll deposit retirement savings arrangement that allows employee participation in the program. All covered employees must be automatically enrolled in the program by their covered employers, unless the employees have opted out. Employees who have opted out may later enroll in accordance with procedures established by the board. Employees of nonparticipating employers may elect to participate in the program as authorized by the board. Any participating employees may terminate their participation at any time in a manner prescribed by the board.

The program is authorized to consist of one or more payroll deposit IRA arrangements. Unless otherwise specified by the employee, a participating employee contributes a fixed percentage or dollar amount of the employee's salary or wages to the program. By regulation, the board must set and may adjust the default employee contribution. The assets in a participating employee's account are the property of the employee.

Annual Business Report Filing Fees

The MarylandSaves program is unique among other states' programs, as it waives the annual filing fee collected by the State Department of Assessments and Taxation for a corporation or business entity that participates in the program or otherwise offers a retirement savings arrangement for its employees. The annual filing fee is $300, or $100 for family farms. Other states' programs impose penalties for noncompliant employers. The fee waiver applies to the following annual reports:

- annual report of a Maryland corporation, except a charitable or benevolent institution, nonstock corporation, savings and loan corporation, credit union, family farm, and banking institution;
- annual report of a foreign corporation subject to the jurisdiction of the State, except a national banking association, savings and loan association, credit union, nonstock corporation, and charitable and benevolent institution;
- annual report of a Maryland savings and loan association, banking institution, or credit union, or of a foreign savings and loan association, national banking association, or credit union that is subject to the State's jurisdiction;
- annual report of a Maryland limited liability company, limited liability partnership, limited partnership, or of a foreign limited liability company, foreign limited liability partnership, or foreign limited partnership, except a family farm;
- annual report of a business trust;
- annual report of a real estate investment trust or foreign statutory trust doing business in the State; and
- annual report of a family farm.

The 2024 waiver is only available to employers who registered, exempted their business, or requested an access code by December 1, 2023. Employers who are registered with MarylandSaves are automatically eligible to receive the waiver each year, while exempt employers must annually request the waiver from MarylandSaves.

MarylandSaves WorkLife Savings Accounts

An employer must facilitate the MarylandSaves program if the employer is registered to conduct business in Maryland, has at least one employee that earns Maryland W-2 wages, does not currently offer a retirement savings program to its employees, has been in business for at least two years, and pays employees through an automated payroll system. There are no employer fees, and employer contributions are not allowed. Employers have no fiduciary responsibility; employers need only to register with MarylandSaves, provide employees' payroll information, and send payroll contributions for active employees every pay period and maintain employee records.

Once an employer signs up for MarylandSaves, its employees will automatically be set up with their own Roth IRA, although employees can opt-out of the program at any time. Employees have the option to change contribution levels, investment options, and beneficiaries, or make withdrawals at any time. If the employee does not make changes or opt out of the program, the contributions will start with the first paycheck after 30 days. The default options are as follows:

- 5% of the employee's gross income (wages before taxes and other deductions) will be contributed to the employee's account;

- every year, the contribution rate will increase by one percentage point, up to a maximum of 10%; and

- the first $1,000 of funds will be invested in an Emergency Savings Fund. All contributions after the initial $1,000 will be invested in a "Target Retirement Date" fund that changes based on the employee's expected retirement date.

If an employee chooses to customize how they invest their contributions, they can choose from an emergency savings fund, target retirement date options, a bond index option, or a global growth stock option.

An employee that participates in a Roth IRA under MarylandSaves must follow the Internal Revenue Service rules on Roth IRAs, such as limits on Roth IRA contributions based on filing status and income. For example, for 2024, the total contributions that an individual can make to all of the individual's traditional IRAs and Roth IRAs cannot be more than $7,000 ($8,000 if age 50 or older), although the Roth IRA contribution may be further limited based on the individual's filing status and income.

Legislative History

There have not been any substantive changes to the program since it was enacted by Chapters 323 and 324. Chapter 596 of 2018 generally made some clarifying, procedural, or technical changes to the program, although it did make the Maryland Small Business Retirement Savings Board eligible to participate in the State Employee and Retiree Health and Welfare Benefits program. Finally, Chapters 337 and 338 of 2023 authorized the Comptroller to disclose certain tax information to the board and its authorized contractors for the purpose of administering the program.

Chapter 2. Intent and Objectives of the Credit for the MarylandSaves Program

Program Objective of Promoting Greater Retirement Savings

Statute states that the Maryland Small Business Retirement Savings Board must administer the Maryland Small Business Retirement Savings Trust for the purpose of promoting greater retirement savings for Maryland private-sector employees in a convenient, voluntary, low-cost, and portable manner.

Promoting Greater Retirement Savings Is an Appropriate Goal

Greater retirement savings is an important goal. The *Schroders 2024 U.S. Retirement Survey* found that Americans who currently participate in a workplace retirement plan believe they will need $1.2 million saved to retire comfortably, yet 46% of those surveyed expect to have less than $0.5 million in savings at retirement including almost a quarter of those expecting to have less than $250,000 saved by retirement. The survey also found that 70% of participants say their workplace plan is their single most important retirement asset.

A recent study found that not addressing the lack of retirement savings will lead to significant federal and state government spending, resulting in increased public assistance costs, reduced tax revenue, decreased household spending and standards of living, and lower employment. The study estimated that insufficient retirement savings could lead to a cumulative additional cost to Maryland of $4.8 billion between 2021 and 2040. The elderly population in Maryland is projected to grow by 48%, increasing from 627,500 elderly households in 2020 to 928,400 in 2040, and with it, the dependency ratio of elderly households to working age households is projected to change from 35 elderly households for every 100 working age households in 2020 to 51 elderly households for every 100 working age households by 2040. Under the continuation of current trends, 46% of elderly households in Maryland are projected to have an annual income below $75,000 in 2040. Among these vulnerable households in Maryland, the average annual retirement income shortfall is projected to be $6,760 in 2040. The study estimates that the average household with less than $75,000 in income would need to contribute approximately $135 per month, or $1,615 annually, over a 30-year period to close the average annual retirement income gap of around $6,760. Participating in MarylandSaves or a workplace retirement plan can help close this shortfall.

Additionally, the Pew Charitable Trusts reports that "providing an affordable and easily accessible retirement savings option for employees can reduce financial stress on businesses, promote workforce stability, and limit retirees' reliance on state assistance programs." An Ariel/Aon-Hewitt study found that, in plans using automatic enrollment, "[t]he most dramatic increases in enrollment rates are among younger, lower-paid employees, and the racial gap in participation rates is nearly eliminated among employees subject to auto-enrollment."

Barriers Employers Face to Providing a Retirement Plan to Employees

Nearly 1 million Marylanders are working full-time without access to a workplace savings plan. Some of the biggest barriers employers face to providing a retirement plan to employees include:

- the administrative complexity of retirement plans;
- the financial cost of administrating plans;
- minimal incentives to provide benefits in industries with high employee turnover; and
- anticipated low participation by employees.

MarylandSaves overcomes these barriers for employers. Employees' retirement savings accounts are set up easily and automatically when an employer registers and require only light account maintenance, thus removing the barrier of administrative complexity. Many businesses report completing enrollment in 15 to 20 minutes. Once employees are entered into the system, employers just update their payroll processing to include employee contributions, which are seamlessly deposited into each employee's account. Registration is free, so there is no financial cost to the employer for administering the plan and the program carries no fiduciary responsibility for employers. Employers that participate in MarylandSaves or provide a qualified retirement plan are eligible to claim the annual State Department of Assessments and Taxation filing fee waiver of $300; thus, employers have an incentive to participate. Lastly, since employees are automatically registered when the employer registers for the program, participation rates are higher than they would be otherwise, overcoming the last aforementioned barrier.

Challenges Savers Face

Individuals face challenges when trying to save for retirement. Some of the biggest challenges savers face include:

- overestimating support offered by safety net programs, such as Social Security;
- gaps in financial literacy;
- lack of adequate access to financial services and financial service representatives;

- unstable employment, including multiple employers and/or frequent employment changes; and

- not making enough money to meet contribution minimums or feeling that they do not make enough money to save for retirement.

Access

The Georgetown University Center for Retirement Research found that almost one-half of the private-sector workforce does not have access to an employer sponsored plan. By the State mandating that eligible employers either participate in MarylandSaves or provide alternative retirement savings arrangements, the State is attempting to overcome the barrier of access to employer sponsored plans.

Gaps in Financial Literacy

The U.S. Federal Reserve's *Economic Well-Being of U.S. Households in 2023* report noted that 55% of adults reported being uncomfortable or only slightly comfortable with choosing and managing their investments, with women being significantly less comfortable. The *Schroders 2024 U.S. Retirement Survey* found that more than a quarter (28%) of plan participants had no idea how their retirement assets were allocated, and for those that did know, they had significant cash positions.

The default investment option of MarylandSaves is that the first $1,000 of funds are invested in an emergency savings fund. All contributions after the initial $1,000 are invested in a "target retirement date" fund that changes based on the employee's expected retirement date. Thus, a participant does not need a high level of financial literacy to participate in the program.

Using a Roth Individual Retirement Account as an Emergency Fund

Although money in retirement accounts is intended to be preserved for retirement, occasionally these savings can also act as a source of emergency funds for nonretirees who face economic hardships. Overall, 10% of nonretired adults tapped their retirement savings by borrowing from or cashing out funds from their retirement accounts in the prior 12 months, according to the U.S. Federal Reserve's *Economic Well-Being of U.S. Households in 2023* report. The report goes on to say that:

> [t]apping retirement accounts and reducing regular contributions can help people handle economic hardships or other changes to income or expenses, but this may come at a cost to their longer-term financial security. While 34 percent of non-retirees overall said their retirement savings plan was on track, only 28 percent of retirees who had reduced their regular contributions to retirement accounts in the prior 12 months thought their retirement savings plan was on track. Among

non-retirees who had borrowed from or cashed out funds from their retirement accounts in the prior year, the share who said they were on track was lower, at 20 percent.

As noted previously, the standard investment option for Maryland Saves is an emergency savings fund for the employee's first $1,000 in contributions and then a "target retirement date" set of funds for any funds contributed after the first $1,000. Some advantages of using a Roth Individual Retirement Account (IRA) as an emergency fund include:

- ***Tax Benefits:*** Roth IRAs allow for tax-free withdrawals of contributions (but not earnings);

- ***Investment Growth Potential:*** investing in investment vehicles that have higher returns than a typical traditional savings account can lead to potential growth over time; and

- ***Liquidity:*** individuals can access their contributions quickly whenever needed.

However, there are some disadvantages associated with using a Roth IRA for emergency savings, such as:

- ***Impact on Retirement Savings:*** withdrawing funds early can hinder the compound growth potential of the account, and there is the potential to miss market opportunities; and

- ***Tax Penalties:*** while contributions can be withdrawn tax-free, earnings are subject to a 10% penalty if certain exemptions are not met.

The Department of Legislative Services cautions against savers making withdrawals from their Roth IRA accounts as this may hinder retirement savings.

MarylandSaves Provides a Low-cost Option for Small Firms That Face Higher Plan Fees

Plan fees and expenses are important considerations for all types of retirement plans as the cumulative effect of fees and expenses on retirement savings can be substantial. Retirement plan fees and expenses generally fall into three categories: plan administration fees; investment fees; and individual service fees. Plan administration fees cover the day-to-day operation of a plan, such as plan recordkeeping, accounting, legal, and trustee services. By far the largest component of plan fees and expenses is associated with managing plan investments. Fees for investment management and other related services generally are assessed as a percentage of assets invested, and the U.S Department of Labor warns that employers should pay attention to these fees. In addition to overall administrative expenses, there may be individual service fees associated with optional features offered under an individual account plan.

Small employers often incur higher costs for retirement plans than larger firms because smaller employers are unable to spread fixed costs, such as fees for administrative and compliance services, over a larger asset base. Morningstar reported that:

> [p]eople who work for smaller employers and participate in small plans pay around double the cost to invest as participants at larger plans, around 88 basis points in total compared with 41 basis points, respectively. Small plans also feature a much wider range of fees between plans, with more than 30% of plans costing participants more than 100 basis points in total. Further, many plans are still outliers, with unusually high fees relative to their peers, particularly outside of the largest thousand or so plans. In short, the U.S. system does not work nearly as well for people who are not fortunate enough to work for larger, established employers.

MarylandSaves WorkLife Accounts are set up to cost less than bank accounts or other retirement savings accounts, but they do have fees. In the first year, if an employee chooses to stay with the standard options, the employee's account will cost $22.50 plus about $0.18 for each $100 saved. (That is because MarylandSaves and its program administrator are waiving some fees when the account starts up.) After that, the employee's account will cost $30 per year plus from $0.18 up to about $0.26 per $100 if the employee stays with the standard options but will be different if the employee chooses other investment options. The fees on the various options are shown in **Exhibit 2.1**.

Exhibit 2.1
Annualized Asset-based Fees
June 2024

Investment Option	Underlying Investment	Program Admin. Fee	Total Annualized Asset-based Fee
Emergency Savings	0.00%	0.18%	0.18%
Target Retirement	0.09%	0.18%	0.27%
Bond Index	0.03%	0.18%	0.21%
Global Growth Stock	0.69%	0.18%	0.87%

Source: MarylandSaves Program; Department of Legislative Services

MarylandSaves Fees Are Typically Lower Than Other States

States typically have an asset-based fee and a dollar-based fee structure for their auto-IRA programs. MarylandSaves asset-based administration fees are generally lower than other states, while Maryland's dollar-based fees are generally higher than other states. Maryland statute provides that the program's administrative fee assessed on employees' accounts may not exceed 0.5% of total assets, and the administrative fee is currently set at 0.18%, significantly below that limit. The annual dollar-based fee is $30 per saver, with a portion of the fee waived for the first 90 days after the account is created. Other state programs generally have dollar-based fees ranging from $16 in Oregon to $27 in Virginia, and asset-based administration/state fees ranging from 0.20% in Virginia and California to 0.75% in New Jersey, in addition to fees on underlying investments.

Chapter 3. Federal Law and Other States' Retirement Savings Programs

The Federal Employee Retirement Income Security Act

The federal Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for most voluntarily established retirement and health plans in private industry to provide protection for individuals in these plans. ERISA (1) requires plans to provide participants with plan information including important information about plan features and funding; (2) sets minimum standards for participation, vesting, benefit accrual, and funding; (3) provides fiduciary responsibilities for those who manage and control plan assets; (4) requires plans to establish a grievance and appeals process for participants to get benefits from their plans; (5) gives participants the right to sue for benefits and breaches of fiduciary duty; and (6) if a defined benefit plan is terminated, guarantees payment of certain benefits through a federally chartered corporation. In general, ERISA preempts states' authority to regulate employer-provided benefit plans, including retirement savings plans.

Even though they are retirement savings vehicles, Individual Retirement Accounts (IRA) typically are not ERISA plans because they are personal savings accounts established by individuals and controlled by individuals, not employers. The U.S. Department of Labor (DOL), which enforces ERISA, has issued "safe harbor" guidance to address whether employer-offered IRAs are considered ERISA plans. In general, employer involvement does not turn an IRA into an ERISA-regulated retirement savings plan if the employer's activities are kept to a ministerial (mostly nondiscretionary) level. When ERISA took effect, DOL issued a four-part safe harbor exemption from ERISA regulation for employer-offered IRAs. Specifically, an IRA program would be exempt from ERISA if:

- the employer did not contribute on behalf of employees;
- the employer did not endorse the program;
- the employer did not receive any financial advantage; and
- each employee's contributions to the IRA were completely voluntary.

In November 2015, DOL issued proposed regulations and an interpretive bulletin to clarify the status of state-run retirement savings plans with respect to ERISA. The proposed regulations clarify that auto-enrollment IRA plans do not constitute an employer benefit plan under ERISA and, therefore, are not subject to preemption, as long as they meet several criteria. Among the most important criteria are:

- participation by employers is mandatory;
- participation by employees is voluntary – if auto-enrollment is used, employees must have the ability to opt out;
- the plan is administered by a state, either directly or through a private-sector vendor; and
- the role of employers must be limited to ministerial activities such as collecting payroll deductions and remitting them to the program (employer contributions to the IRAs are not allowed).

Although this guidance was subsequently nullified by the U.S. Congress in 2017 at the request of the Donald J. Trump Administration, states continued to move forward with the adoption of the programs based on both the original DOL safe harbor exemption from ERISA that remains in place and judicial limitations on ERISA preemption. When states began adopting auto-IRAs, it was clear that they satisfied the existing DOL safe harbor requirements because the employers had no discretion, decision-making, or control; employers simply had to facilitate worker participation by cooperating with the program administrator and processing payroll withholding. In addition, because employers lack control and are only legally required to facilitate their employees' participation, employers do not sponsor or maintain the programs. Even without the DOL safe harbor exemption, most legal experts concluded that a state-facilitated auto-IRA is not an ERISA plan because the state or state-appointed board is in control of the program, and there is a lack of employer sponsorship, responsibility, or ongoing maintenance.

In a legal challenge to an auto-IRA, the U.S. District Court for the Eastern District of California ruled in *Golden Gate Restaurant v. San Francisco* (546 F.3d 639 (9th Cir. 2008) that CalSavers, California's auto-IRA program, was not an ERISA plan and that the state's enabling legislation was not preempted by ERISA. Relying on *Golden Gate*, among other decisions, the court found in *Howard Jarvis Taxpayers Association v. The California Secure Choice Retirement Savings Program* (443 F. Supp. 3d 1152 (E.D. Cal. 2020) that the degree of employer involvement in facilitating CalSavers was minimal, and that the program was not established or maintained by an employer. The court also found that "an employer's administrative duties must involve the application of more than a modicum of discretion in order for those duties to amount to an ERISA plan," and "an employer who makes no promises to its employees regarding an employee benefit plan or its coverage" has not established or maintained such plans. Simply remitting payroll deductions to an auto-IRA without discretion regarding the monies does not turn an employer into a plan sponsor.

After ruling that CalSavers was not an ERISA plan, the court went on to hold that the statute creating the program was not preempted by ERISA because it did not interfere with existing ERISA plans or impose additional requirements on ERISA plans (the statute only applied if there was no ERISA plan).

With the state (not employers) in charge of all aspects of program management and decision making, legal experts believe auto-IRAs should be considered non-ERISA plans. State auto-IRA laws only affect employers that do *not* sponsor or maintain an ERISA retirement plan; state auto-IRA requirements do not apply to employers offering workers a 401(k), deferred compensation, or pension plan. Thus, legal experts conclude that state auto-IRAs should not be regulated by ERISA and the state mandate should not be preempted under ERISA.

The Federal Saver's Tax Credit

The Retirement Savings Contributions Credit, also known as the Saver's Credit, helps offset part of the first $2,000 workers voluntarily contribute to IRAs, 401(k) plans, and similar workplace retirement programs. The maximum Saver's Credit is $1,000 ($2,000 for married couples). The amount of the credit is 50%, 20%, or 10% of qualified retirement contributions, depending on the taxpayer's adjusted gross income. The credit has had historically low utilization due to it being nonrefundable.

Section 103 of the Securing a Strong Retirement Act, included in the federal Consolidated Appropriations Act of 2023 repeals and replaces the Saver's Credit beginning in tax year 2027, changing it from a credit paid in cash as part of a tax refund into a federal matching contribution that must be deposited into a taxpayer's IRA or retirement plan. The "Saver's Match" is 50% of IRA or retirement plan contributions up to $2,000 per individual. The match phases out between $41,000 and $71,000 in the case of taxpayers filing a joint return ($20,500 to $35,500 for single taxpayers and married filing separately; and $30,750 to $53,250 for head of household filers).

Proposed Federal Legislation

Federal legislation has been proposed to require employers to automatically enroll their employees in IRAs. The Automatic IRA Act of 2024 generally would require employers with more than 10 employees that do not sponsor a retirement plan to automatically enroll their employees in IRAs (automatic IRAs) or other automatic contribution plans or arrangements, like 401(k) plans. Smaller employers would be eligible for a new auto IRA tax credit. The requirement to auto-enroll employees in either an automatic IRA or an automatic contribution plan would be satisfied by employer participation in an automatic IRA program enacted before 2027 under state law that requires certain employers to facilitate automatic IRAs. MarylandSaves notes that if federal legislation passes, it is uncertain whether Maryland's program would be grandfathered in since Maryland's program does not impose penalties on noncompliance.

Other State-facilitated Retirement Savings Programs

Many states have enacted legislation that seeks to expand access to employer-based retirement savings options. As of June 30, 2024, retirement savings programs have been enacted in 20 states. To date, states have adopted at least one of four models: auto-IRAs; voluntary payroll deduction IRAs; multiple employer plans (MEP); and marketplace retirement programs. Employers in all program states retain the option of acquiring a retirement plan through the private market, and employees can always choose to opt out of program participation or change their contribution rates.

As shown in **Exhibit 3.1**, the predominant model among states that have established programs is an auto-IRA program, adopted by 17 states, including Maryland. An auto-IRA program requires employers that do not otherwise offer a retirement plan to allow their workers to be automatically enrolled in a state-facilitated retirement savings program, which is not typically subject to ERISA regulation. The two primary types of IRA accounts are a traditional IRA (contributions are tax deductible, and any earnings can potentially grow tax deferred until withdrawn in retirement) and a Roth IRA (contributions are made on income after tax and withdrawals are tax-free in retirement, provided that certain conditions are met). Programs typically offer a Roth IRA as the default but also offer a traditional IRA. Maryland's default savings option is a Roth IRA.

Exhibit 3.1
Enacted Retirement Savings Programs
As of June 2024

IRA (Auto-IRA)	Voluntary Payroll Deduction IRA	Voluntary Marketplace	Voluntary Open Multiple Employer Plan
California*	New Mexico	New Mexico	Massachusetts*
Colorado*		Washington*	Missouri
Connecticut*			
Delaware*			
Hawaii			
Illinois*			
Maine*			
Maryland*			
Minnesota			
Nevada			
New Jersey*			
New York			
Oregon*			
Rhode Island			
Virginia*			
Vermont			
Washington			

IRA: individual retirement account

* Open to all eligible employers and workers as of July 1, 2024.

Source: Georgetown University Center for Retirement Initiatives; Department of Legislative Services

Other types of programs include a voluntary payroll deduction IRA where employer participation in the program is voluntary (New Mexico), an MEP (Massachusetts and Missouri), and a marketplace retirement plan (New Mexico and Washington). A state-facilitated "open" MEP is a type of 401(k) "group plan" where otherwise unrelated employers in a state would be able to join together as part of the state-facilitated plan, as defined by DOL. This model is an employer plan regulated by ERISA that offers participants 401(k) plans with higher contribution limits and allows employers to match employee contributions. MEPs can reduce the administrative and fiduciary burdens that small employers would otherwise have to handle on their own. A marketplace retirement program is an "electronic clearinghouse" facilitated by a state that reviews and approves qualified financial services firms to offer their low-cost retirement savings products to small businesses as well as sole proprietors and self-employed individuals.

As of July 1, 2024, 12 of the 20 state programs are open to all eligible employers and workers. Massachusetts and Oregon opened their programs in late 2017, Washington opened its retirement marketplace in March 2018, and Illinois and California launched their programs in 2018 and 2019, respectively. More recently, Connecticut opened its program to all eligible employers on April 1, 2022, and Maryland opened its program on September 15, 2022, becoming the fifth state to implement an auto-IRA program. Finally, Colorado and Virginia opened their programs in 2023. As states have learned from other states offering auto-IRA programs, the timelines for launching programs and onboarding employers have shortened. Delaware, Maine, New Jersey, and Vermont are launching their programs in 2024. Other states, such as Hawaii, Minnesota, Nevada, New York, and Rhode Island, are in different stages of implementation planning.

Characteristics of Auto-IRAs

Of the 17 states that have enacted auto-IRA programs, the characteristics and key program design features of the programs vary somewhat among states. The default contribution in Maryland is the same as in Oregon, Illinois, and Maine, starting at 5% and automatically increasing 1% annually until reaching 10%. California and Colorado default to 5% and increase annually until reaching 8%, while Connecticut's program keeps the default contribution rate set at 3% annually.

States with auto-IRA programs typically hold funds for the first 30 days to 90 days in a money market or capital preservation fund before defaulting into a target date fund. Maryland's program is unique among auto-IRA programs in that by default the first $1,000 of contributions goes to an emergency savings fund, and then investments default into a target date fund.

Employer thresholds range from 1 employee to 25 employees, with many states, including Connecticut, Colorado, Delaware, and Maine, requiring participation by those with 5 or more employees. Both the New Jersey and Virginia programs have employer thresholds of 25 or more employees, and, in the case of Virginia, also exclude many part-time workers. Maryland requires participation by those employers that have been in operation for at least two calendar years, have at least 1 W-2 employee, and use an automated payroll system. Georgetown's Center for Retirement Initiatives reports lowering the employer threshold reduces the complexity and costs of administering a program for a state by reducing the number of employers the state needs to track to determine eligibility at any given time. Additionally, setting a low employer threshold not only helps to cover as many workers as possible but also helps to make a state more attractive as a partner to one or more other states.

The MarylandSaves program is unique among other states' programs, as it waives the annual filing fee collected by the State Department of Assessments and Taxation to encourage employer participation as opposed to imposing penalties for noncompliant employers like other states. Imposing penalties has helped increase compliance with the law. For example, California sent notices to noncompliant employers starting in July 2023, triggering a steady surge in responses and registrations throughout the remainder of 2023. Beginning in October 2023, California began enforcing the mandate through penalty collections, which catalyzed a surge in compliance action through the end of the year.

Multistate Partnerships

In August 2023, Colorado and Maine entered the first-in-the-nation multistate partnership for state facilitated retirement savings (the Partnership for a Dignified Retirement), and the partnership expanded in December 2023 and June 2024 to include Delaware and Vermont, respectively. Colorado reports that this partnership benefits both Colorado and the partnering states. Partner states are able to offer a program that they could not otherwise provide due to small saver populations. Colorado is sharing best practices for program operations, as well as outreach and marketing, to ensure partners reach impacted employers and provide high quality administration of their programs. For Colorado, as the number of partner states increases, savers will benefit from lower fees as the number of funded accounts and assets under management grow. Additionally, partner states are actively considering shared services arrangements to offset operating costs with joint program and investment consulting contracts. Colorado believes that this arrangement will enable its program to operate in a budget neutral manner in the coming years.

Chapter 4. Program Fiscal Impact

State Department of Assessments and Taxation Waiver

The MarylandSaves program waives the annual filing fee, which is generally $300, collected by the State Department of Assessments and Taxation (SDAT) for a corporation or business entity that participates in the program or otherwise offers a retirement savings arrangement for its employees. MarylandSaves tracks the businesses that complete the SDAT fee waiver form by the year-end deadline and has submitted to SDAT a list of 22,048 businesses that qualified for the fee waiver in tax year 2023 and 20,200 businesses for tax year 2024. However, SDAT reports 21,958 entities enrolled in MarylandSaves for the 2023 tax year waiver and 20,727 entities filed annual reports with their fees waived in the 2023 tax year, totaling $6,218,100 in fee waivers. MarylandSaves sends SDAT the list of eligible businesses by December 31, but the annual reports are not due until April 15, so SDAT notes that, occasionally, the list contains forfeited or dissolved businesses, which can cause a discrepancy between numbers.

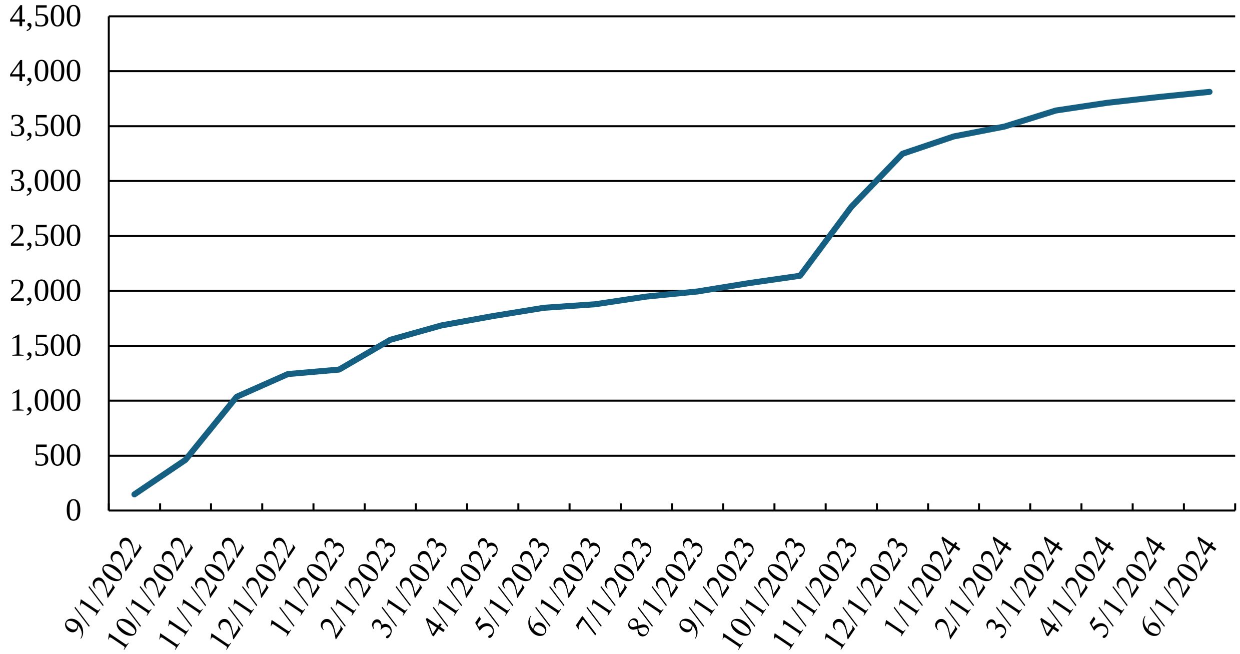
There are more than 534,000 entities that file annual reports with SDAT, so less than 4% of entities are receiving fee waivers. SDAT was not able to provide any further information on the types of businesses that received fee waivers and notes that its sole role in this process is to receive the list of participants and apply that list to each entity's account for the waiver. SDAT does not provide any oversight over the MarylandSaves program.

The vast majority of businesses qualify for the SDAT waiver because they are providing a retirement savings plan to their employees as opposed to being enrolled in MarylandSaves. Approximately 14,100 businesses are claiming the waiver due to already providing a retirement savings plan to employees, and almost 5,000 businesses have a certified exemption from the program requirements, thus qualifying for the waiver. Only approximately 3,800 businesses are claiming the waiver due to participating in MarylandSaves.

Businesses Enrolled in MarylandSaves

As of June 30, 2024, there were 3,812 businesses enrolled in MarylandSaves, with 1,189 businesses actively submitting payroll deductions. **Exhibit 4.1** shows the number of businesses enrolled in MarylandSaves since the inception of the program. MarylandSaves attributes significant growth since October 2023 due to both the March 31 SDAT deadline and a new data file from the Comptroller's Office. MarylandSaves also notes it had boosts in enrollment when the Comptroller and the Treasurer provided messages of support for the program and hopes to have the Governor provide a public service announcement for the program.

Exhibit 4.1
Employers Registered with MarylandSaves
September 2022 through June 2024



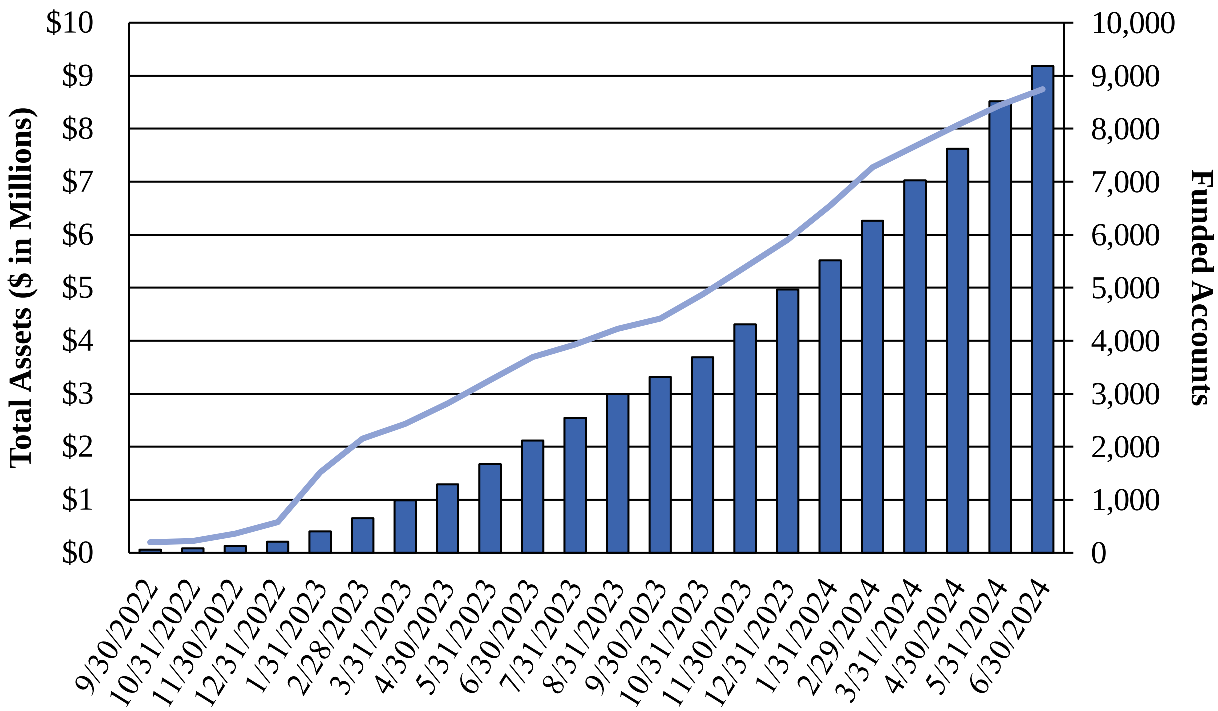
Source: MarylandSaves Program; Department of Legislative Services

MarylandSaves notes that employers are registering at comparable rates to the first four state auto-Individual Retirement Account programs (California, Connecticut, Illinois, and Oregon.) However, due to not imposing noncompliance penalties, MarylandSaves does not believe that this trend will continue. Despite the lack of noncompliance penalties, MarylandSaves is trying to drive enrollment by direct marketing. It is also marketing through LinkedIn, YouTube, Hulu, streaming audio, and broadcast radio.

Funded Accounts and Assets

As of June 30, 2024, there were 8,744 funded accounts that held $9.2 million in assets. As shown in **Exhibit 4.2**, the assets in the program have grown exponentially along with the number of funded accounts since the program commenced in September 2022. The number of funded accounts grew almost tenfold in calendar 2023, from 578 accounts at the start of the calendar year to 5,900 accounts by the end of the calendar year. However, MarylandSaves generally has fewer funded accounts per registered employer than other state programs, and it is unclear why this is the case.

Exhibit 4.2
Funded Accounts and Assets
September 2022 through June 2024

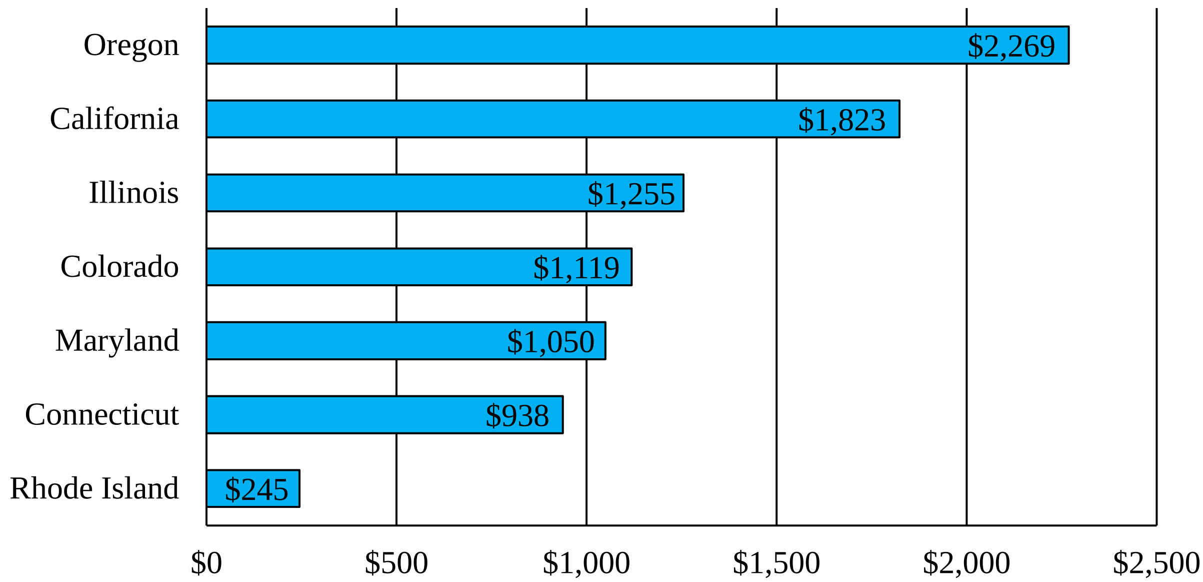


Source: MarylandSaves Program; Department of Legislative Services

Average Funded Account Balances

Unless an employee opts out or makes a change, a MarylandSaves account will be established on the employee's behalf, and the employer will withhold and contribute 5.0% of the employee's compensation to the employee's account each pay period, which increases by 1% on January 1 of each year until a maximum of 10% of the employee's compensation is reached. Thus, it is no surprise that the deferral rate for funded accounts started at 5% in September 2022 but has grown and is now at 5.4% as of June 2024. The average funded account balance has almost doubled in the past year, from an average funded account balance of $574 in June 2023, to an average balance of $1,050 in June 2024. While the average funded account balance was $1,050 as of June 2024, the median funded account balance was considerably less at $410. As shown in **Exhibit 4.3**, the average funded account balance in Maryland is similar to states that started around the same time as Maryland. Oregon's program began to roll out in November 2017, while California launched its program in calendar 2016 (although it did not become mandatory in California until calendar 2022).

Exhibit 4.3
Average Funded Account Balances
June 2024



Source: Georgetown University Center for Retirement Initiatives; Department of Legislative Services

Accounts with a Full Withdrawal as Percentage of Payroll Contributing Accounts

As of June 2024, 1,399 accounts have had a full withdrawal of their account, representing 14.22% of payroll contributing accounts. This percentage is lower than some other states. In California's program for example, 19% of payroll contributing accounts had full withdrawals as of December 2023, and Illinois's full withdrawal rate was 22.35% for June 2024. At the MarylandSaves March 2024 board meeting, MarylandSaves noted that it needs to know more about why savers are making withdrawals and what MarylandSaves can do to minimize them. MarylandSaves is currently sending out surveys to savers and those who opted out of the program to better understand their behavior and is working on a study on these findings.

MarylandSaves Operating Expenses and Liabilities

MarylandSaves is dependent on loans and grants from the State to cover operational expenses. MarylandSaves entered into a memorandum of understanding with the Maryland

Department of Labor (MDL) to provide interest-free loans for the implementation, maintenance, and administration for the program. MDL has issued $5.8 million in loans from fiscal 2018 through 2023, as shown in **Exhibit 4.4**. The terms of the loan require the principal to be repaid as the program becomes self-sufficient. Additionally, the program received operating grants of $250,000 in calendar 2022 and $25,000 in calendar 2023.

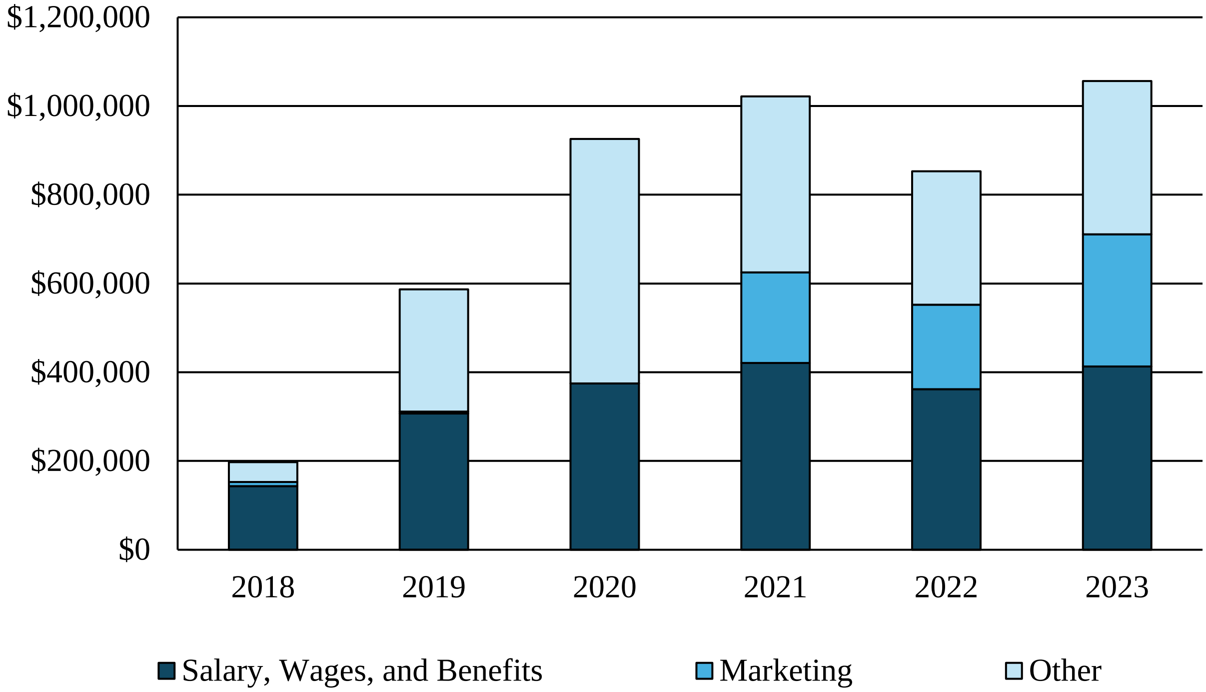
Exhibit 4.4
Maryland Department of Labor Loans to MarylandSaves
Fiscal 2018-2023

Fiscal Year	Loan Amount
2018	$1,304,800
2019	900,000
2020	900,000
2021	0
2022	1,800,000
2023	900,000
Total	**$5,804,800**

Source: MarylandSaves Program; Department of Legislative Services

Operating expenses for MarylandSaves have averaged approximately $1.0 million annually in recent years, as shown in **Exhibit 4.5**. Marketing expenses and expenses for salaries, wages, and benefits make up appropriately two-thirds of the operating expenses in this time frame. In years that operating expenses have exceeded $900,000, MarylandSaves has relied on unspent funds from previous years, enabling them to spend more on marketing.

Exhibit 4.5
MarylandSaves Operating Expenses
Calendar 2018-2023



Source: MarylandSaves Program; Department of Legislative Services

In January 2023, MarylandSaves started collecting an annual $6 fee from each participant's account, assessed as a $1.50 quarterly charge, though the fee is waived for the first 90 days after an account is created. MarylandSaves projects $42,000 of administrative fee revenue for fiscal 2025. Until MarylandSaves obtains sufficient accounts to cover operating expenditures, the program will be dependent on State funding. MarylandSaves notes that the program has much more work to do before it becomes self-sufficient.

Chapter 5. Effectiveness of the MarylandSaves Program

MarylandSaves launched on September 15, 2022, so the program is still in its early stages. Additional operating time for the program is needed to fully gauge the effectiveness of the program. Furthermore, as more states launch auto-Individual Retirement Account (IRA) programs, Maryland can continue to learn from other states' experiences. However, some insights on MarylandSaves can be made by comparing the program to other states that were early adopters of auto-IRA programs.

Opt-out Action Rate

MarylandSaves generally has a higher opt-out action rate than other states for June 2024. The opt-out action rate is the percentage of savers who opt out in the first 30 days. MarylandSaves' opt-out action rate for June 2024 is 23.8%, while Maine's program is 23.5%, Colorado's is 20.5%, and Connecticut's is 18.8%. It is unknown why MarylandSaves' opt-out rate is higher than other states' programs, but MarylandSaves is currently conducting a survey to understand why individuals have opted out.

The RAND Corporation conducted surveys for The Pew Charitable Trusts on adults eligible to participate in Illinois's program, Illinois Secure Choice. The surveys found that more than half of workers who opted out of the program did so for financial reasons, with 29% saying they needed money for more immediate financial needs, 12% saying they needed money to pay off debt, 8% saying they needed to save for unexpected expenses, and 6% saying they needed to save for large expenses. Other reasons for opting out included pre-existing retirement plan coverage (such as through another job or through their spouse) or simply because they would prefer not to participate in the program. Only 7% of workers said they opted out of Illinois Secure Choice because they found the program confusing, with only 4% citing this as their primary reason for doing so. However, Black and Hispanic workers were more likely than white workers to cite the program being confusing as their primary reason for opting out. The study concluded that "providing meaningful and targeted communication about automated savings programs to historically underserved populations could help improve the rate of use of automated savings programs among people in these communities" and "improving awareness and understanding of the program's feature allowing them to withdraw at least part of the money from their account could encourage more workers to stay in rather than opt out".

Program Is Portable

One of the objectives of the program is for it to be portable for employees. Employees are able to keep their accounts when they switch employers, thus achieving this objective. Of the 8,744 funded accounts, 1,507 are for employees with more than one employer on record as of

June 2024. This suggests that a number of savers either kept their accounts when they switched employers or that they have multiple employers who participate in the program.

MarylandSaves Has Limited Investment Options Compared to Other Programs

If an employee chooses to customize how they invest their contributions in the MarylandSaves program, they can choose from an emergency savings fund, target retirement date options, a bond index option, and a global growth stock option in lieu of the default investment in an emergency savings fund and a target retirement date fund. These offerings are limited compared to other states' programs.

California offers an environmental, social, and governance fund that invests in the equity securities of global companies that demonstrate sustainable business practices and issuers of U.S. investment grade fixed income securities that satisfy certain environmental, social and governance criteria.

New Jersey's program allows savers to choose from a capital preservation fund, target retirement date fund series, a large-cap fund, a mid-cap fund, a small-cap core fund, a small-cap value fund, an international equity fund, and a fixed income fund if the saver elects not to enroll in the default investment choice of a capital preservation fund for the first 30 days after the initial contribution and a target retirement date fund after 30 days for any existing savings and any future contributions. Although it has a lot of offerings, it also has higher fees compared to other states' programs.

Investment Holdings

Morningstar ratings for funds describe how well a fund has balanced return and risk or volatility in the past and are derived from a weighted average of the performance figures associated with its 3-, 5- and 10-year (if applicable) Morningstar Rating metrics for a fund. The Morningstar rating for funds has a fixed distribution of stars: 10% of funds within each category receive five stars; 22.5% receive four stars; 35% receive three stars; 22.5% receive two stars; and 10% receive one star.

Morningstar ranked T. Rowe Price Global Index with three stars as of June 2024, and it has an expense ratio of 0.91%; thus, T. Rowe Price Global Growth Stock Fund's three-star rating indicates that more than 100 other global large-stock growth funds (32.5%) have better risk-adjusted total returns. Likewise, State Street Aggregate Bond Index K has a three-star Morningstar rating. Some of the index funds have higher Morningstar rankings. BlackRock LifePath Index Retirement Fund and the BlackRock LifePath Index 2045, 2050, 2055, 2060, and 2065 funds have four-star Morningstar ratings.

The Maryland Small Business Retirement Savings Board has an investment policy that identifies criteria to be considered when selecting investment options and evaluating the continued appropriateness of each investment. The investment policy states “The Board acknowledges that fluctuating rates of return characterize the securities markets, particularly during short-term periods. Accordingly, the Board views the interim fluctuations with an appropriate perspective.” At least annually, the board evaluates the program’s investment options’ performances on a net-of-fee basis relative to the return of an appropriate market index and the returns of a universe of comparable funds. The board and staff monitor the performance of funds while retaining a long-term focus. They look at material changes to investment philosophy and objectives, changes in assets under management, performance relative to benchmarks and peer groups, consistency of holdings with style, and the stability of the organization and personnel turnover.

Chapter 6. Findings and Recommendations

Based on the information and analysis provided in this report, the Department of Legislative Services (DLS) recommends changes to improve the MarylandSaves Program, as discussed below.

MarylandSaves Is the Only Mandatory Auto-Individual Retirement Account Program without Penalties

The MarylandSaves program is unique among other states' programs, as it waives the annual filing fee collected by the State Department of Assessments and Taxation for a corporation or business entity that participates in the program or otherwise offers a retirement savings arrangement for its employees. Meanwhile, other states' programs impose penalties for noncompliant employers. MarylandSaves notes that employers are registering at comparable rates to the first four state auto-Individual Retirement Accounts (IRA) programs (California, Illinois, Oregon, and Connecticut). However, due to not imposing noncompliance penalties, MarylandSaves does not believe this trend will continue and increased participation will be needed for MarylandSaves to become self-sufficient.

Recommendation: DLS recommends that MarylandSaves continue to monitor employer participation rates. If participation rates become significantly lower than other states' auto-IRA employer participation rates, DLS recommends that the General Assembly consider imposing noncompliance penalties with revenues going to support MarylandSaves until it becomes self-sufficient.

Higher Investment Fees Are Detrimental to Retirement Savings

Plan fees and expenses are important considerations for all types of retirement plans as the cumulative effect of fees and expenses on retirement savings can be substantial. The MarylandSaves website has a chart of investment fees that was last updated in September 2022. However, since September 2022, the investment fee for the Global Growth Index has increased.

Recommendation: DLS recommends that the MarylandSaves Board continue to monitor investment fees and work to keep investment fees low while covering necessary costs for program administration.

Recommendation: DLS recommends that the MarylandSaves Board ensure transparency when it comes to investment fees and update the chart of investment fees on MarylandSaves website whenever investment fees change.

MarylandSaves Has Limited Investment Options Compared to Other Programs

Several states offer a broader selection of investment funds than MarylandSaves. For example, California offers an environmental, social, and governance fund that invests in the equity securities of global companies that demonstrate sustainable business practices and issuers of U.S. investment grade fixed income securities that satisfy certain environmental, social and governance criteria. New Jersey likewise offers a multitude of investment options for participants.

Of the funds that MarylandSaves does offer, none had a five-star MorningStar rating as of June 2024. However, it is important to retain a long-term focus when making investment decisions.

Recommendation: DLS recommends that the MarylandSaves Board continue to monitor investment options and consider adding additional investments, especially those with higher Morningstar ratings, if investment fees can remain low.

Multistate Agreements Provide an Opportunity to Increase Returns and Reduce Costs

Colorado expects its consortium, the Partnership for Dignified Retirement, to increase returns through economies of scale and reduce costs for savers with more assets and accounts under management. The partnership also enables Vermont Saves to launch faster than anticipated, with an expected launch by the end of 2024.

Recommendation: DLS recommends that the MarylandSaves Board consider exploring opportunities to partner with other states.

MarylandSaves Has Not Published Regulations

Chapters 323 and 324 of 2016 required the Maryland Small Business Retirement Savings Board to adopt regulations. When DLS asked about the status of the regulations, MarylandSaves informed DLS that it was unfamiliar with this requirement and the process for adopting regulations.

Recommendation: DLS recommends that either the MarylandSaves Board obtain assistance to publish regulations as required by statute or the General Assembly eliminate that requirement in statute.