October 16, 2018

REPORT OF SENATE JOINT MEMORIAL 12 RETIREMENT INCOME SECURITY TASK FORCE

Prepared on behalf of the Office of the New Mexico State Treasurer by the UNM Bureau of Business & Economic Research

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Executive Summary

Underinvestment in retirement savings nationwide creates the potential for fiscal challenges as states must face the prospect of relying on public funds to fulfill the needs of aging populations (Trostel, 2017). States with a high percentage of low-income workers are especially vulnerable because those individuals are less likely to have adequate retirement savings.

The data suggest that New Mexico has a relatively lower percentage of private-sector workers who have a retirement plan available to them through their employers compared to the rest of the nation. This result holds across multiple dimensions such as work status (e.g., full-time versus part-time), income, education, and the like. Additionally, every 2 out of 3 (67%) private-sector workers in New Mexico have $0 saved for retirement, which is a larger percentage of employees with zero cash savings than the national average. Exacerbating this problem is the expected trajectory for population growth for retirement-aged individuals in the state. At expected rates of population growth and current savings rates, the number of persons 60+ years old with less than $10,000 saved for retirement in New Mexico will increase by 111,500, to 469,000, by 2040.

To investigate the issue of underfunded retirement savings as it relates to New Mexico, Senate Joint Memorial 12 (the Memorial) created the Retirement Income Security Task Force (the Task Force) (see http://www.sos.state.nm.us/uploads/files/SJM12-2017.pdf).

Between June 29, 2017, and June 7, 2018, the Task Force held seven meetings, including two ad hoc committee meetings, with key stakeholders in the community to help formulate this report. This report provides data, analysis, and recommendations related to two key areas contemplated by the Memorial. In particular, the report provides an assessment of the retirement savings shortfall in New Mexico and a summary of the general recommendations by the Task Force for managing the shortfall.

As a result of the expected underfunded retirement savings in New Mexico, the Task Force is recommending four legislative actions: one related to financial literacy, one related to the creation of an online marketplace, one related to the creation of a voluntary state IRA, and one related to a request for an advisory opinion from the New Mexico Attorney General.

(1) The Task Force recommends the development and funding of a state-wide educational curriculum in financial literacy with a specific focus on retirement savings and planning. Curricula developed and deployed should focus on both young adults and older individuals. This recommendation recognizes that in order to ensure a robust uptake in any program implemented by the state, New Mexicans must be made aware of the critical nature of saving for retirement and be given the tools to be successful.

(2) The Task Force recommends the development of an online marketplace portal for private-sector retirement plans that are vetted by an appropriate state entity. This will encourage employers to make available private-sector retirement plans for their employees by lowering the barriers and complexity of retirement planning.

(3) Because not all employers will choose to, or have the ability to, start and fund a retirement program for their employees, the Task Force also recommends the creation of a state-sponsored voluntary payroll deduction Individual Retirement Account (IRA) program, where participation for both employers and employees would be voluntary. This will supplement the marketplace program.

(4) If the combination of the marketplace and voluntary state IRA program does not meaningfully meet the goals of increased program participation, an automatic state IRA program will be triggered by a pre-determined measurable event as a replacement for the voluntary state IRA program. Employer participation would become mandatory, but employees will still be allowed to opt-out. Using a payroll deduction system, a chosen percentage of the employee's paycheck would be automatically deducted and placed in that individual's personal state IRA account. This will capture employees most at risk from retirement underinvestment and will expand the universe of individuals in the state covered by some type of retirement program. The Task Force does not recommend a specific event to trigger the creation of the automatic IRA program; however, possibilities include specifying a number of intervening years after the creation of the marketplace model; specifying a percentage of private-sector workers who must be covered by the marketplace (or other program) by a given date (if that threshold is not met, then the automatic IRA program is triggered); or similar events/triggers.

(5) Due to the uncertainty surrounding the federal interpretation of the Employee Retirement Income Security Act (ERISA, a federal law regulating voluntary private-sector employee benefit plans) as it relates to the implementation of an automatic IRA program, the Task Force requests an advisory opinion from the New Mexico Attorney General. The Task Force specifically requests that the Attorney General provide an opinion regarding (a) whether automatic enrollment of employees into an IRA program will likely trigger ERISA and therefore impose a fiduciary responsibility on the employer, and (b) whether allowing for the voluntary participation of employers in the automatic IRA program will trigger ERISA.

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Introduction: An Assessment of Demand for Retirement Income Savings in New Mexico

Given increasing lifespans and an expectation for increased rates of retirement in the coming years and decades (Goodliffe et al., 2015; Rhee and Boivie, 2015), it is important to consider the economics of retirement savings. This includes developing a better understanding of the apparent underfunding of retirement savings because a failure to properly address the funding shortfall can lead to future cost increases to the state because retirees must increasingly rely on public assistance to fulfill the needs of an aging population (Trostel, 2017).

The problem of underfunded retirement savings is especially acute in the private sector as it has moved away from traditional defined benefit (DB), or pension-style, plans and toward defined contribution-style (DC) plans, which shift the savings emphasis from the employer to the employee (PEW, 2018). This requires individuals to take affirmative action to save for retirement independent of their employers, which can operate to reduce the number of people saving for retirement as well as the amount saved. Given this backdrop, New Mexico State Senate Joint Memorial 12, sponsored by Sen. Bill G. Tallman and Rep. Tomás E. Salazar, created the Retirement Income Security Task Force (the Task Force) on April 3, 2017, in an effort to investigate the issue of retirement shortfalls in New Mexico and to provide legislative recommendations for remedying the shortfall.

Between June 29, 2017, and June 7, 2018, the Task Force held seven meetings, including two ad hoc committee meetings, with key stakeholders in the community to help formulate this report. During this period, the Task Force broke down issues for legislation, learned about the different retirement program options that were available, determined the need for retirement income savings in New Mexico, determined the interest of small businesses for a state retirement savings program, and formulated recommendations.

Underfunded retirement savings is a national problem; however, the problem is exacerbated in states with a high prevalence of low-income households who are less likely to save for retirement or have inadequate savings overall (Goodliffe et al., 2015; PEW, 2016; Rhee and Boivie, 2015). Furthermore, individuals who work for low-paying employers are less likely to have access to retirement plans through their employers. New Mexico is no exception to this general rule because the low incomes of its citizens are correlated with a lack of access to retirement savings plans provided by, or facilitated by, their employers. Furthermore, relative to national averages, New Mexico trails the United States in terms of access to private-sector retirement plans in multiple dimensions such as work status (e.g., full-time versus part-time), education, firm size, and the like. Along with trailing the nation in terms of access, private-sector workers in New Mexico are less likely to have **any** retirement savings compared to the national average, with 67% of all private-sector workers having no cash savings for retirement (compared to 62% nationally).

67% of all private sector workers in New Mexico have no cash savings for retirement.

The problem of underfunding is likely to be exacerbated in the future due to the expected trajectory for population growth for retirement-aged individuals in the state. At the projected rates of population growth, the number of persons 60+ years old with less than $10,000 saved for retirement in New Mexico will increase by 111,500 to 469,000 persons by 2040 unless gains are made in terms of retirement access and savings. This underfunding has the potential to place an enormous strain on the state budget as the state seeks to provide quality services and care to the retired, and may, ultimately, lead to reduced quality of life for the elderly.

To work toward remedying the retirement shortfall in New Mexico, the Task Force recommends four actions: one related to financial literacy, one related to the creation of an online marketplace, one related to the creation of a voluntary state IRA, and one related to a request for an advisory opinion from the New Mexico Attorney General.

The Task Force recommends that the state expand education in financial literacy for both young adults and older individuals with particular attention to the issue of retirement savings and retirement income. Having a more complete understanding of the finances required to maintain a desired standard of living at retirement is critical for the success of any program implemented by the state. For young adults, education should be made available in high school or between high school and college. Possibilities for implementation include the design of a mandatory high school course or a supplemental module in an existing compulsory course. An alternative strategy is to tie Lottery Scholarship funding to successful completion of a financial literacy course. For older individuals, education in financial literacy may be facilitated through a variety of mechanisms including fliers and pamphlets, conferences, or online modules.

With regard to retirement programs, the Task Force recommends the implementation of a new hybrid retirement savings program. In the first stage, the state will implement a retirement marketplace portal, along with a voluntary state-administered IRA program. The marketplace portal will provide voluntary retirement plan options to employers and individuals that will be vetted by an appropriate administering entity. A marketplace will help to lower some of the barriers to retirement program creation for employers and may help to encourage them to develop programs. The marketplace can also be designed to accommodate individual (as opposed to employer) retirement planning, which could help to broaden overall participation in the marketplace. As a supplement to the marketplace, the Task Force also recommends the implementation of a voluntary state IRA program with voluntary participation for employers and employees.

In the second stage, at a later date to be determined (or based on a predetermined trigger such as failure of the marketplace and voluntary state IRA program to cover a particular percentage of the private-sector workforce), the state would initiate an automatic IRA (auto-IRA) program, which would require participation from employers, to replace the voluntary state IRA program. This portion of the program will operate as a safety net for employees whose employers do not participate in the marketplace (or other retirement planning) but who may not have the ability to save on their own. While employees will be automatically enrolled in the program, they will have the options to change their withholding percentages or opt-out of the program at their discretion. Note that if the trigger option is chosen, rather than the intervening year option, then the automatic IRA program will not be implemented unless and until the conditions for the trigger are met.

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law regulating private-sector employee benefit plans, such as pension and health plans, to provide protection for individuals in these plans. However, these ERISA protections create strict guidelines with regards to "establishing and running the plan, fiduciary duties of prudence and acting in the best interest of participants and beneficiaries, participant disclosure and government reporting requirements, dispute resolution, and prohibited transactions rules" (Georgetown, 2018). ERISA does not cover retirement plans established or maintained by government entities, but because the Task Force is focused on creating a state retirement program to increase retirement savings for private-sector employees, there is uncertainty whether legislation to create a state retirement savings program would be preempted by ERISA regulations.

To ensure that a state IRA program would not be preempted by ERISA, New Mexico's retirement savings program would need to comply with the 1975 Safe Harbor, Department of Labor Regulations (29 C.F.R. Section 2510.3-2(d)). According to this regulation:

(i) No contributions are made by the employer or employee association;
(ii) Participation is completely voluntary for employees or members;
(iii) The sole involvement of the employer or employee organization is without endorsement to permit the sponsor to publicize the program to employees or

members, to collect contributions through payroll deductions or dues checkoffs and to remit them to the sponsor; and

(iv) The employer or employee organization receives no consideration in the form of cash or otherwise, other than reasonable compensation for services actually rendered in connection with payroll deductions or dues checkoffs.

Due to the uncertainty surrounding the federal interpretation of ERISA as it relates to the implementation of an automatic IRA program, the Task Force requests an advisory opinion from the New Mexico Attorney General. The Task Force specifically requests that the Attorney General provide an opinion regarding (a) whether automatic enrollment of employees into an IRA program will likely trigger ERISA and therefore impose a fiduciary responsibility on the employer, and (b) whether allowing for the voluntary participation of employers in the automatic IRA program will trigger ERISA.

The remainder of the report is organized as follows: first, data demonstrating the retirement shortfall in New Mexico are highlighted and discussed. Next, retirement program types that were considered by the Task Force are presented. Information for key variables related to states currently involved in creating state-based retirement programs is then provided. In the following section, a visual roadmap and a discussion of the various considerations when designing a state-based retirement are provided. Next, a statement of principles (in table form) that should be considered when designing a state-based retirement program is shown. The Task Force then offers its recommendations for managing the retirement shortfall in New Mexico.

Data Discussion

1. Discussion of Data Sources

This analysis makes use of two sources of data. Both sources utilize microdata (i.e., individual-level responses) to allow for a comparison of retirement readiness in New Mexico and the rest of the United States. The use of two sources also allows for crosschecking or validation of the findings. The sources are the Annual Social and Economic Supplement (ASEC) and the Social Security Administration Supplement (SSA).

The ASEC supplement to the U.S. Census Bureau's Consumer Population Survey (CPS) is a yearly survey of over 94,000 US households (over 185,000 people) to obtain detailed data on work experience, income, migration, and noncash benefits, such as an employer-provided pension plan. The U.S. Census Bureau releases the ASEC every March for the U.S. Bureau of Labor Statistics.

The SSA supplement to the Survey of Income and Program Participation (SIPP) is a survey of 29,789 US households (approximately 62,544 people) that provides detailed information on retirement savings, pensions, disability, health status, and marital history. The U.S. Census Bureau conducted phone interviews between September and November 2014 for the Social Security Administration. Additional details related to each data source, as well as other sources of data, are included in the "Additional Data Source Discussion" section of the appendix.

2. Data & Analysis

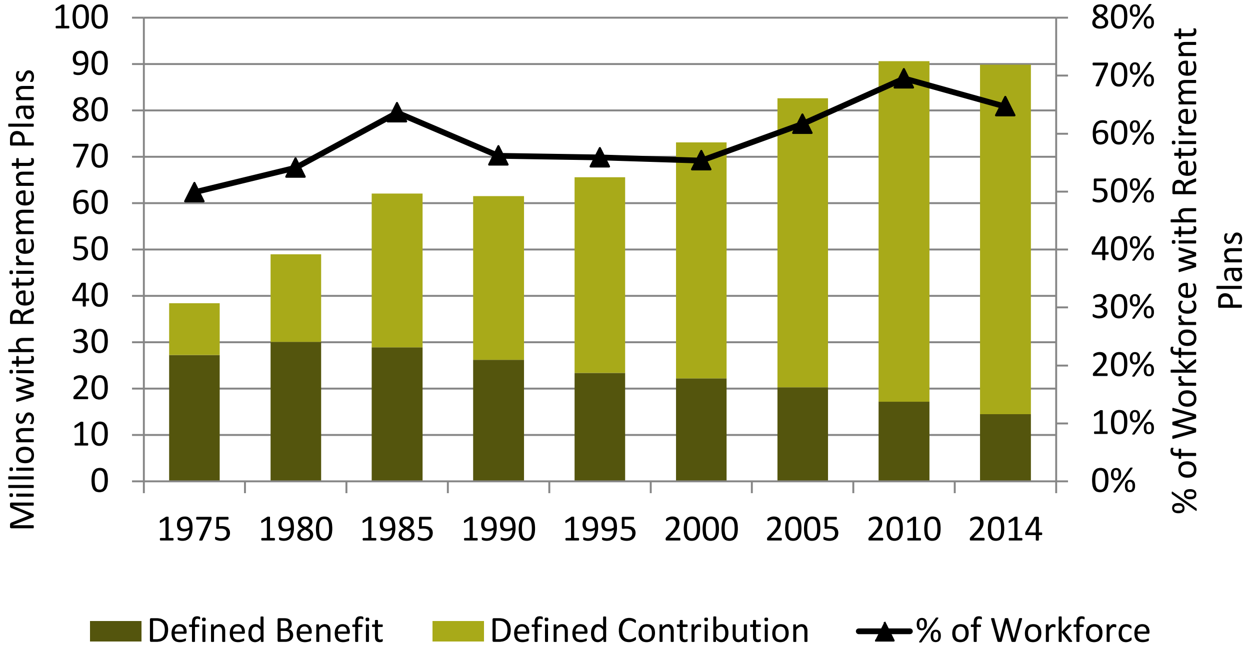
To highlight the issue of retirement savings underfunding in New Mexico, the following subsections contain general descriptions of the retirement situation in New Mexico as well as a deeper discussion along a variety of dimensions, such as private-sector retirement plan availability by work status (e.g., full-time versus part-time), income, education, and the like. Additional data details are included in the "Additional Data Related to Retirement Underfunding in New Mexico" section of the appendix.

a. National Trends and Overview of New Mexico's Situation

Nationally, more Americans are participating in retirement savings programs than in previous decades. According to Bureau of Labor Statistics data, participation in a retirement savings plan has grown from approximately 50% of public and private-sector workers in 1980 to 65% in 2014. However, a growing share of programs are shifting from Defined Benefit (DB) plans to Defined Contribution (DC) plans with little invested in them.

DB plans provide future retirees a steady stream of retirement income, but also make employers responsible for the investment risk in guaranteeing these payouts. As the costs of administering these plans became more burdensome for businesses, employers began to shift to DC plans. The number of workers who are enrolled in a DB plan declined from 30.1 million individuals in 1980 to only 14.5 million individuals in 2014. During this period, DC plans have grown from 18.9 million workers in 1980 to 75.4 million workers in 2014. These plans shifted the investment risk from the employer to the employee but still allowed opportunities for the employee to save for retirement.

Figure 1. Participation in United States Employer Retirement Savings Plans (1975-2014). Source: Department of Labor Form 5500 and Bureau of Labor Statistics, Current Employment Statistics.



Compared to the rest of the United States, New Mexico has a smaller proportion of private-sector workers who have a retirement plan available to them at work, and a slightly smaller share of workers take advantage of available programs (lower 'take-up' rate). Combined, this means that a lower percentage of workers in New Mexico participate in employer-based retirement savings programs. This finding is supported by both ASEC and SSA datasets, though terms and coverage are slightly differently defined.

According to the SSA Supplement, the take-up rate of eligible workers with access to a retirement savings plan is 3% lower in New Mexico than in the United States (74% vs 77%). Data from the ASEC indicate that the take-up rates of eligible workers are the same for both New Mexico and the United States (74% each).

Although take-up rates are similar in New Mexico and the United States in both datasets, plans are generally less available in New Mexico. According to the SSA, 53% of private-sector workers in New Mexico had a plan available, compared to 59% nationwide. Consequentially, just 39% of private-sector workers in New Mexico are enrolled in a plan, compared to 45% nationally. These comparisons are shown in Figure 2.

Figure 2. Plan Eligibility and Participation Comparison (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

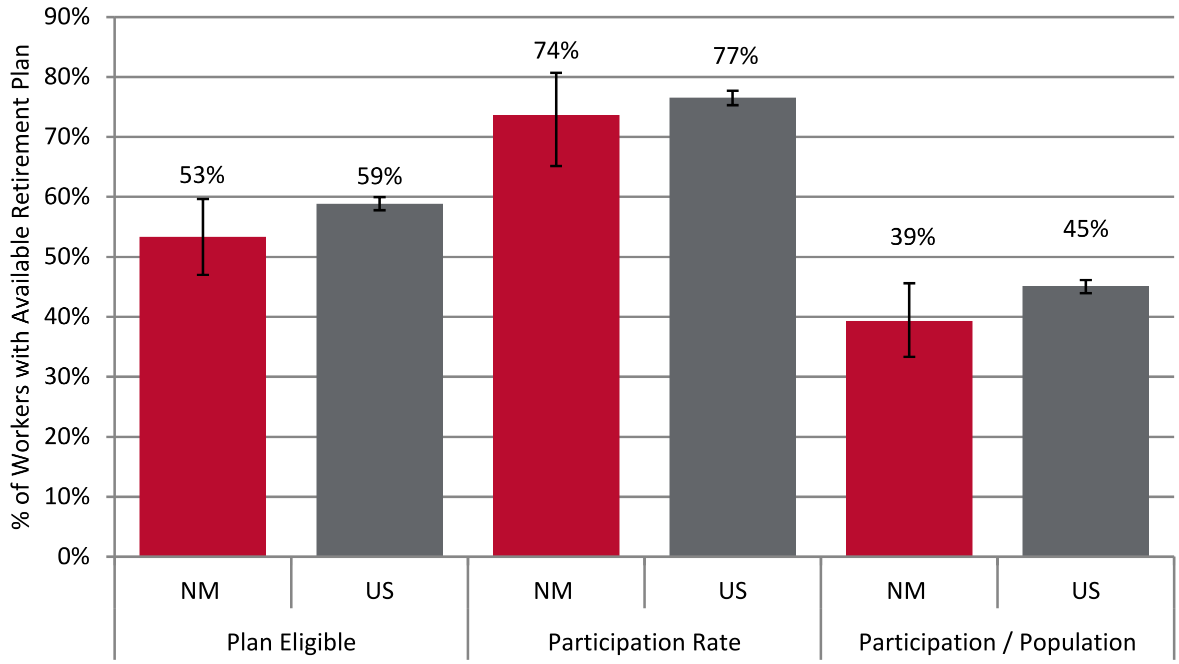
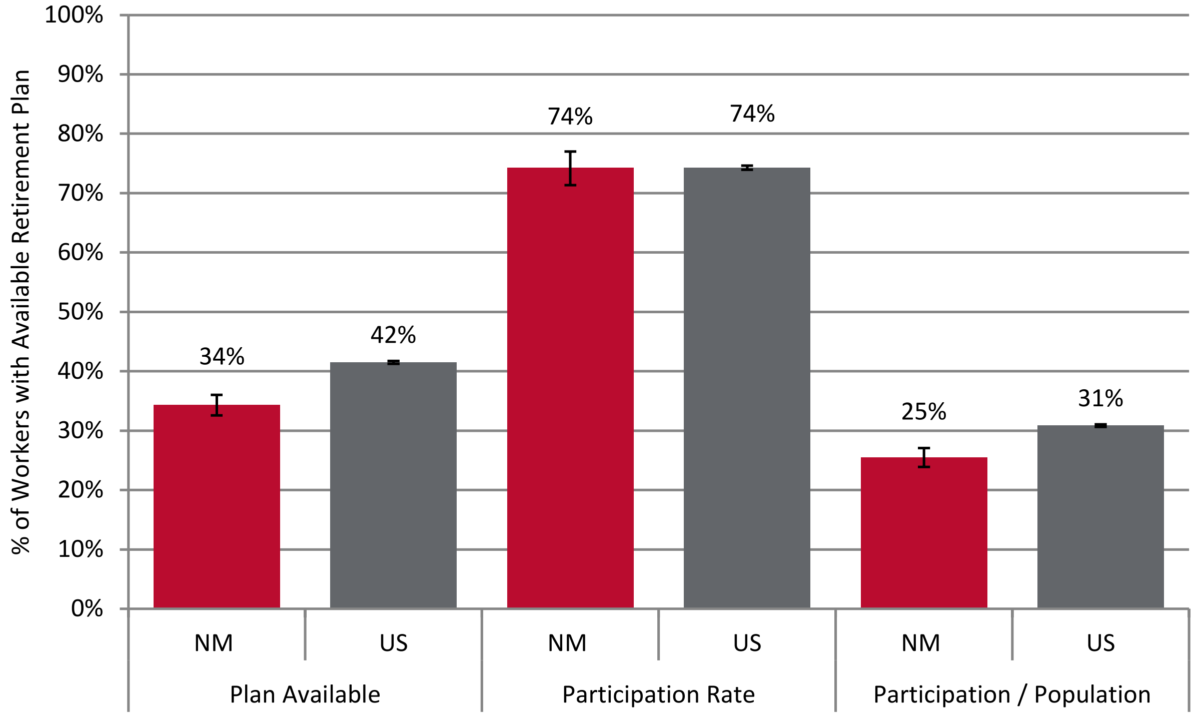


Figure 3 shows the analogous data from the ASEC survey, which is based on a much larger sample size. ASEC shows a significantly larger difference in the availability of plans, 34% versus 42%. Larger sample sizes provide for greater statistical precision and allow for a greater degree of inferential certainty. Similarly, the proportion of private-sector workers participating in a retirement plan is lower in New Mexico than in the United States (25% versus 31%), which supports the proposition that New Mexico is falling behind with regard to actual retirement coverage.

Figure 3. Plan Availability and Participation Comparison (2014-2016). Source: US Census, Current Population Survey (CPS), Annual Social and Economic Supplement (ASEC), 2016 Microdata.



To further break down plan uptake, Figure 4 shows the proportion of private-sector workers in New Mexico and the United States who do not have a plan available, have a plan available but do not enroll, have a DB plan, have a DC plan, or have a cash balance plan. The data reinforces the notion that plan unavailability is operating to reduce the proportion of New Mexicans participating in both DB and DC plans. It is important to reiterate that the small sample size nature of the SSA supplement limits the inferences that can be made; nevertheless, the nominal differences between the New Mexico and United States data suggest somewhat dissimilar retirement savings patterns.

Figure 4. Type of Retirement Plan for Private-Sector Employees (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

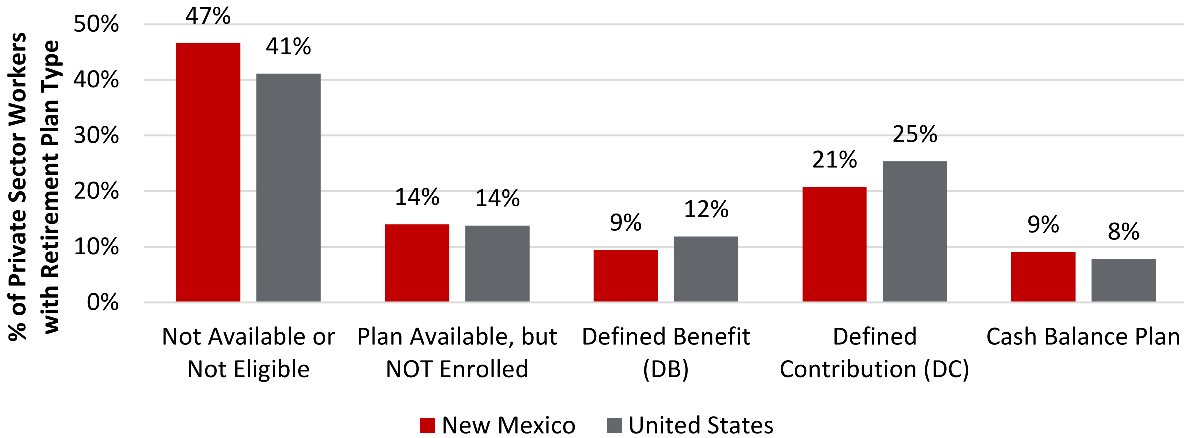
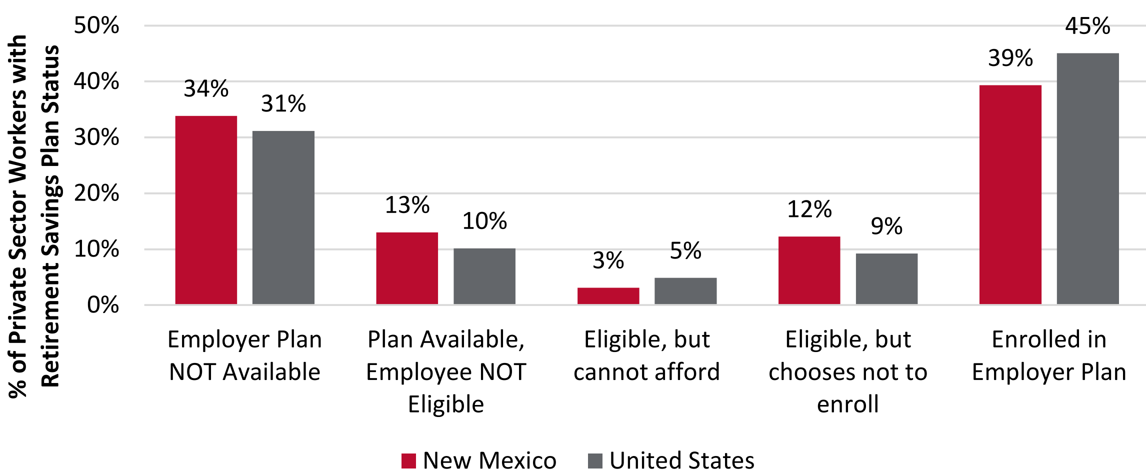


Figure 5 offers detailed reasons that explain non-participation in employer-based retirement plans in the private sector. The reasons include plans are not available from the employer; an individual is not eligible to enroll in an existing plan; and the employee is eligible for a plan but cannot afford it, or otherwise chooses not to enroll. A key disparity between New Mexico and the US is the lack of plan availability to the worker (i.e., the employer does not offer a plan or the employer offers a plan but the employee is not eligible; 47% in New Mexico versus 41% nationally). Interestingly, fewer New Mexicans identify affordability as a barrier to participation (3% versus 5%) but a greater number indicate a decision not to participate for other reasons. (12% versus 9%).

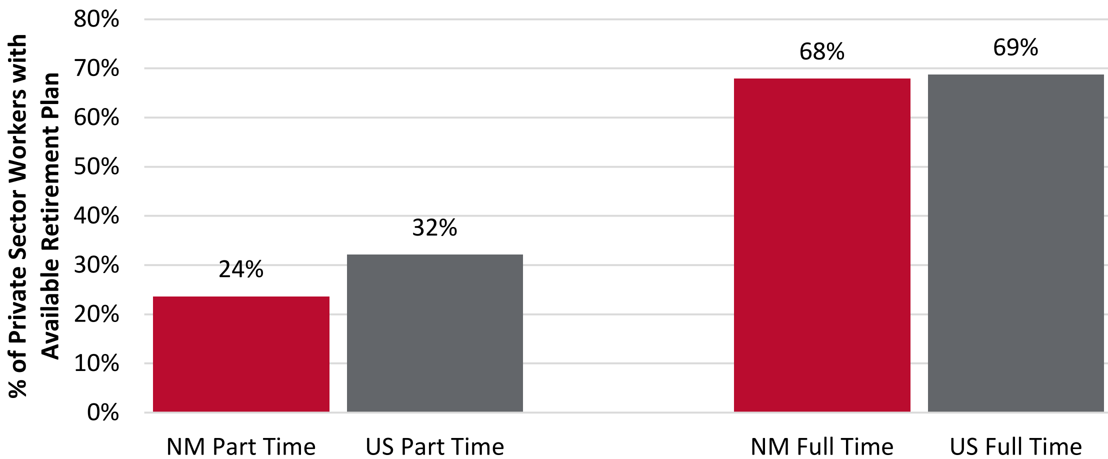
Figure 5. Retirement Plan Status for Private-Sector Workers (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



b. Full-time and Part-time Workers

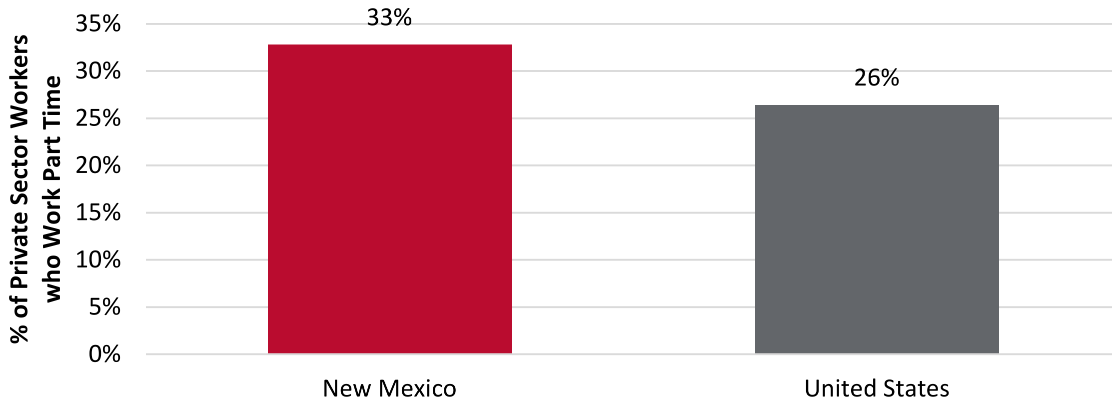
Part-time workers are less commonly eligible for employer-based retirement plans. Figure 6 shows that according to the U.S. Census Bureau, nationally 69% of full-time private-sector workers have access to a retirement savings plan nationally, compared to 32% of their part-time counterparts. New Mexico has a similar percentage of full-time workers who have access to a plan (68%), but the percentage of part-time workers who have access in the state is only 24%.

Figure 6. Eligibility of Private-Sector Employer Retirement Plan by Full-Time and Part-Time Status (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



Additionally, as shown in Figure 7, New Mexico has a relatively larger percentage of private-sector workers who work part-time (33%), compared to the rest of the United States (26%). Combined, this results in lower enrollment rates in New Mexico than in the rest of the nation.

Figure 7. Percentage of Private-Sector Workers who Work Part-Time (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



c. Income of the Individual

As an employee earns more income, he or she is likely to have more money to save for retirement. In addition, as a worker's income increases, it is more likely that his or her job will offer additional benefits, such as a retirement savings plan. This general trend is seen in both New Mexico and the United States. As shown in Figure 8, as the wage bracket increases, eligibility for an employer-based retirement savings program also increases.

Figure 8. Eligibility of Private-Sector Employer Retirement Plan by Annual Personal Income (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

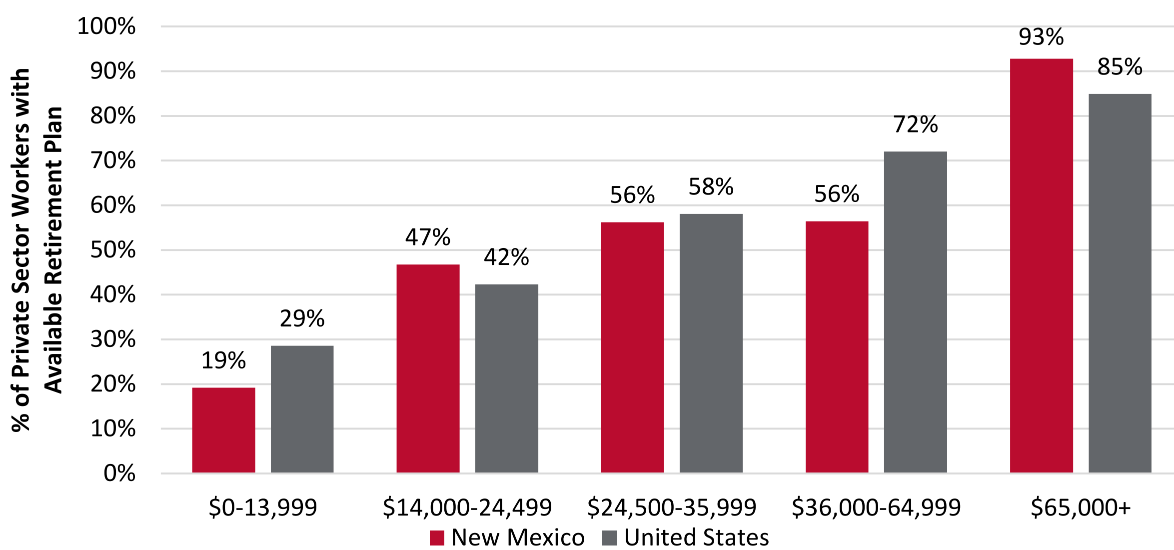
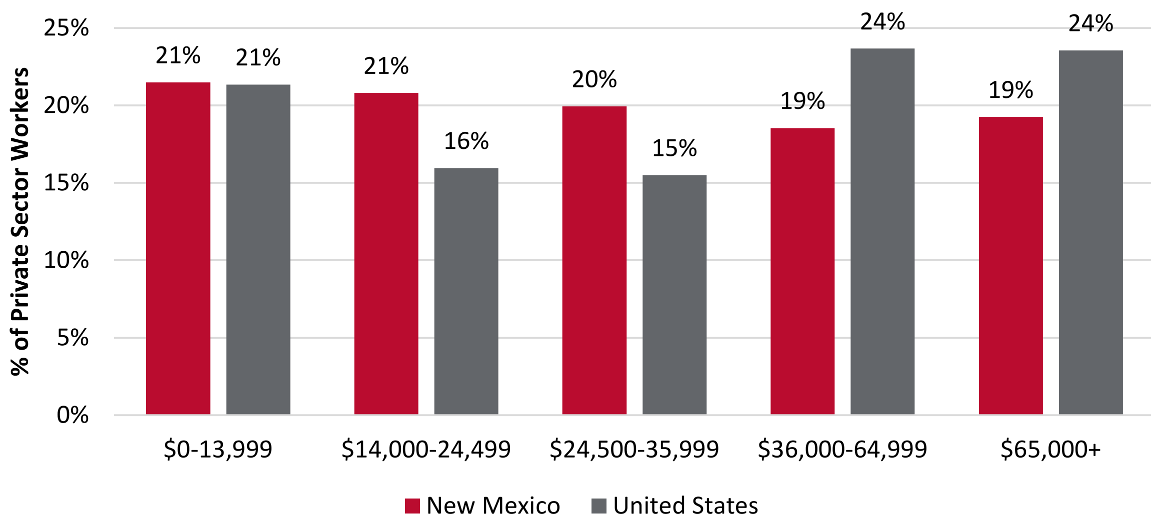


Figure 9 shows the wage and salary levels for workers in New Mexico and the United States. In both regions, 21% of private-sector workers earn less than $14,000 per year, but in New Mexico, 41% of workers earn between $14,000 and $35,999 per year, compared to 31% nationally. By contrast, New Mexicans are less likely to earn higher salaries. 38% of workers earn $36,000 or more per year in New Mexico, compared to 48% nationally.

Because New Mexico has fewer high-paying jobs where retirement plans are more likely to be available, New Mexicans are less likely to be enrolled in employer-based plans despite similar take-up rates.

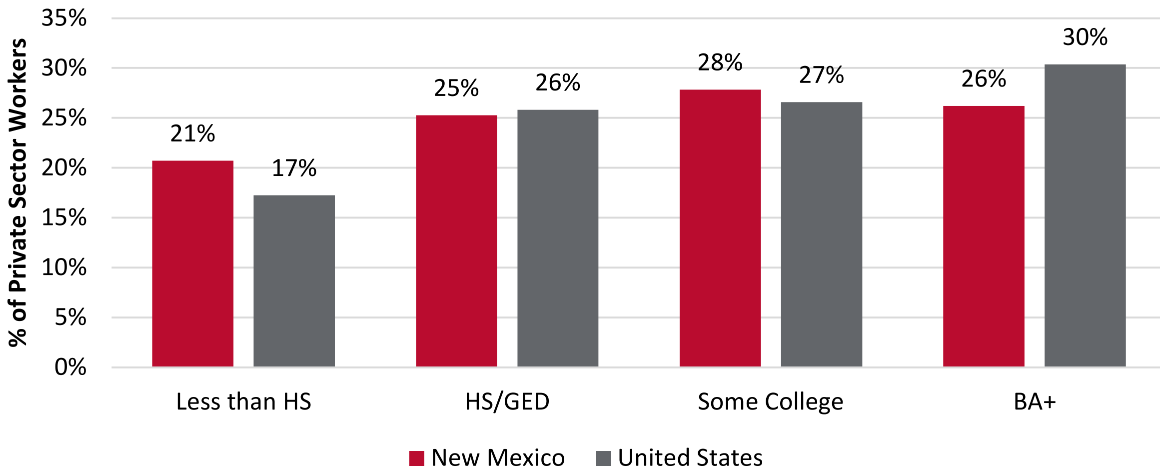
Figure 9. Private-Sector Worker Annual Income (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



d. Education

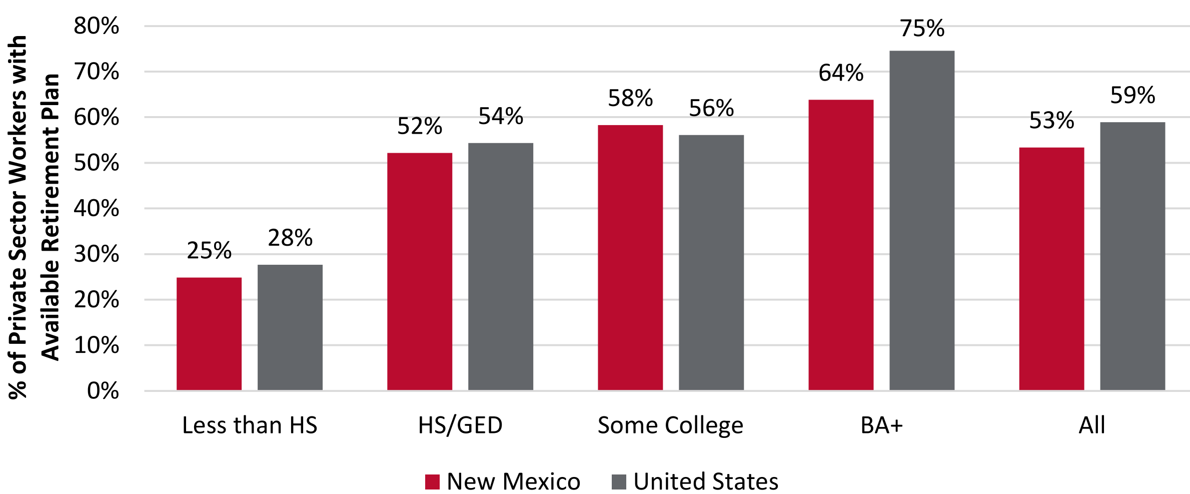
As shown in Figure 10, levels of educational attainment are lower in New Mexico than in other parts of the United States. In New Mexico, 21% of private-sector workers do not have a high school degree, compared to 17% in the rest of the country. By contrast, only 26% of New Mexicans have a Bachelor's degree, compared to 30% nationally.

Figure 10. Population of Private-Sector Workers by Educational Attainment (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



While individuals with relatively low educational levels are likely to be working in positions that do not provide retirement plans, this issue is exacerbated in New Mexico because the individuals with less than a high school education are also less likely to have a retirement plan than the United States average (25% versus 28%), as shown in Figure 11. In other words, New Mexico has a larger proportion of relatively lower-educated workers (relative to the United States average) and those workers are less likely to have access to a retirement plan. Relative lack of access is not confined to lower-educated individuals because workers in most education cohorts have a lower likelihood of retirement plan access (the ‘Some College’ cohort is the exception).

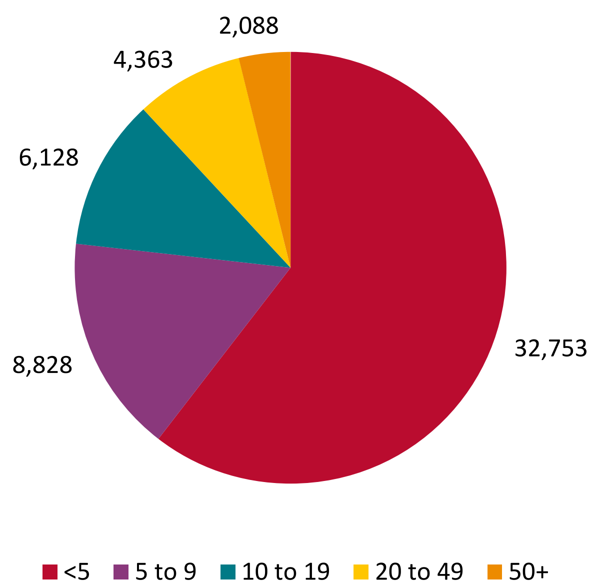
Figure 11. Eligibility of Private-Sector Employer Retirement Plan by Education Attainment (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



e. Firm Dynamics

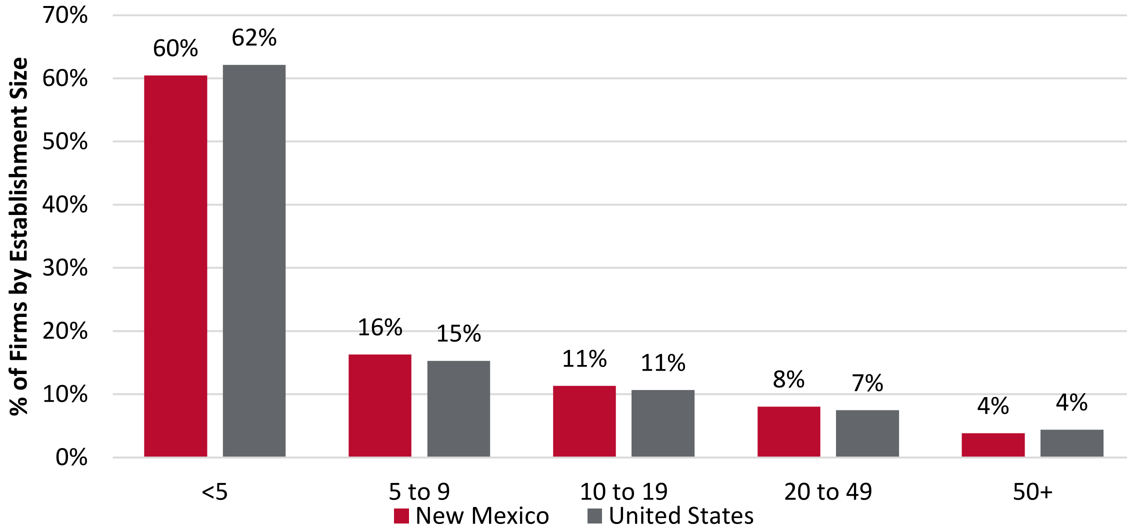
Understanding the establishments that are here in New Mexico and their firm size is useful, especially when considering the number of firms that may be exempted from any future retirement savings program. Figure 12 shows that out of the 54,160 total establishments in the state, New Mexico has 32,753 establishments that employ fewer than five employees, which accounts for 60% of all the establishments in the state. The state has 14,956 establishments that have between 5 and 19 employees, which accounts for approximately 27% of all the establishments in the state. Collectively, establishments that employ fewer than 19 employees account for almost nine out of every 10 establishments in New Mexico (88%). Note that these data only include private-sector firms with employees who pay unemployment insurance, so it does not include sole proprietors.

Figure 12. New Mexico Private-Sector Firms, by Establishment Size. Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages (QCEW). First Quarter, 2016.



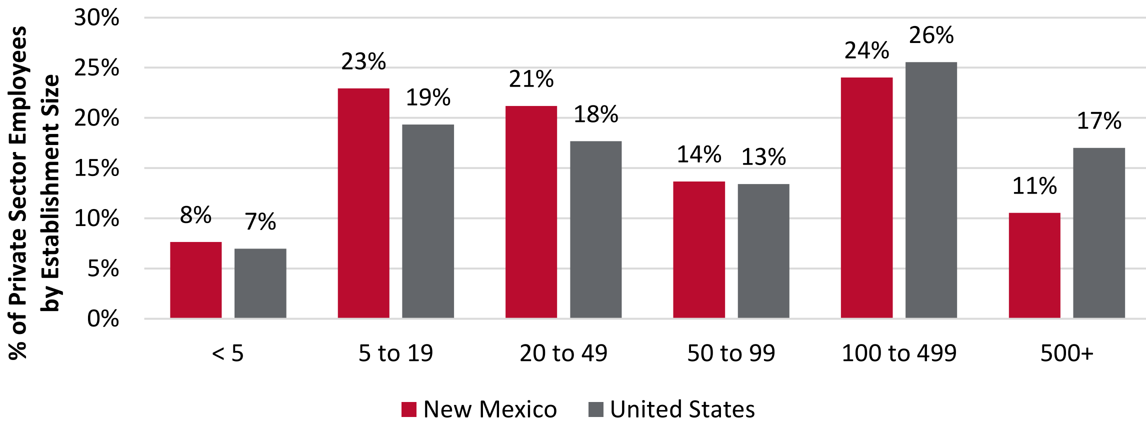
The proportion of establishments in New Mexico at the various size cohorts is generally similar to the rest of the nation. Figure 13 shows that compared to the United States, New Mexico has about 2% fewer firms that have less than 5 employees (60% versus 62%) and similar percentages of establishments between 5 to 9 employees (16% versus 15%), 10 to 19 employees (11% each), 20 to 49 employees (8% versus 7%) and 50 or more employees (4% each).

Figure 13. Comparison of Private-Sector Firms, by Establishment Size. Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages (QCEW). First Quarter, 2016.



While New Mexico has a similar distribution of firms by firm size, New Mexico has a relatively larger percentage of employees who work for small firms. While New Mexico has a few notable large private-sector employers, most employers in the state are small. Small employers are less likely to offer retirement plans, thus making the composition of employers in New Mexico an important element for understanding New Mexico's particular situation. Figure 14 shows that compared to the United States, New Mexico has a relatively larger concentration of employees who are employed with establishments with fewer than 5 employees (8% versus 7%), between 5 and 19 employees (23% versus 19%), between 20 and 49 employees (21 versus 18%), and between 50 and 99 employees (14% versus 13%). Alternatively, New Mexico has a relatively smaller concentration of employees who are employed at establishments with at least 100 employees (35% versus 43%).

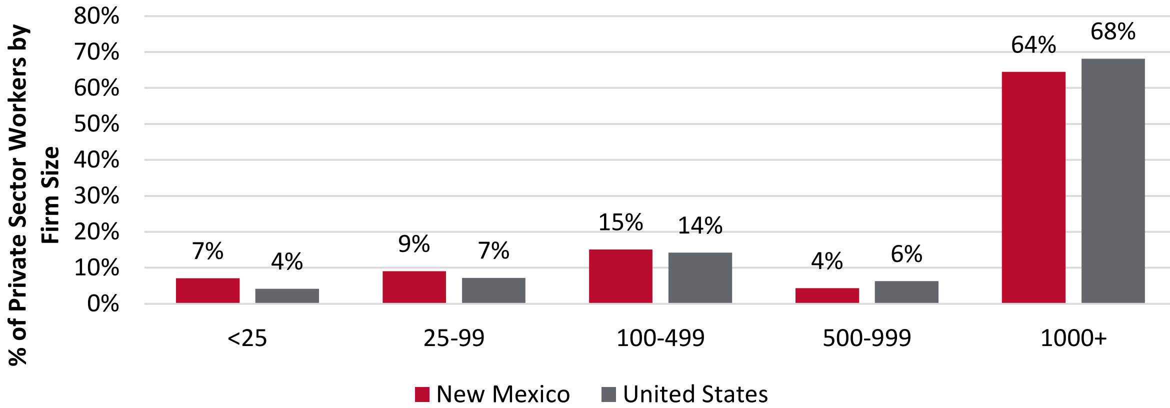
Figure 14. Percentage of Private-Sector Workers by Establishment Size (March 2016). Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages (QCEW).



The data presented in Figures 12-14, which uses QCEW data, only show establishment size and proportion of employees by establishment size, not the percentage of workers with retirement savings; nor do the data account for firms that have multiple establishments. Further discussion of this topic is included in the “Additional data source discussion” section of the appendix.

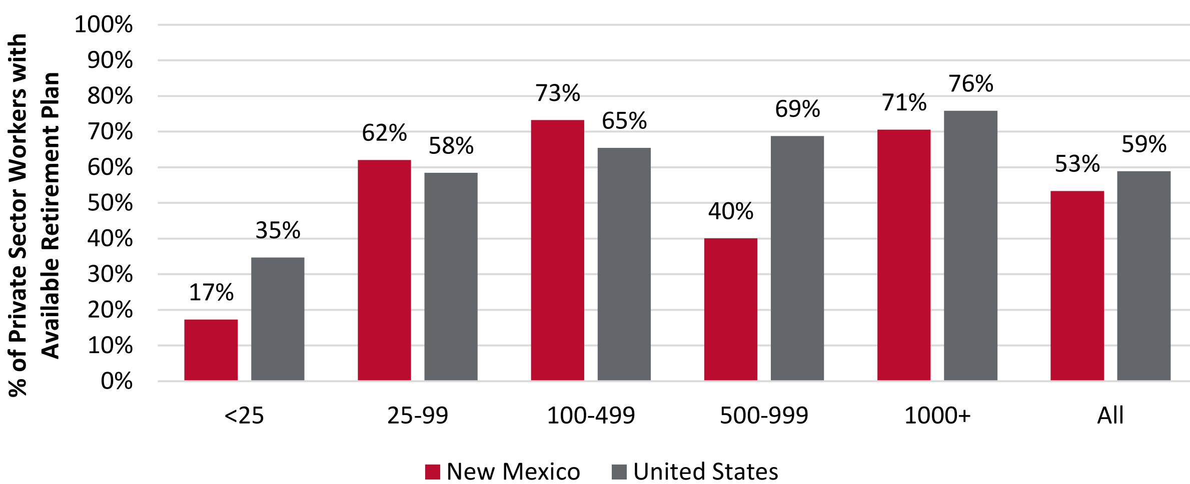
Therefore, data on firm size from SSA are presented in Figure 15 and percentages of employees with retirement savings (by firm size) are shown in Figure 16. Unfortunately, the data has two critical limitations: first, the smallest firm-size cohort in the SSA data is fewer than 25 workers. Second, the data only include firms that have more than one location. Nevertheless, the data provide useful insight into the proportion of workers who are eligible for employer-sponsored retirement plans. Figure 15 shows that compared to the United States, New Mexico has a larger concentration of firms with fewer than 25 employees (7% versus 4%) and between 25 and 99 employees (9% versus 7%). Alternatively, New Mexico has a relatively smaller concentration of firms with 500+ employees (68% versus 74%).

Figure 15. Percentage of Private-Sector Workers by Firm Size (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



While New Mexico has a high concentration of small employers (< 25 employers), those employers are less likely to offer to offer a retirement plan in New Mexico compared to all employers in the state (17% versus 53%). Furthermore, the cohort of small employers in New Mexico is less likely to offer a plan than the comparable employer cohort in the United States (17% versus 35%). Therefore, this is another example where the particular characteristics in New Mexico— a high concentration of small employers—place the state in a somewhat vulnerable position because it underperforms in terms of offering a retirement plan relative to rest of the United States.

Figure 16. Eligibility of Private-Sector Employer Retirement Plan by Firm Size (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



3. Discussion of Retirement Savings Underfunding and Future Need

Not only do New Mexicans have lower rates of plan availability compared to the United States along most dimensions (and a relatively smaller percentage of private-sector workers who participate in retirement plans), the amounts saved for retirement are typically lower. Figure 17 shows the proportion of all private-sector workers by cash savings for retirement. In New Mexico, 67% of all private-sector workers have $0 saved for retirement, compared to 62% nationally. In most other cash savings cohorts, the percentage of workers who save for retirement is equal to or lower than the national percentages. Proportions in New Mexico with savings in the cohorts above the $0 cohort are relatively lower than the United States because there is such a large percentage of workers in New Mexico who have nothing saved. However, an exception is the percentage of workers in New Mexico who have more than $150,000 saved for retirement, which is slightly higher than in the United States (9% versus 7%).

Figure 17. Retirement Plan Cash Savings for Private-Sector Workers (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

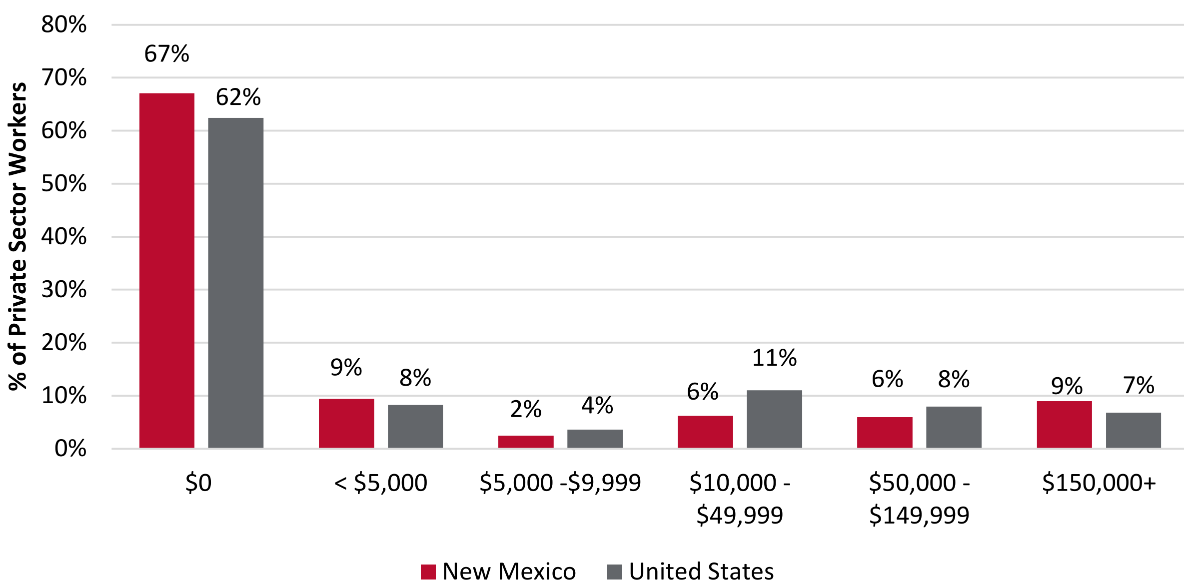
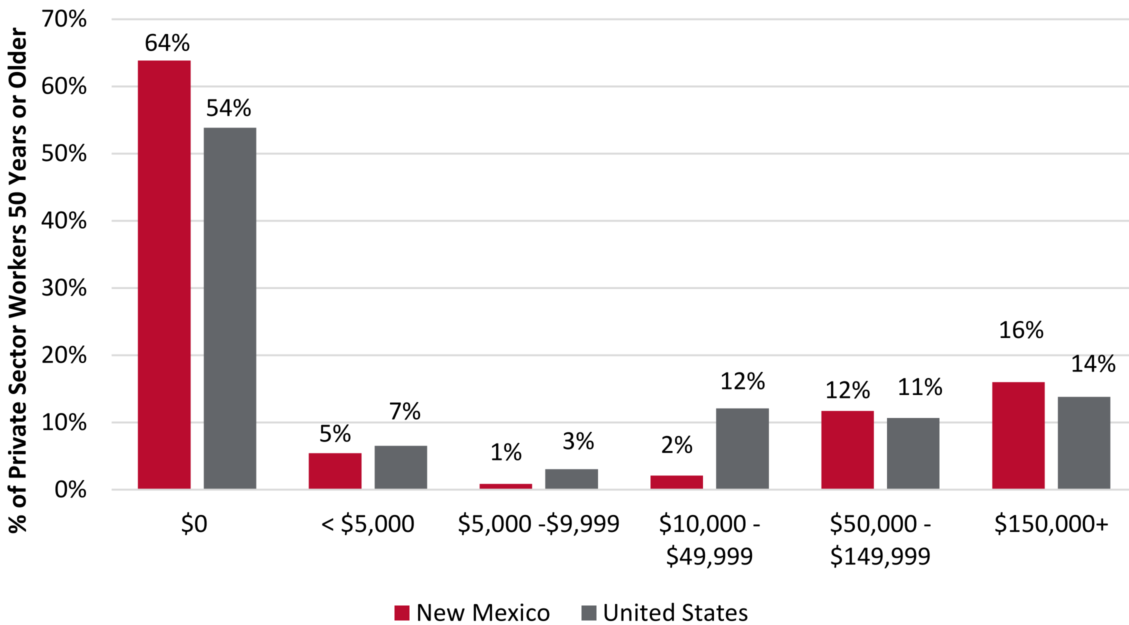


Figure 18 shows a similar distribution but now only includes individuals who are at least 50 years of age. This distinction is made because this group is closer to retirement age and it would be hoped that, with proper planning, these individuals would have positive retirement savings. In New Mexico, 64% of private-sector workers over the age of 50 have $0 in cash savings (compared to 54% nationally). It is important to note that the New Mexico percentage is only slightly lower than the percentage for all workers (64%

versus 67%), which implies that the composition of workers who have no retirement savings is likely to be similar regardless of the age threshold. The high proportion of workers with $0 in retirement savings is certainly a cause for concern, especially as the life expectancy for retirees' increases.

In addition, the state performs relatively worse than the United States in all cohorts up to those who have at least $50,000 in retirement savings. Interestingly, the state performs relatively stronger than the nation in the cohorts at $50,000 and above (12% versus 11% in the $50,000-$149,999 cohort; and 16% versus 14% in the $150,000+ cohort).

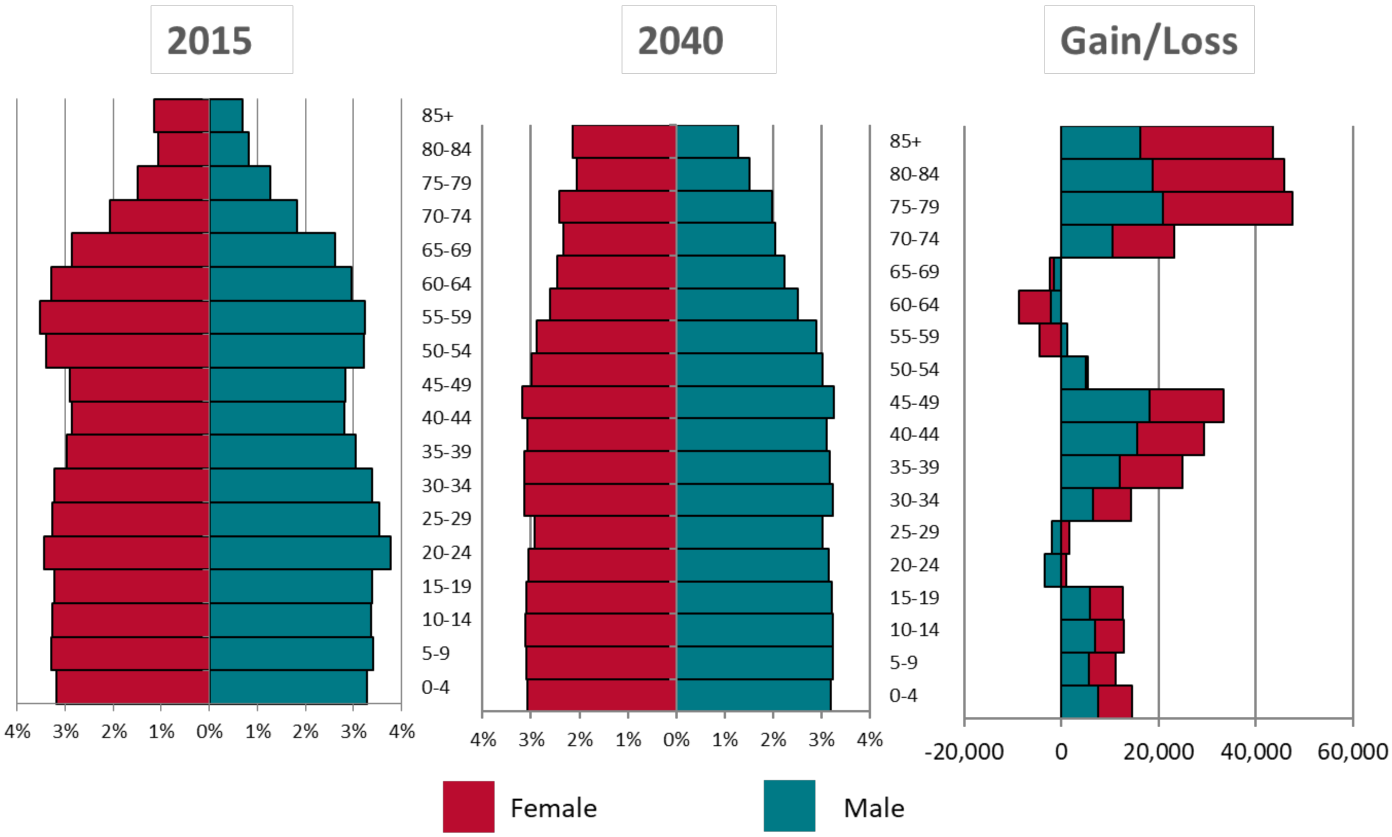
Figure 18. Retirement Plan Cash Savings for Private-Sector Workers at Least 50 Years Old (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.



Not only is New Mexico at relatively greater fiscal risk than the nation due to low or no retirement savings, increasing life expectancies will operate to exacerbate the problem. Figure 16 shows three population pyramids: one for 2015, a projection for the year 2040, and one showing the population gains and losses by age cohort in absolute terms. Turquoise bars correspond to males and red bars correspond to females. Key to understanding the various shifts from 2015 to 2040 is the expansion of the age cohorts aged 60 years or more. This is accounted for by the expected longer lives of the baby boomers (and post-baby boomers) who are transitioning into older age. This translates into large gains by the relatively older age cohorts. In particular, by 2040 New Mexico's population 60+ years old will grow by one-third, from 465,000 to 614,000. Furthermore, at expected rates of population growth, the number of persons 60+ years old with less than $10,000 saved for retirement in New Mexico will increase by 111,500, to 469,000 by 2040, which further highlights the need for addressing the problem of underfunded retirement savings.

The number of persons 60+ years old with less than $10,000 saved for retirement in New Mexico will increase by 111,500, to 469,000 by 2040.

Figure 19. New Mexico Population Projections by Age Cohort (2015 through 2040). Source: UNM Geospatial and Population Studies.



4. The Desire for Enhancing Retirement Savings

To assess the interest in a retirement savings program in New Mexico, AARP conducted a survey of 501 small business owners and decision makers in New Mexico in 2017 (AARP, 2017). According to the survey results, New Mexico small business owners see the added benefit of having a retirement savings plan available in the competitive job market. About three out of four (76%) small business owners believe that offering a retirement savings program can provide an added benefit to retain high-quality workers or attract high-quality talent in the job market (AARP, 2017).

The major reason why small business owners in New Mexico currently do not provide a retirement savings program is that it is too costly to administer and maintain (65% of respondents) (AARP, 2017). Other barriers to savings also include the complexity of administering and maintaining a program (38%) and the amount of time it takes to administer and manage a program (29%).

To address these concerns, many New Mexico small business owners agree that the state has a role to play in helping employees save. Three out of four (75%) small business owners agree that the state should be doing more to encourage residents to save for retirement (AARP, 2017). 78% of respondents believe that New Mexico lawmakers should support legislation that would make it easier for small business owners to offer ways for employees to save for retirement. 65% of New Mexico small business owners would also support legislation that would create a "basic, privately managed, ready-to-go retirement option that small businesses could use to address the issue of retirement" (AARP, 2017). Furthermore, there is broad support across political affiliation as 70% of Democrats, 64% of Republicans, and 72% of Independents indicated support for this legislation.

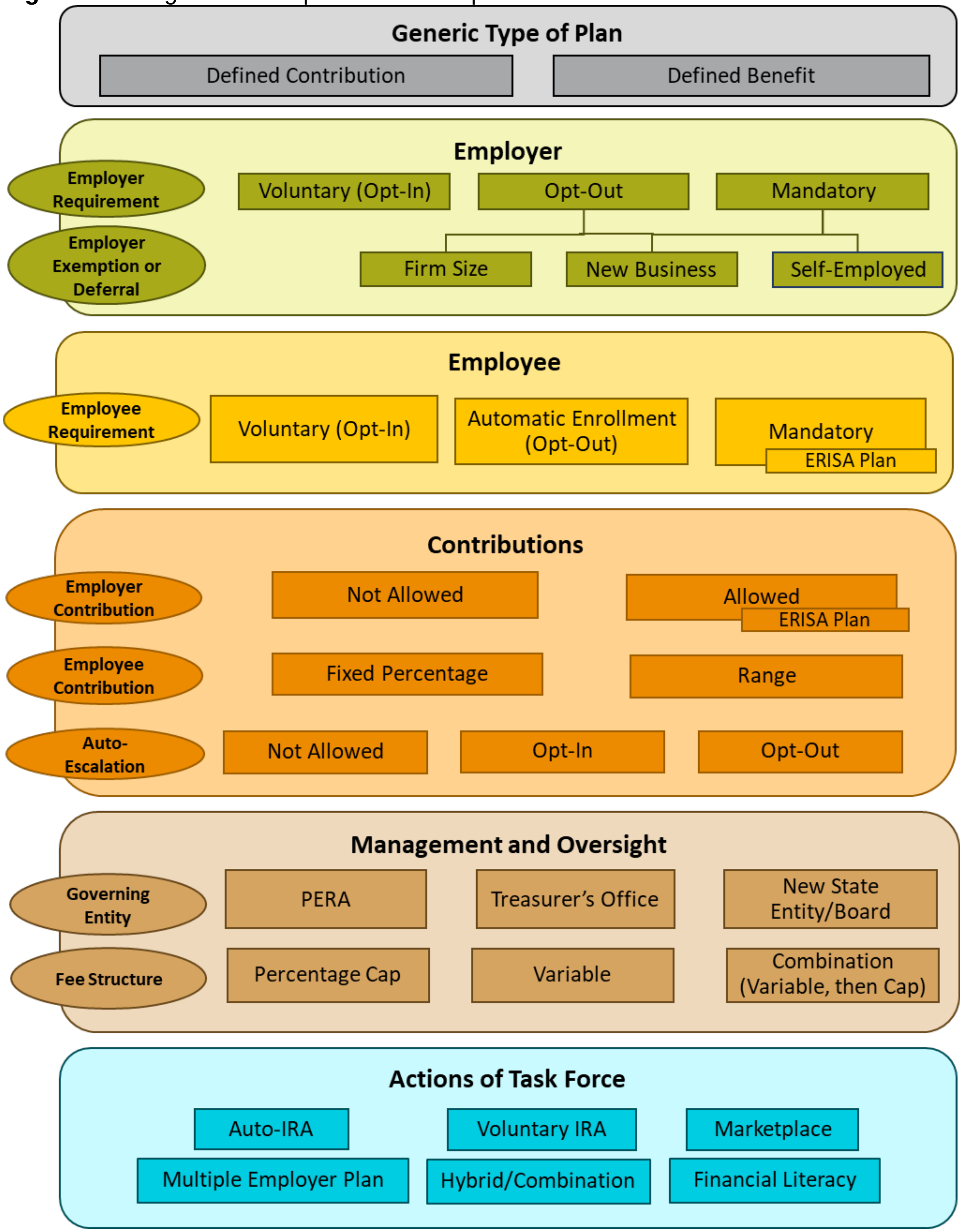
78% of New Mexico small business owners believe that lawmakers should support legislation that would make it easier for them to offer ways for employees to save for retirement.

If the state provided an option to enroll into a voluntary, portable retirement savings program, 63% of New Mexican small business owners who do not currently offer a program say that they are likely to offer their employees access to it. Given underfunded retirement in New Mexico, and the apparent desire of business to support a solution to the retirement savings problem, we now turn to discussing the various options available to the state to help manage the shortfall.

Retirement Savings Program Roadmap

Figure 20 shows a roadmap of a few of the key considerations when designing a state retirement program. A first choice is whether to offer a DC plan or a DB plan. However, given that a key principle (that will be discussed in a separate section) is to limit the state's liability, only a DC plan will be considered. In addition, there are several choices of programs, four of which have been identified: automatic IRA, voluntary IRA, marketplace programs, and multiple employer plans (MEP). The choice of program will depend at least in part on whether to subject the state's employers to ERISA. While it is clear that the marketplace, depending on the program, and MEP programs will trigger ERISA, and auto-IRA programs may trigger ERISA (Eversheds Sutherland, 2017), voluntary IRA programs likely will not. Because this could impose regulatory oversight, much of the forthcoming discussion will center on ERISA-related issues from the standpoint of the employer and what may trigger it from the standpoint of the employee. Also presented is a brief discussion of other considerations.

Figure 20. Program Development Roadmap



Program Options

While many retirement programs may be available for consideration, the four general types are briefly described below. Each type has advantages and disadvantages and each has been either implemented or considered in at least one state. It is important to note that beyond the description of each program there are several key decision points related to program choice and setup. For example, a key decision is whether a state-sponsored program should be governed by ERISA, which can lead to additional regulatory requirements and greater employer fiduciary responsibility (Morse, 2014; PEW, 2018). In general, some IRA-type programs, two of which are described below, may not be governed by ERISA, although IRA status is not dispositive for ERISA treatment and the underlying nature of the program will ultimately dictate its governance. For example, according to Department of Labor Regulation Section 2510.3-2(d), for a program to avoid ERISA, employee participation must be completely voluntary (Morse, 2014). That bar may, or may not, be met based on the characteristics of the program. However, it is important to note that some programs governed by ERISA have advantages compared to non-ERISA programs; principally, those programs make available certain retirement vehicles (such as 401(k)s) that allow for employer contributions and larger employee contributions. Other requirements to prevent ERISA preemption can be found in the "Compliance to Avoid ERISA Preemption" section of the appendix. An additional decision point is whether a plan should be defined benefit or defined contribution. For the purposes of this memorandum, only DC plans are considered because state-sponsored DB plans are likely to be fiscally intractable.

1. Marketplace

In a Marketplace model, the role of the state is to facilitate retirement investment and planning services by developing a centralized (electronic) location. Retirement service providers will be vetted by the appropriate administering state agency and qualifying plans will be placed on the marketplace website. This will provide streamlined access to various plans and allow employees to more easily compare plans. In addition, the website can be developed to also market to employers so that they can be made aware of retirement plans that they could potentially offer their employees.

While the key benefit of this strategy is the streamlining and centralization of services (which facilitates comparison), only plans that meet the state's pre-determined threshold for plan provision will be included. This could limit the options that an employee (or employer) may access through the marketplace and may not be reflective of the full suite of investment tools otherwise available from retirement planning professionals. In addition, it is unclear whether the centralized market will significantly induce participation from individuals that would not have already engaged in retirement planning. While it is true that a centralized system may facilitate some participation, if the goal is to capture individuals that would otherwise not have participated in retirement planning, this solution may be less effective than the opt-in and voluntary IRA programs described below.

Both New Jersey and Washington have chosen the marketplace option (Georgetown, 2018). The Washington retirement marketplace can be found at http://www.retirementmarketplace.com/. Development of the New Jersey retirement marketplace is currently in process.

2. Auto-IRA

In an automatic IRA program, individuals who do not already have access to an employer-sponsored retirement plan are automatically enrolled in the retirement program and contribute a predetermined percentage of their wages or salaries (John, 2010; John and Iwry, 2006; PEW, 2018). By automatically enrolling employees in this type of program, participation is likely to be broader than other programs where employees are required to opt-in (Clark, Utkus, and Young, 2013). Individuals may change their contribution percentage or opt out of the program entirely (PEW, 2018). This gives employees flexibility with regard to the level of participation or engagement in the retirement program but requires affirmative action if they would like to opt out or change participation percentages. Because the program is an IRA-based plan, employers do not contribute to the employee's plan. Maximum employee contributions are somewhat low: in 2018, the contribution limit in most cases is $5,500 per year (US DOL, 2016).

Although program participation is voluntary for the employee, it is unclear whether they will always escape ERISA treatment given that employees are automatically opted in (though may opt out). However, the US Department of Labor has indicated that ERISA may not be triggered as long as the employer's involvement is minimal (US DOL, 2016). Nevertheless, ERISA treatment will depend on federal interpretation going forward and individual program characteristics. For example, at least one prominent law firm's opinion is that automatic enrollment into a state-sponsored automatic enrollment IRA program is not considered "completely voluntary," which is a prong of the Safe Harbor provision of the ERISA rules (Eversheds Sutherland, 2017). If this is the case, employers will be left with the costs and obligations inherent in ERISA plans (Eversheds Sutherland, 2017). Full disposition of this issue will likely require litigation and/or Congressional action (Eversheds Sutherland, 2017).

Assuming that ERISA is not triggered and the employer does not have a fiduciary responsibility under Federal law, the cost to the employer is generally low because it is not subject to government filing and some administrative responsibilities required for other plans (such as 401(k)s) (US DOL, 2016).

California, Connecticut, Illinois, Maryland, and Oregon are currently implementing, or are in the process of implementing, some type of automatic IRA program (Georgetown, 2018; PEW, 2018).

3. Voluntary Payroll Deduction IRA

This option allows an employer and their employees to opt-in to the state-administered IRA-type program via a voluntary payroll deduction. This type of program will almost certainly not trigger ERISA regulation because the program, from the employee's perspective, is completely voluntary (although other elements may trigger ERISA: DOL Reg. Sec. 2510.3-2(d); Morse, 2014). However, requiring employees to make an affirmative action to participate in the program may limit employee participation and program interest (Clark, Utkus, and Young, 2013). Low participation rates can lead to inadequate retirement funding which can lead to insolvency and reduced program efficacy.

New York is currently developing a voluntary-payroll-deduction IRA (Georgetown, 2018).

4. Multiple Employer Plan (MEP)

A Multiple Employer Plan (MEP) is a single retirement plan that is adopted by two or more unrelated businesses (Morse and Antonelli, 2017). MEPs are 401(k) plans and are therefore covered by ERISA and subject to its ERISA requirements and regulatory structure (Morse and Antonelli, 2017). However, a benefit of being a 401(k)-type plan is that, unlike an IRA-type plan, an employer may also contribute to the retirement plan. Additional benefits vis-à-vis an IRA-type plan are income tax deferment (which some IRA-type plans do not permit) and higher contribution limits (Morse and Antonelli, 2017). In addition, 401(k)-type plans sometimes have lower fees and higher returns than IRA-type plans (Rhee and Boivie, 2015), and have higher contribution limits than IRA plans ($18,500 per year for individuals under 50 years old and $24,500 per year for individuals aged 50 and older). Note that these plans are different from so-called "multi-employer" plans, which are typically related to plans generated for unionized workers through collective bargaining agreements (Morse and Antonelli, 2017).

Massachusetts is currently operating an MEP program for nonprofit organizations and Vermont is rolling out its plan in 2019 (Georgetown, 2018). For analysis of the Vermont plan, see Antonelli and Morse (2017). The Federal Government is also considering options to make it easier for employers to join together to form MEPs, via executive and Congressional action. Further discussion of this topic is included in the "MEP Plans & Congress" subsection of the recommendations section.

Comparison of State Retirement Programs

The tables located in the "Comparison of State Retirement Programs" section of the appendix contain information by Georgetown University (2018) on retirement program participation by city or state. The table is organized by product type (e.g. auto-IRA, MEP, etc.) and shows which states are currently implementing, or in the process of implementing, each program as well as key information regarding each program. Also shown are the pros and cons of each product type. The first table shows states currently engaged in auto-IRA programs and the second table shows states engaged in voluntary IRA programs, marketplace programs, and MEPs.

Retirement Savings Program Discussion

1. Requirements of the Employer: Maintaining Safe Harbor Exemption toward ERISA

To comply with the 1975 Safe Harbor ruling that would exempt the state's retirement savings program from ERISA preemption, the employer's role must be limited. For example, in California the requirements of the employers who are enrolled in the state program are limited to these three administrative responsibilities:

I. Enable employees to make an automatic contribution from their paycheck into their Secure Choice Account,
II. Transmit the payroll contribution to a third-party administrator to be determined by the Board, and
III. Provide state-developed informational materials about the program to their employees.

Under ERISA-exempted programs, employers are not permitted to contribute to a plan on the employee's behalf, such as matching the employee's contribution or covering/waiving fees that the retirement program would charge the employee in administrating the program. An advantage to limited employer involvement under ERISA-exempted programs is that the employer is not required to pay (and in fact, cannot pay) any annual or administrative fees toward the administration of this retirement program.

The Task Force must decide whether the state should mandate compulsory employer enrollment into the retirement savings program, and if so, which employers would be under that mandate (i.e., whether any are exempted and under what conditions exemptions apply). The Department of Labor issued a rule in 2016 stating that in order to satisfy the limited-employer-involvement condition required by non-ERISA plans, the state must mandate employer participation. If employer participation was voluntary or if they are able to opt-out, then it may be interpreted that the employer is making a plan decision on behalf of their employees. On the other hand, if employers are required to participate in this program they are simply complying with the law and not making any retirement planning decisions.

In 2017, Congress repealed the Department of Labor's rule via the Congressional Review Act, which may open the door for voluntary employer participation; however, this issue has not yet been adjudicated. New York became the first state to have a payroll-deduction IRA that is voluntary for both employees and employers (i.e., a voluntary opt-in program) in 2018. New York's program targets all employers who have not had a qualifying retirement savings program within the past two years.

2. Requirements to the Employee: Opt-In vs. Opt-Out

In general, there are two options that the Task Force considered for enrolling employees into the retirement savings program: (1) an opt-out method where employees are automatically enrolled in the retirement savings program but have the option to opt-out if they wish not to participate, or (2) an opt-in method where employees would self-initiate the process of enrolling into the retirement savings program. The automatic enrollment with an opt-out option would likely increase the participation rate of employees who may not have otherwise known to sign up to the program or believe that the sign-up procedure is too burdensome. A 2015 Vanguard study of more than 500,000 eligible newly hired employees found that 91% of new hires participated in a retirement savings plan when automatically enrolled compared to only 42% of those who had voluntary enrollment (Clark, Utkus, and Young, 2013).

However, there are still some concerns with the opt-out method because it may be considered involuntary and therefore trigger ERISA (Eversheds Sutherland, 2017). In order to comply with the 1975 Safe Harbor regulation, employee participation for enrolling in the state retirement program must be "completely voluntary," and is unclear whether automatic enrollment with the option to opt-out will qualify.

The Department of Labor issued a 2016 Safe Harbor rule that would have given states clarity towards this issue by exempting states from ERISA and allowing them to have an auto-enrollment plan that would be considered voluntary as long as employees are given adequate advanced notice and have the option to opt out. However, Congress overturned the ruling in 2017.

Nevertheless, even after this Congressional action, all of the states that currently have an auto-IRA program (California, Connecticut, Illinois, Maryland, and Oregon) will be proceeding with their state programs. New York's legislation empowers their board to consider "the use of automatic enrollment as allowed under federal law," but has yet to make a formal decision (NY Senate Bill S7505C). The first lawsuit that challenges the state's ability to offer a government-sponsored retirement plan was filed in May 2018 by the Howard Jarvis Taxpayer Association (a taxpayer advocacy group) against the CalSavers retirement program. In their court filing, the group argues that CalSavers should be preempted by ERISA. The case is still currently be adjudicated in federal court.

3. Additional State Program Considerations

a. Employer Exemption or Deferral

One consideration is the mechanism that would allow businesses that already have a retirement savings program to signal to the state that it should be exempt from enrolling in the state program. For example, OregonSaves allows employers who offer retirement plans to at least some employees to file for an exemption from participation by filling out a form on the OregonSaves website every three years. The ERISA Industry Committee (ERIC), a trade group that represents large employer sponsors of retirement plans, filed a lawsuit in 2017 against the Oregon Retirement Savings Board about the filing requirements for exemption. They argued that these requirements would be overly burdensome to employers who already provided an employer-sponsored retirement savings program, and potentially, be preempted by ERISA. The case was settled outside of court by allowing ERIC's members to inform state regulators that they were a member of ERIC when asked by the state.

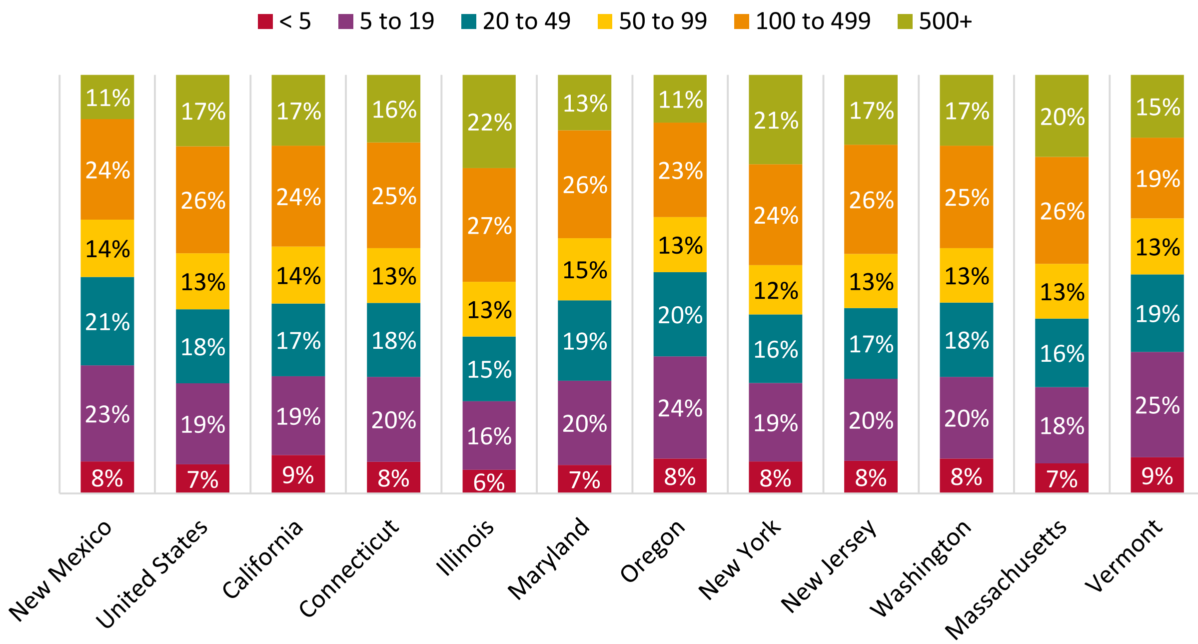
31% of employees in New Mexico are employed at establishments with fewer than 20 employees.

States determine an employer's firm size based on the number of employees an employer, using their single Employer Identification Number (EIN), reports to the state for the purposes of unemployment insurance. The threshold that states use to determine which employers are exempt or can defer enrollment to the program varies based on the state and their program. States that have a marketplace program—New Jersey and Washington—limit eligibility to only employers who have 100 or fewer employees. Out of the states that have an auto-IRA program, OregonSaves and Maryland's retirement program requires that all employers who do not offer an employer-sponsored retirement program to enroll into the state program, regardless of the number of employees they have. California's and Connecticut's retirement program requires that all employers who do not offer an employer-sponsored retirement program and have 5 or more employees be enrolled in the retirement program. Illinois's retirement program requires that all employers who do not offer an employer-sponsored retirement program and have 25 or more employees be enrolled in the retirement program.

Figure 21 provides a possible explanation as to the difference in exemption size. California and Connecticut could have a lower exemption threshold for employers than Illinois because it has a higher percentage of employees who are employed at firms with fewer than five employees. Illinois can afford to exempt employers who have fewer than 25 employees because the percentage of employees who are employed at establishments with fewer than 20 employees is only 24%, compared to larger percentages in California and Connecticut (28% each). For reference, New Mexico has 31% of employees employed at establishments with fewer than 20 employees. That percentage is closer to Oregon, where 32% of employees are employed at establishments with fewer than 20 employees.

In addition, the Task Force considered if there should be a deferral for new businesses during the potential rollout process. Currently, only Maryland and Illinois offer a two-year deferral for new businesses. The city of Seattle offers a one-year deferral for new businesses. Offering a deferral period to new businesses would allow them some time to be acclimated to the new regulation, and not impose significant difficulties to companies that are trying to get their foot on the ground.

Figure 21. Percentage of Private-Sector Workers by Establishment Size (March 2016). Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages (QCEW).



b. Employer and Employee Contributions

Employers are not able to make any contributions to the state retirement savings program if it wishes to be exempt from ERISA. Employer contributions are allowed in the multiple employer plan, which is ERISA-applicable as in Vermont and Massachusetts. Some marketplace options may allow for employer contributions if there is an ERISA plan available.

The Legislature will need to determine the default contribution rates for employees and if these retirement programs will auto-escalate the percentage of payroll withholding over time. A default contribution rate that is too low may still create an environment where employees are not saving enough and contribute at a rate lower than what they would have had there not been a minimum default in the first place. A default contribution rate that is too high may make employees more hesitant to stay enrolled. Connecticut and New York have each set a minimum default rate of 3%. California, Illinois, and Oregon have each set a minimum default rate of 5%. Maryland is letting its board determine its minimum and maximum percentages. Massachusetts has a default contribution rate of 6%.

In addition to the default contribution rate, the Legislature should determine if an auto-escalation option should be available and if so, are the employees allowed to opt-in or opt-out. Auto-escalation allows new enrollees to start saving slowly, but increase their contributions over time. However, similar to setting a default contribution rate that is too high, setting an auto-escalation rate that increases too quickly or has too high of a maximum cap could cause enrollees to opt-out of auto-escalation, or even the program altogether. California auto-escalates contributions 1% each year until the enrollee reaches the maximum cap of 8%. Oregon has a similar auto-escalation percentage but has a maximum cap of 10%. Massachusetts auto-escalates contributions 1-2% each year until the enrollee reaches the maximum cap of 12%. In these states, the enrollee has the option to opt-out of auto-escalation.

c. Management and Oversight

Depending on the type of retirement program that is decided by the Task Force, there are different options as to which group could be administering the management of the retirement savings program. Some options to consider would be creating a new state entity or include the program in an existing department, such as the State Treasurer's Office or the Public Employees Retirement Association (PERA). Newly formed state retirement boards manage the auto-IRA and MEP programs in some states. California, Illinois, Massachusetts, Oregon, and Vermont have created a new state board, chaired by the State Treasurer, to oversee the retirement program. Connecticut, Maryland, and Seattle have their newly created state boards chaired by someone appointed by the Governor, elected by the Board members, or appointed by the Mayor, respectively. Private investment firms, who bid in a Request for Proposal (RFP) process, typically manage the portfolio. In California, the California Public Employees' Retirement System (CalPERS) was also allowed to submit a competitive bid to manage the portfolio if they could find a private-sector partner. New York's Voluntary Payroll Deduction IRA program has given administrative authority to the State Deferred Compensation Board, which is also the regulatory authority for all public-sector 457 plans in the state. New Jersey's and Washington's marketplace programs give administrative authority to an existing entity, including the Office of the State Treasurer and the State Department of Commerce, respectively.

Along with program administration, the Legislature may need to consider the type of fee structure that will keep the program sustainable and ensure that any potential capital gains that these accounts earn are not erased by a high administrative fee. States' maximum cap on administrative fees varies from as low as 50 basis points (0.5%) in Maryland to as high as 105 basis points (1.05%) in Oregon. States such as California and Connecticut allow this percentage cap to be deferred during the initial stages of implementation. California imposes a 100 basis point (1%) fee limit on or after the sixth year of the program. Connecticut imposes a 75 basis point (0.75%) limit after the fourth year of the program. Massachusetts's Core plan charges a $65 annual fee to enrollees along with other potential administrative service fees, depending on the types of investment available. Employers in the Massachusetts plan also pay an annual administrative service fee.

Statement of Principles

In an effort to develop a state-based retirement program, the Task Force developed a set of principles to guide the decision-making process. Shown in the accompanying table are the fundamental principles along with a brief description. It is the Task Force recommendation that each principle should be considered when designing a strategy and implementing a retirement program for New Mexico.

Principle	Description
Habit Forming	Encourage the habit of savings in New Mexico.
Access	All workers in the state should have access to a retirement savings program at work, particularly through payroll deduction if possible. Additional considerations could be made for self-employed workers.
Automatic	If possible, access to payroll deduction plans should be automatic. However, ERISA must be considered. Additional considerations should be made regarding who maintains the program (e.g. state, fiduciary, financial industry, etc.).
Ease	Investments should offer employees choice, but should not be overly complicated.
Lifetime Income	Workers should have a way to convert their retirement savings into a reliable lifetime income stream.
Portable	Employees should have the option to take the plan with them when they change jobs.
Employee Protections	The program should have safeguards in place to ensure that investments are prudently managed, including auditing and procurement principles.
(Low) Fees and Costs	Fees and costs should be reasonable.
Self-Sustaining	The program must be self-sustaining via participant fees. Consideration should be made regarding how the program is funded and where the startup costs come from.
State Protections	The state should be indemnified from responsibility for gains and losses.
Business Protections	Employers should be indemnified from responsibility for gains and losses. In addition, Employer involvement should be limited; employers should not be responsible for the day-to-day operational or regulatory burden of the program.
Easy & Affordable to Small Employers	Small employers should have access to a system that is affordable and easy to implement. Decisions related to whether employer participation is mandatory or encouraged. The state should consider whether to incentivize employer participation.
Education & Financial Literacy	Increase marketing related to the importance of saving for retirement. Consider allowing Public Education Department (PED) or appropriate state agency to draft Financial Literacy Curriculum that emphasizes and encourages saving. Additionally, create an adult curriculum that can be administered via pamphlet, public conference, or the like, or a module in the state retirement savings website that can help adults become more financially literate.

Recommendations

The Task Force has developed four recommendations: one related to enhancing financial literacy (especially with regard to saving for retirement), one related to the creation of an online marketplace, one related to the creation of a voluntary state IRA, and one related to a request for an advisory opinion from the New Mexico Attorney General. Also discussed are factors that should be considered while moving forward with program development and additional issues to track.

1. Financial Literacy Education

A key to ensuring the viability of any retirement program in New Mexico is that its citizens have a solid foundation in financial literacy. In particular, the citizens of New Mexico should have access to training in personal finance especially as it relates to retirement savings, costs at retirement, and the like. To that end, the Task Force recommends expanding financial literacy education and outreach. The Task Force has not chosen one particular strategy; rather, several possibilities may be explored and are discussed below.

One possible avenue is the replacement of a semester-long high school course with a course in financial literacy. This course can be made a requirement for graduation. Because replacing an entire course may be impractical, another possibility is the inclusion of financial literacy curriculum in an appropriate and already existing high school course. If it proves difficult to replace a high school course or modify an existing curriculum, another option is to tie the lottery scholarship to a course in financial literacy, which may be offered in person over the summer prior to the student's first semester in college or as an online course. While this option has the benefit in that it does not affect the high school curriculum, it limits the universe of individuals who are required to participate in the financial literacy program. In other words, rather than ensuring that every high school student in New Mexico is educated in financial literacy, only students who go to college and receive the lottery scholarship receive the education.

Further financial literacy education and outreach should also be focused on adults who are currently confronting the issue of underfunded retirement savings. A potential mechanism that could be deployed to reach these individuals is the creation of a financial literacy module or course on the state retirement savings website. The course could be used to help individuals understand what their financial options are and to provide informational materials and videos that can ensure that each adult is educated in financial literacy and is aware of the importance of saving for retirement. Alternative (or supplementary) methods are the creation of fliers and pamphlets that could be distributed to the public or public meetings and conferences that stress financial literacy and retirement savings.

2. Hybrid State Retirement System

In an effort to take advantage of the benefits of the different retirement programs and to hit as many of the principles enumerated, the Task Force recommends the implementation of a hybrid state retirement system. In the first stage, a marketplace program similar to the one initiated by the state of Washington should be implemented. As a supplement to the marketplace, a voluntary-payroll-deduction IRA would also be implemented. In the second stage, if there is insufficient participation from employers, an auto-IRA plan should be deployed. Details for each stage are discussed below.

a. First Stage: Marketplace and Voluntary State-IRA Hybrid

In the first stage, the Task Force recommends a two-pronged strategy involving the development of a marketplace portal for privately administered retirement plans and the establishment of a state-administered IRA program, possibly administered by PERA. In both cases, the employer may voluntarily provide an after-tax payroll-deduction service, transferring employee contributions to the fund chosen by the employee. Alternatively, within the marketplace, an individual may elect to automatically transfer funds from their bank account to the plan of their choice.

The key benefit of the marketplace is that it streamlines access to retirement plans by providing payroll deduction; provide a portal where employers and individuals can easily compare plans; may reduce investment fees; and provide guidance and oversight for retirement planning. An example of the marketplace program is the one offered by the Washington Small Business Retirement Marketplace portal (http://www.retirementmarketplace.com/).

An additional benefit of a marketplace is that it may unlock access to employer-based plans such, as 401(k)-type plans, availing employees of greater benefits than IRA-type plans. For example, employee contribution limits are higher and employee contributions are allowed in 401(k) plans, which can allow an employee to build relatively larger retirement savings. In 2018, the contribution limits for individuals under the age of 50 is $18,500 per year and $24,500 per year for individuals aged 50 and older. A downside is that most (if not all) employer plans may impose a fiduciary responsibility on the employer, and may, therefore, be subject to ERISA. However, because employer engagement in the marketplace will be voluntary, employers can choose not to participate if ERISA regulation proves too burdensome.

For those employers who are hesitant to participate in the marketplace, the voluntary state-administered IRA program would also be available to employers and employees. For the voluntary state-IRA, employers and employees would have the ability to opt-in to the program. The key benefit of the voluntary state IRA program is it minimizes the role of the employer, who would bear no fiduciary responsibility. If they choose to participate in the voluntary state IRA, instead of the marketplace, the employer would just need to distribute informational materials and transmit payroll deductions to a third-party administrator. In addition, this type of program will almost certainly not trigger ERISA regulation because the program, from the employee's perspective, is completely voluntary. The downside is that since it is similar to a Roth IRA, employees will only be able to contribute $5,500 per year and $6,500 per year if the employee is aged 50 and older.

b. Second Stage: Automatic State-IRA Plan

If there is insufficient participation from employers in the marketplace and voluntary IRA program, the Task Force recommends that employer participation become mandatory for the voluntary IRA plan with an auto-IRA plan. The rollout for the second stage would begin 3 years after the implementation of the hybrid plan (or some reasonable time after the first stage or based on some predetermined trigger) to give employers time to enroll in that program. While IRAs have lower contribution limits than 401(k)-type plans and preclude employer contributions, the development of an auto-IRA framework can help to foster a habit of savings and provide a mechanism for individuals to begin saving for retirement. The Task Force does not recommend a specific event to trigger the creation of the automatic IRA program; however, possibilities include choosing a number of intervening years after the creation of the marketplace model (such as 3 or 5 years after the implementation of the marketplace); choosing a percentage of private-sector workers who must be covered by the marketplace (or other programs) by a given date—if that threshold is not met, then the auto-IRA program is triggered; or the like.

If a trigger option is chosen that may be unmet, then the auto-IRA program will not be implemented unless and until the conditions for the trigger are met. For example, a trigger may be chosen such as an auto-IRA program is initiated if less than X% of private-sector workers do not have a retirement plan. If at least X% of private-sector workers have a retirement plan by a particular date, then the auto-IRA program will not be triggered. If less than X% of private-sector workers do not have a retirement plan by a particular date, then the auto-IRA program will be initiated. It is important to note that the trigger must be measurable and transparent. This may require data collection and analysis by a chosen organization or entity as well as direction regarding the steps required to initiate the program should it be triggered. In addition to choosing the threshold to trigger the auto-IRA program, the data (or variables) to be collected and analyzed should be determined in advance and the sources of data should be pre-chosen.

Because a goal of the Task Force is to increase the number of New Mexicans with retirement savings, the program should be mandatory for employers (subject to appropriate exclusions, exemptions, and deferments) and employees will be automatically enrolled via payroll deduction. A predetermined percentage of an employee's pre-tax paycheck will be automatically deducted by the employer and remitted to the auto-IRA program on the employee's behalf. The Task Force recommends that the default percentage deducted and remitted be 5%. However, the Task Force also recommends that the employee have the opportunity to voluntarily lower the contribution percentage to as low as 3% or increase the percentage up to the point where the employee reaches the IRA contribution annual limit (in 2018, the limit is $5,500 for employees under the age of 50; $6,500 for employees aged 50 and older). In an effort to minimize the burden on employers, the Task Force recommends against the automatic escalation of the IRA contribution percentage. In addition, the employee can choose to opt out of the program altogether.

The Task Force is mindful that it is important to minimize the burden on employers. In addition to ensuring that the underlying program only requires de minimis action by the employer, a set of (employer) exclusions, exemptions, and deferments should also be selected such that both employer and employee interests are adequately balanced. For example, very small employers, such as those with five or fewer employees (or some other reasonable threshold), may be exempted if the auto-IRA program is determined to be cost-prohibitive for these small employers. Similarly, a straightforward exemption mechanism should exist if an employer already offers its employees a retirement plan via the marketplace or otherwise. In addition, to reduce the regulatory costs for new businesses, a grace period (or deferment) for new business should be implemented.

Additionally, because the program will not be regulated by ERISA, businesses are protected and will have no fiduciary responsibility.

3. Other State Program Considerations

It is important to note that the Task Force's recommendations provide general guidance regarding the direction of a state-based retirement program. However, specific details need to be addressed. For example, the design of an appropriate governance structure needs to be considered and an administering or managing entity needs to be selected. Additionally, particulars for each plan should be considered and bounds for a fee and cost structure should be developed—although final decisions may ultimately be made via rule or regulation by the administrative entity. In addition, the issue of plan portability should be contemplated (Munnell, Belbase and Sanzenbacher, 2018). To that end, appropriate mechanisms and structures for when an individual changes jobs within the state (or leaves the state) should be created. Another consideration is how to fund the launch of the program. For example, the OregonSaves program rollout was funded from loans received from the state of Oregon.

4. Issues to Track and Attorney General Advisory Opinion

While the Task Force recommends the multi-stage approach of a marketplace and a voluntary-IRA plan, which could become an auto-IRA plan, there are several key issues to track that, depending on various circumstances, may influence the ultimate choice of program. While many of the issues have already been discussed, uncertainty with regard to federal rules and legal interpretation dictate that these issues be highlighted once more—especially with regard to the auto-IRA plan. Therefore, the Task Force requests that the Attorney General provide an opinion regarding (a) whether automatic enrollment of employees into an IRA program will likely trigger ERISA and therefore impose a fiduciary responsibility on the employer, and (b) whether allowing for the voluntary participation of employers in the automatic IRA program will trigger ERISA. These two issues are briefly discussed below; additionally, the issue of the future applicability of MEP plans is also discussed.

a. ERISA Treatment and Employers

There is some uncertainty with regard to the interpretation of the voluntariness requirement for an employer under ERISA. While this requirement was once interpreted as employer opt-in plans triggering ERISA, it is not clear that this interpretation still holds, and it may be that opt-in plans no longer trigger ERISA. If ERISA avoidance is the goal, this re-interpretation may make available the use of optional opt-in plans. Nevertheless, making the plan non-mandatory may work against the goal of maximizing the number of individuals covered by some type of retirement savings.

b. ERISA Treatment and Employees

Likely more problematic is whether automatic enrollment of employees (with the option to opt-out) will trigger ERISA treatment. Until this issue is litigated or until Congress or the President develop an appropriate framework, this issue will remain unclear. One option is to use an opt-in program (rather than an opt-out program). However, requiring an employee to take an affirmative action to participate in a retirement program may limit program participation.

c. MEP Plans & Congress

Although the Task Force currently recommends the implementation of a marketplace plan and a subsequent auto-IRA plan, another issue to track is the legal disposition of MEPs at the federal level. Specifically, over the last several years, Congress has considered expanding the types of entities that may be covered by MEPs as well as reducing the current barriers to MEP access. Currently there are two major pieces of legislation related to MEPs: (1) the Retirement Enhancement and Savings Act (RESA), introduced by Senators Orrin Hatch (R-Utah) and Ron Wyden (D-Oregon) on February 2018, and (2) the Family Savings Act of 2018, introduced by Rep. Mike Kelly (R-PA) in September 2018. In addition, President Donald Trump issued an executive order on August 31, 2018, that aims to, among other things, expand access to MEPs by loosening the rules to allow for unrelated employers, who do not share a common economic nexus, to join together to offer an MEP. (Groom Law Group, 2018). Depending on the Federal action, this program type may serve as an alternative to the marketplace plan and could offer potential advantages such as cost savings (via economies of scale) and a greater diversity of plan options.

Conclusion

This report discussed the need to better focus on saving for retirement and what the state can do to better facilitate planning. This is especially important in New Mexico, which is particularly vulnerable to retirement underfunding due to its citizens having relatively low incomes and little access to employer-sponsored retirement plans. The Task Force recommends a multipronged approach to tackling the issue in New Mexico. First, the Task Force recommends the expansion and funding of education related to financial literacy with particular attention to the importance of planning for retirement. Second, the Task Force recommends the development of an online marketplace where the state will create a portal of vetted private-sector retirement plans. Third, to capture a greater proportion of New Mexicans and put them on a track for saving for retirement, the Task Force recommends the creation a voluntary IRA program, which may become automatic depending on the success of the marketplace and voluntary IRA options. Fourth, the Task Force requests that the Attorney General provide an advisory opinion regarding ERISA. The Task Force urges the Legislature to appropriately consider these recommendations. While these solutions will not completely reverse the patterns of lack of access to retirement plans and underfunded retirement in New Mexico, they provide significant first steps toward tackling the issues.

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Appendix

1. Senate Joint Memorial 12 (2017)

A JOINT MEMORIAL

REQUESTING THE STATE TREASURER TO CONVENE A RETIREMENT INCOME SECURITY TASK FORCE TO IDENTIFY THE OPTIONS AND PROCESS FOR IMPLEMENTING A RETIREMENT SAVINGS VEHICLE FOR PRIVATE-SECTOR EMPLOYEES HAVING LIMITED OR NO ACCESS TO A RETIREMENT SAVINGS ARRANGEMENT AT WORK.

WHEREAS, the United States is facing a vast retirement savings deficit, estimated to be as much as six trillion six hundred billion dollars ($6,600,000,000,000), or about fifty-seven thousand dollars ($57,000) per household; and

WHEREAS, it is estimated that fifty-three percent of American workers aged thirty and older are on a path that will leave them unprepared for retirement; and

WHEREAS, the median retirement account balance is two thousand five hundred dollars ($2,500) for all working-age households and fourteen thousand five hundred dollars ($14,500) for near-retirement households; and

WHEREAS, of the seventy-five million workers in the United States with access to a retirement savings plan, only eighty-one percent of these workers participate in a retirement savings plan; and

WHEREAS, fifty-five million American workers do not have any type of employer-sponsored retirement plan, leaving them more likely to rely on social security income as their only

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source of retirement income; and

WHEREAS, three out of five families headed by a person aged sixty-five or older have no money in retirement savings accounts; and

WHEREAS, the median household headed by a person aged sixty to sixty-two with a 401(k) account has less than one-fourth of what is needed in that account to maintain its standard of living in retirement; and

WHEREAS, about sixty-two percent of New Mexico workers aged eighteen to sixty-four in the private sector work for businesses that do not offer a retirement plan; and

WHEREAS, more than one-half of all older New Mexicans rely on social security income for more than fifty percent of their family income; and

WHEREAS, roughly thirty-three percent of those aged sixty-five or older in New Mexico have ninety percent or more of their income coming from social security; and

WHEREAS, social security benefits average only about one thousand one hundred sixty dollars ($1,160) per month in New Mexico, so many workers rely on employer-sponsored retirement plans to supplement their income as they age; and

WHEREAS, helping New Mexico residents to become financially secure and live independently as they age saves taxpayer dollars on social safety net programs; and

WHEREAS, the interim investments and pensions oversight committee of the legislature has recognized the need to develop retirement savings options for New Mexicans who have no access to retirement savings options other than social security; and

WHEREAS, the retiree rights organization AARP and the financial industry have proposed several options for increasing retirement income security to the interim investments and pensions oversight committee;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the state treasurer be requested to establish a retirement income security task force to study the preparedness of New Mexicans to retire in a financially secure manner, including an evaluation of the options, process and legislative proposals to implement a state operated, privately operated or jointly operated retirement savings vehicle for private-sector employees having limited or no access to a retirement savings arrangement at work; and

BE IT FURTHER RESOLVED that the retirement income security task force:

A. determine the number of employees in the state not currently participating in an employer-sponsored retirement savings plan or arrangements;

B. consult with AARP New Mexico and other experts from the private and nonprofit sector concerning the establishment and operation of high-quality and low-cost retirement savings plans that are governed by federal law and that qualify for tax-favored treatment under the state and federal tax codes;

C. perform an analysis to determine the best model for a statewide retirement income security plan;

D. develop criteria for participation by employees and employers;

E. perform an analysis of the cost to the state to implement a statewide retirement income security plan;

F. determine the cost to employers for participation in a statewide retirement income security plan;

G. determine the effect, if any, that the implementation of a statewide retirement income security plan may have on economic activity in this state;

H. explore other programs and incentives that can lead to an increase in the percentage of financially secure retirees in the state; and

I. determine the financial impact to the state's social safety net programs and general fund if the state fails to act to improve citizen access to retirement savings opportunities at work; and

BE IT FURTHER RESOLVED that the state treasurer be requested to invite the following individuals to join the task force:

A. one representative appointed by the speaker of the house of representatives;

B. one representative appointed by the president pro tempore of the senate;

C. one representative appointed by the minority leader of the house of representatives;

D. one representative appointed by the minority leader of the senate;

E. the secretary of aging and long-term services or the secretary's designee;

F. the secretary of finance and administration or the secretary's designee;

G. the secretary of workforce solutions or the secretary's designee;

H. the secretary of economic development or the secretary's designee;

I. the state investment officer or the state investment officer's designee;

J. the executive director of the public employees retirement association or the executive director's designee;

K. the director of the securities division of the regulation and licensing department or the director's designee;

L. one representative of AARP New Mexico, designated by AARP New Mexico;

M. two members of the state's general business community appointed by the state treasurer;

N. one representative of a nonprofit entity in the state appointed by the state treasurer;

O. one representative of a labor union operating in the state appointed by the state treasurer; and

P. two representatives of the financial services community appointed by the state treasurer; and

BE IT FURTHER RESOLVED that the retirement income security task force be requested to report its findings and recommendations to the interim committee charged with reviewing matters related to investments and pensions by July 1, 2018; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to the governor, the president pro tempore of the senate, the speaker of the house of representatives, the state treasurer, the secretary of aging and long-term services, the minority leader of the senate, the minority leader of the house of representatives, the secretary of finance and administration, the secretary of workforce solutions, the secretary of economic development, the state investment officer, the executive director of the public employees retirement association, the director of the securities division of the regulation and licensing department and the state director of AARP New Mexico.

2. Data Source Discussion

The two primary factors we took into account in determining the appropriate sources of data source to use in this project were that the data (1) could answer our research questions about retirement savings and (2) allowed for the comparison of New Mexico to the rest of the United States. The following paragraphs include descriptions of each data source used or considered and the advantages and disadvantages of each.

The Annual Social & Economic Supplement (ASEC) and the Social Security Administration Supplement (SSA) both provide microdata to allow us to compare New Mexico to the United States, but these datasets also have some other distinct advantages and disadvantages. The first difference is concerning the amount of data available. The ASEC dataset (and its predecessor, the March file) has data as far back as 1976 and allows us to use time-series data to determine trends in retirement savings. The SSA data, on the other hand, is mainly limited to one year (2014), although the intent for SIPP was to have longitudinal data over time. Another difference is concerning the phrasing of the question of retirement savings access and participation. Both data sources ask the initial question if anyone in their company has access to a retirement savings plan, and a follow-up question to see if the respondent is included in the plan. However, these two questions do not address if someone in the company has a plan, but the respondent is not eligible for the plan himself. The ASEC dataset leaves this question unclear, but the SSA dataset has additional questions that ask if a person has a plan available to anyone at their establishment, but does not participate, the reason why. The inclusion of the reasons allows us to better analyze the reasons as to why someone does not participate in a retirement savings plan. A third difference is concerning some additional variables that are found in the SSA dataset, and not found in the ASEC dataset. For example, the SSA dataset does distinguish between DB and DC plans on certain occasions and provides information, such as the amount of retirement cash savings that private-sector workers have available. The last major difference between the two datasets is regarding the sample sizes. Since the ASEC interviewed more households, it has more data to utilize. More data can decrease the width of the confidence interval and reduce uncertainty, compared to the smaller SSA dataset, which will have a larger confidence interval width and increased uncertainty.

An additional dataset that was used in this report was the Quarterly Census of Employment and Wages (QCEW). The QCEW is a quarterly count of employment and wages, conducted by the Bureau of Labor Statistics, reported by employers covering more than 95% of jobs in the United States. The QCEW provides accurate information about establishment size because it is an actual count of employees rather than data estimated via the survey methods used by the ASEC and SSA supplements. In particular, QCEW allows for the identification of employees who work in establishments with fewer than five employees, whereas the SSA dataset only allows for analysis of firms with fewer than 25 employees.

Another distinction between the QCEW and the SSA Supplement is that the QCEW reports the data on an establishment level, instead of on the firm level. While the difference may seem insignificant, it is important to understand the difference between the two levels of analysis. When data is measured on an establishment level, it typically refers to a single economic unit, which is typically located at one physical location. When data is measured on a firm level, it typically refers to a business that may consist of one or more establishments. For example, a gas station employs three employees at a specific location may also be a part of a larger company that employs hundreds of employees across the country. In this situation, the establishment size would be less than five, but the firm size would be over a hundred. The QCEW reports data specifically on establishments, while the variable used in the SSA Supplement reports data on firms that have more than one location/establishment.

Two other datasets were considered and included the National Compensation Survey and the Survey of Consumer Finances. The National Compensation Survey (NCS) is a yearly survey of US businesses, conducted by the Bureau of Labor Statistics, to obtain data on the employer costs for employee compensation, compensation trends, and incidence of employer-sponsored benefits among workers. This survey included three variables for retirement benefits: access, participation, and take-up rates. However, the NCS data only provided information on the national and regional level, which limited our ability to make comparisons for New Mexico. Additionally, there was no microdata available for the NCS, so we would not have been able to create a more in-depth analysis, based on demographic information beyond what the Bureau of Labor Statistics had already provided. The Survey of Consumer Finances (SCF) is a triennial survey of US families, conducted by the Federal Reserve, to obtain data on their balance sheets, pensions, income, and demographic characteristics. While the SCF does have microdata to conduct in-depth analysis, the level of analysis is also only limited to a national level and does not provide measurements that are as clean-cut as the other data sources for retirement benefits.

3. Additional Data Related to Retirement Underfunding in New Mexico

Figure A1. New Mexico Retirement Plan Status by Employment Status (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

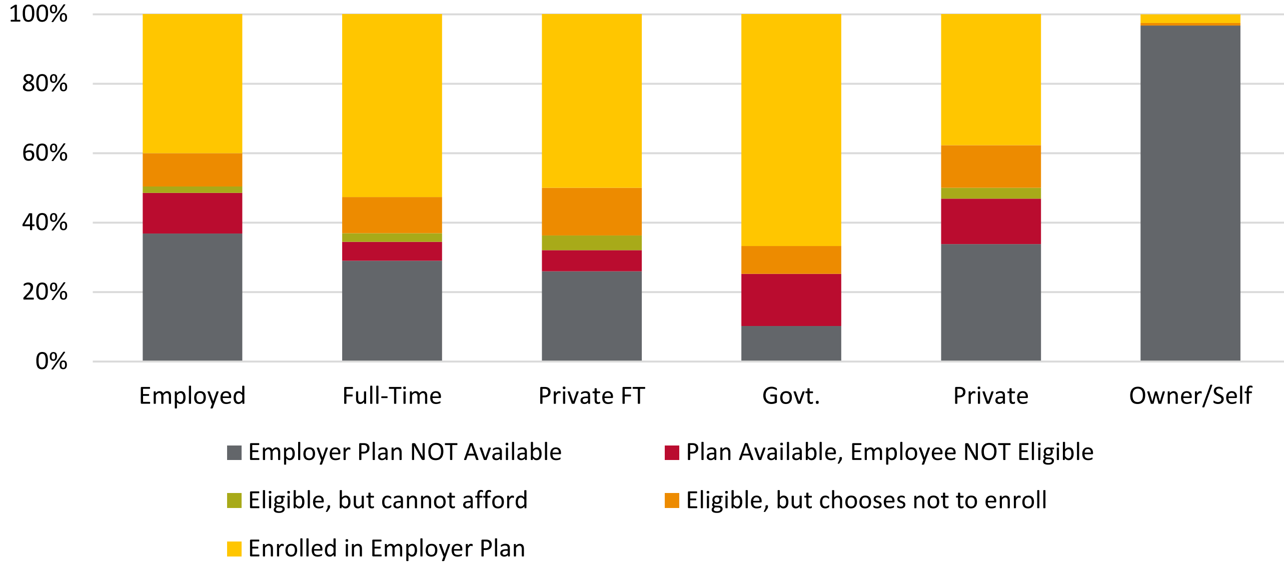


Figure A2. United States Retirement Plan Status by Employment Status (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

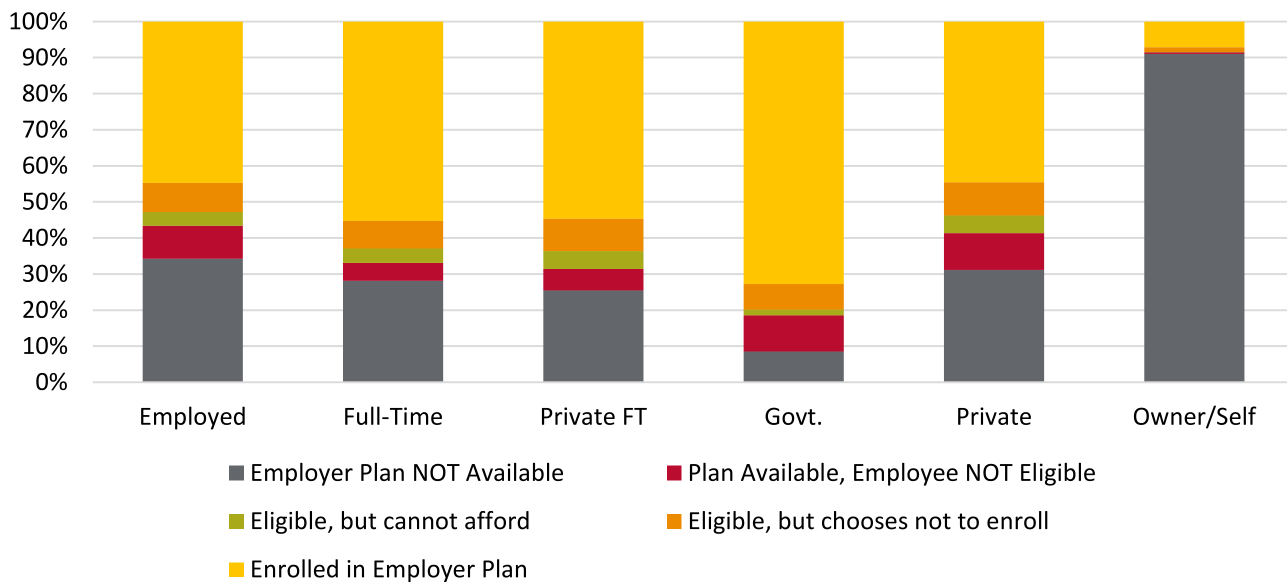


Figure A3. Type of Retirement Plan for New Mexican Employees by Employment Status (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

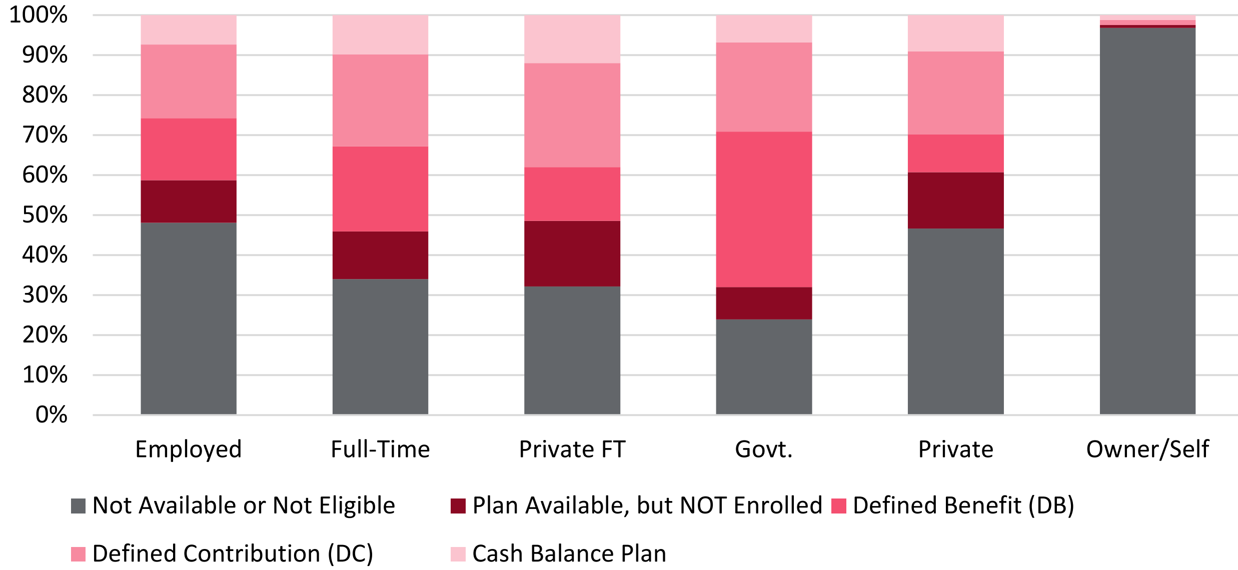


Figure A4. Type of Retirement Plan for US Employees by Employment Status. Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

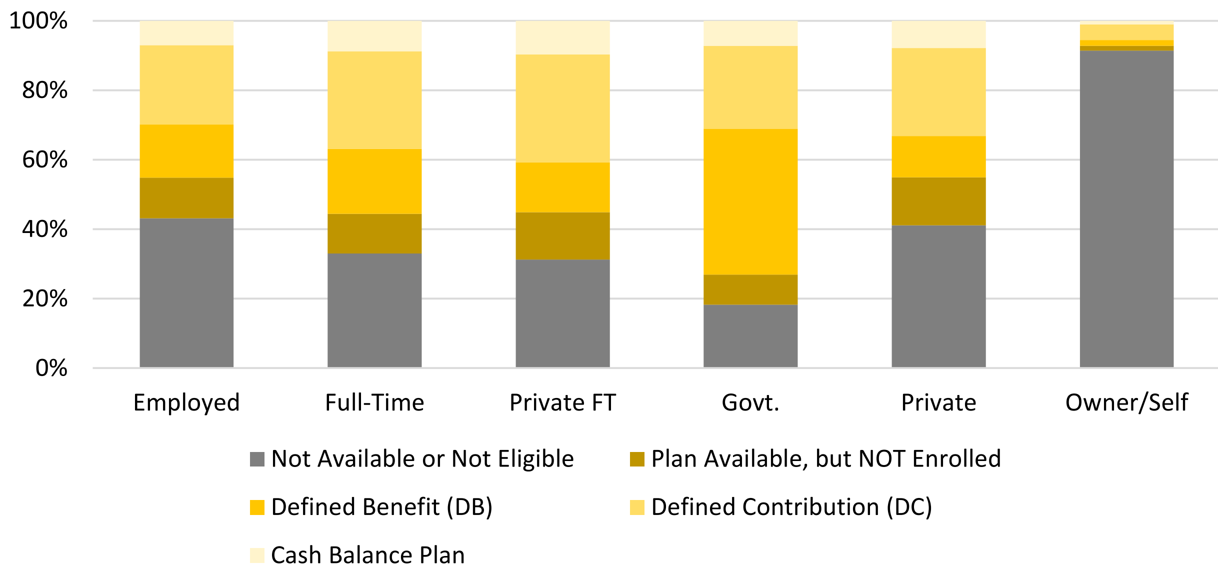


Figure A5. Type of Retirement Plan for New Mexican Private-Sector Employees by Age (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

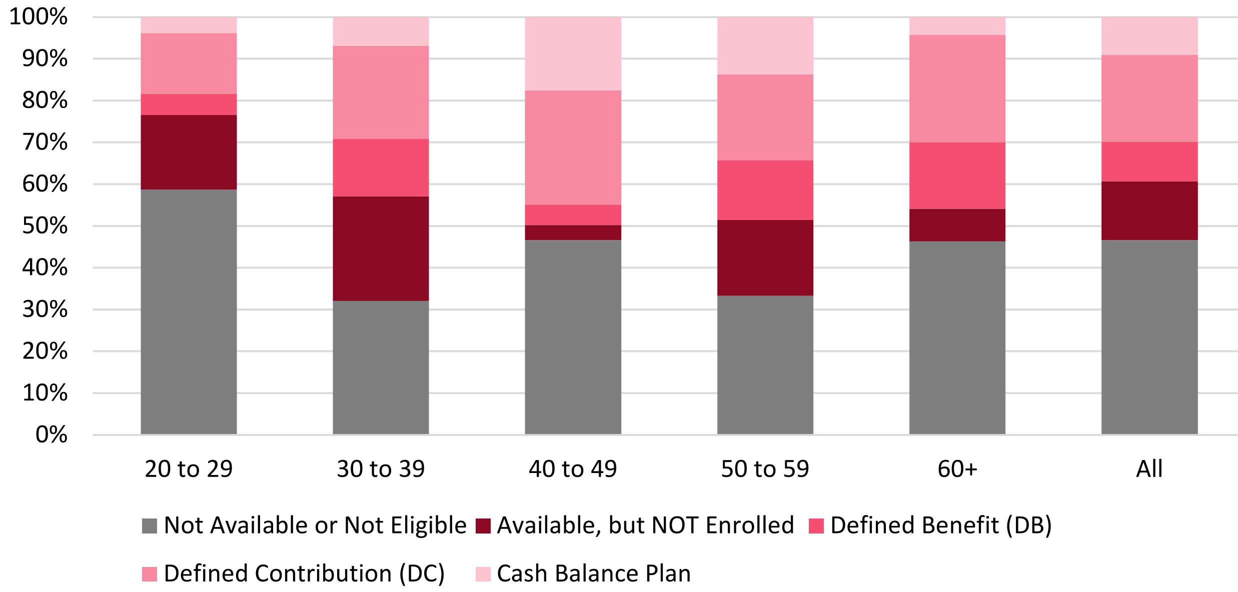


Figure A6. Type of Retirement Plan for US Private-Sector Employees by Age (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

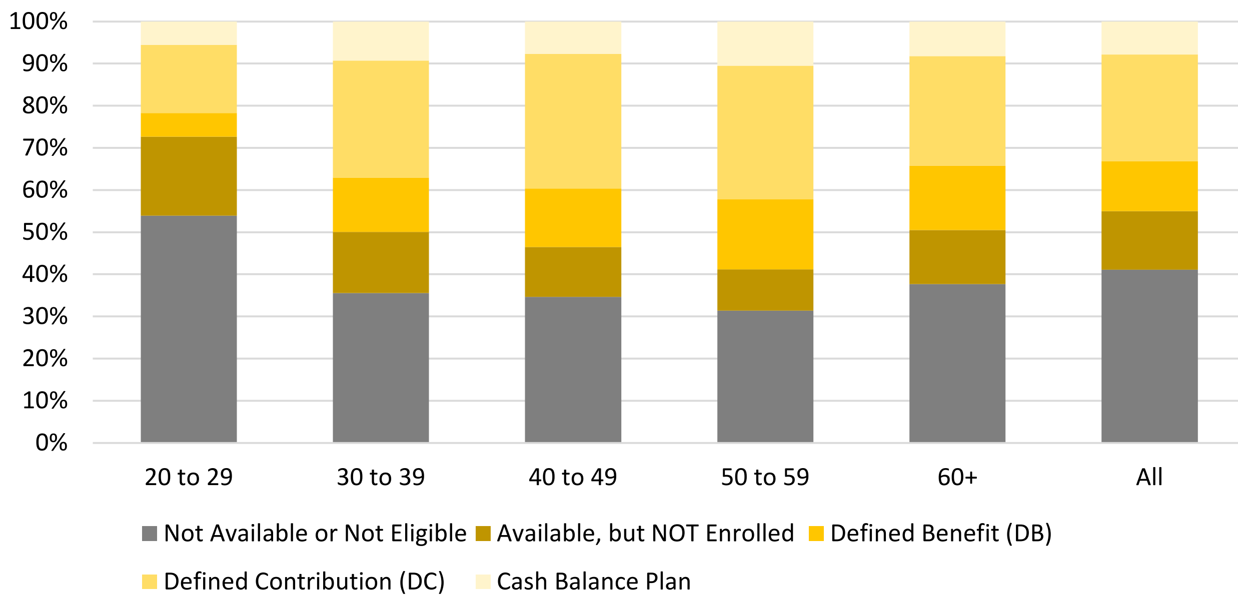


Figure A7. Type of Retirement Plan for NM Private-Sector Employees by Education (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

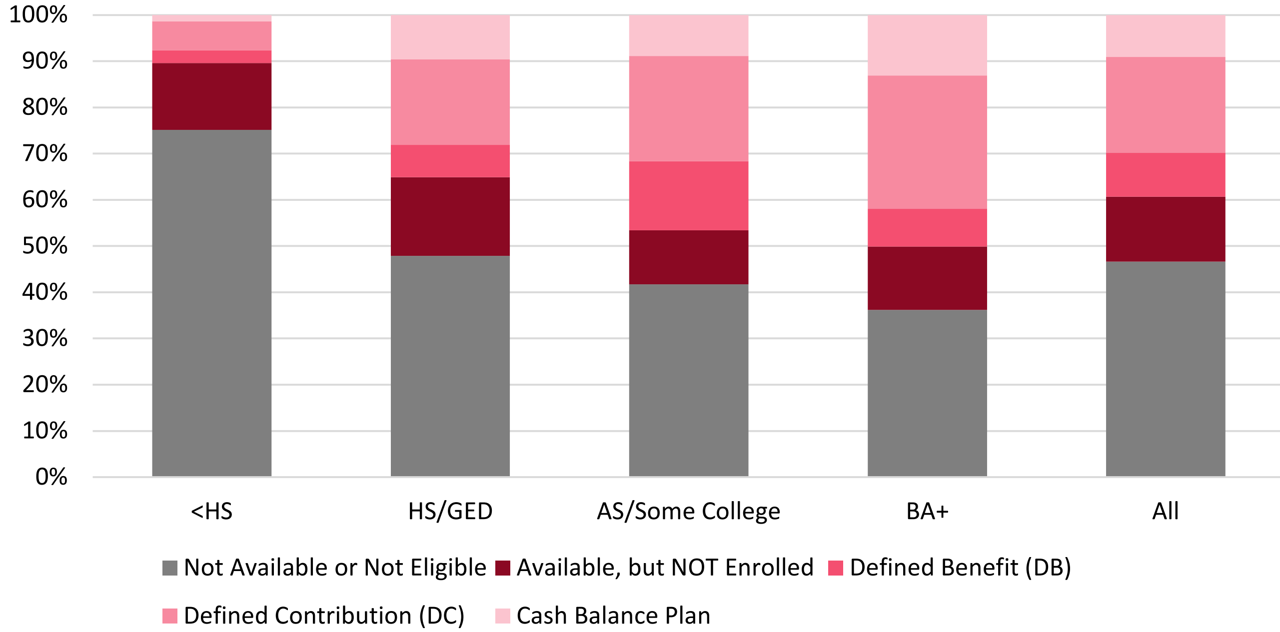


Figure A8. Type of Retirement Plan for US Private-Sector Employees by Education (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

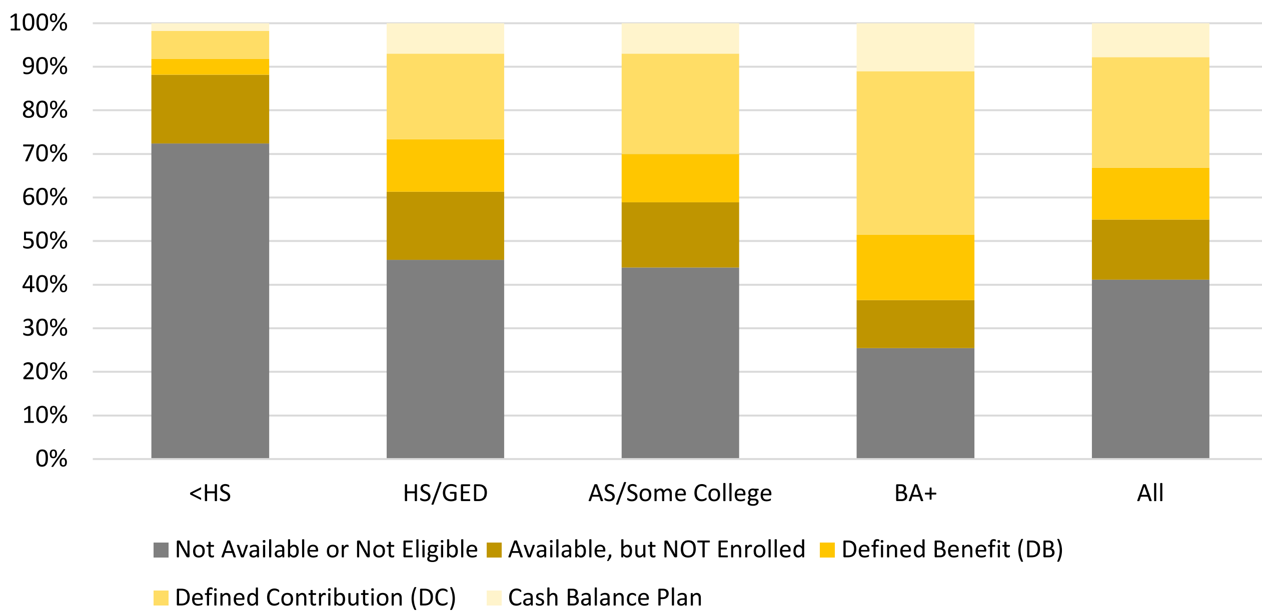


Figure A9. Type of Retirement Plan for New Mexican Private-Sector Employees by Firm Size (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

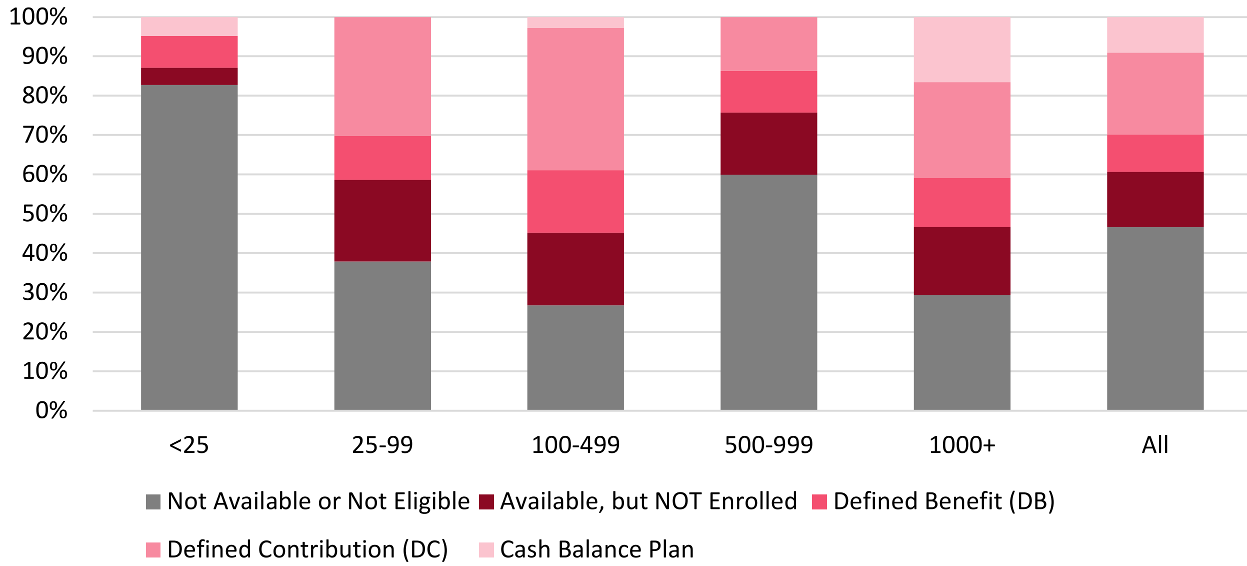


Figure A10. Type of Retirement Plan for US Private-Sector Employees by Firm Size (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

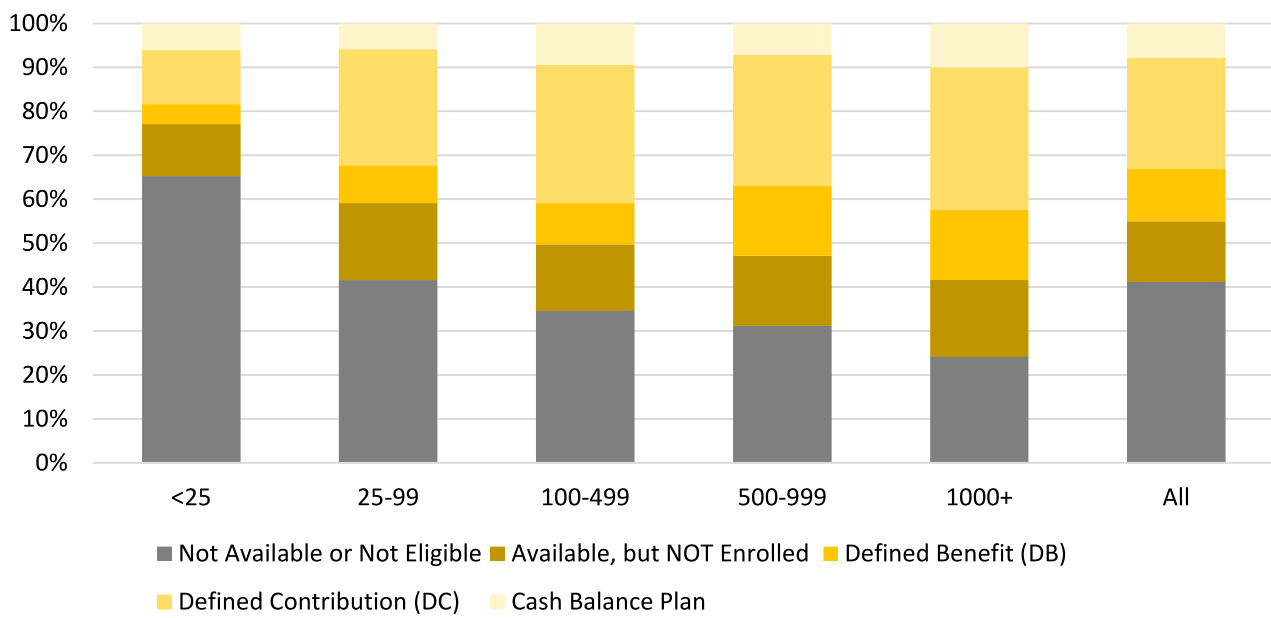


Figure A11. Type of Retirement Plan for New Mexican Private-Sector Employees by Tenure at Firm (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

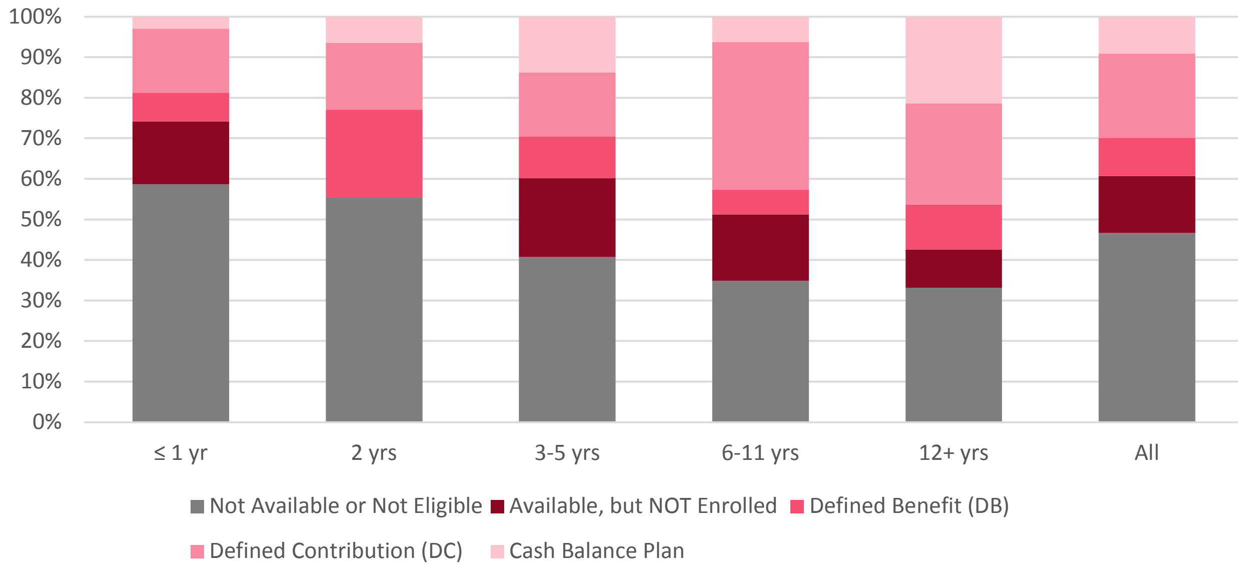


Figure A12. Type of Retirement Plan for US Private-Sector Employees by Tenure at Firm (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). *2014 Microdata.*

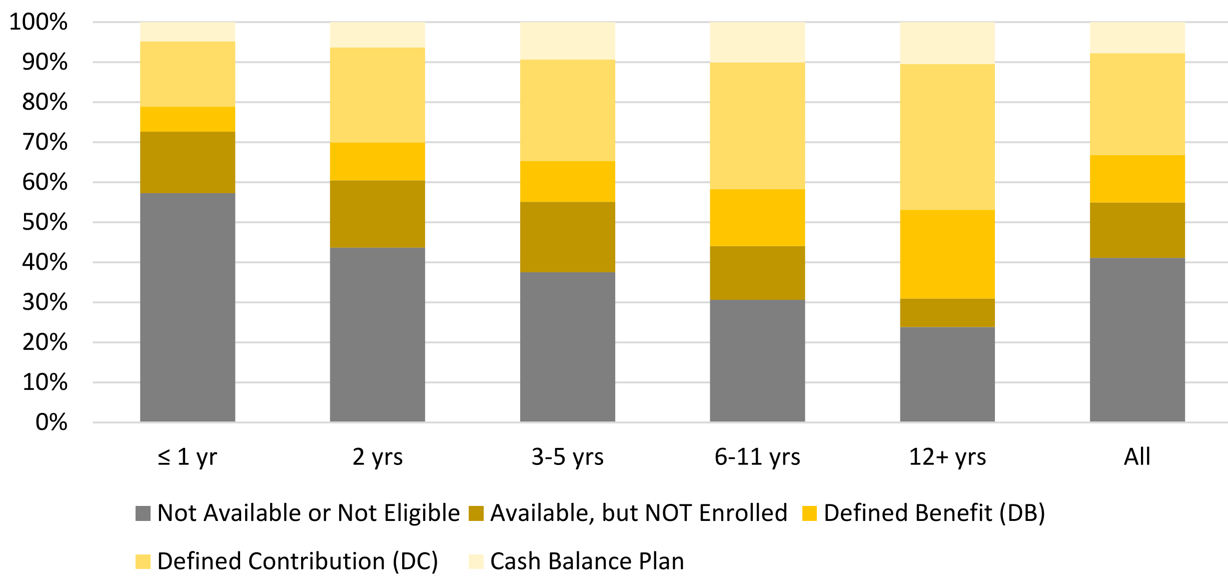


Figure A13. New Mexico Retirement Plan Cash Savings by Employment Status (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

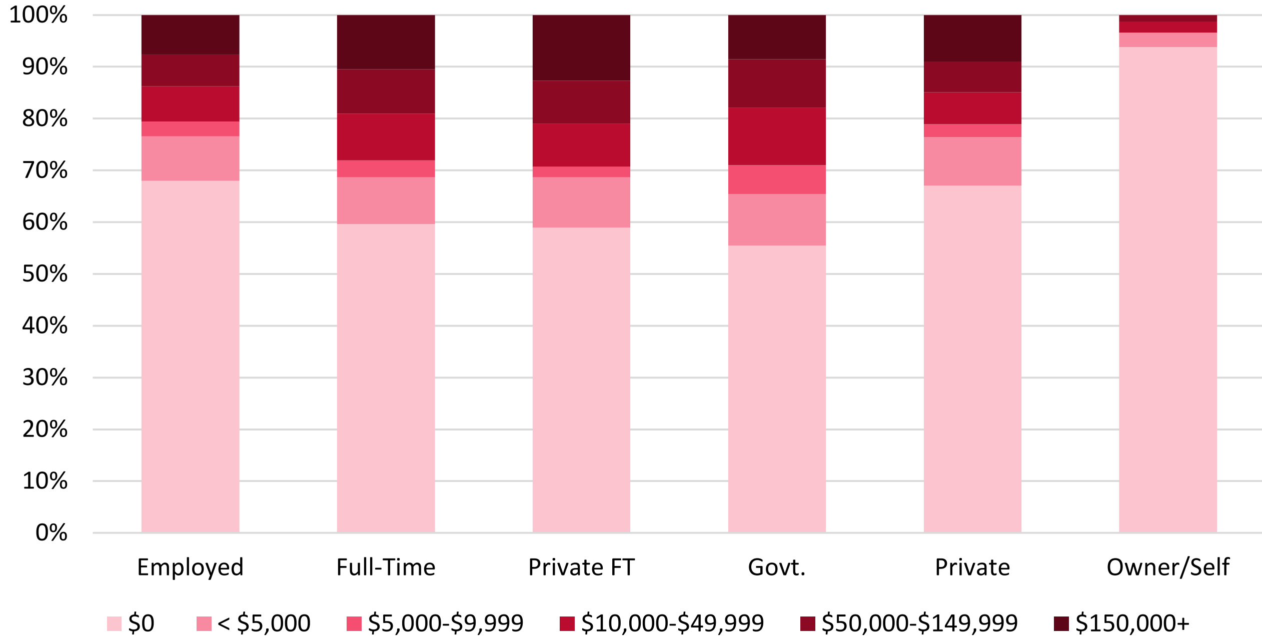


Figure A14. United States Retirement Plan Cash Savings by Employment Status (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

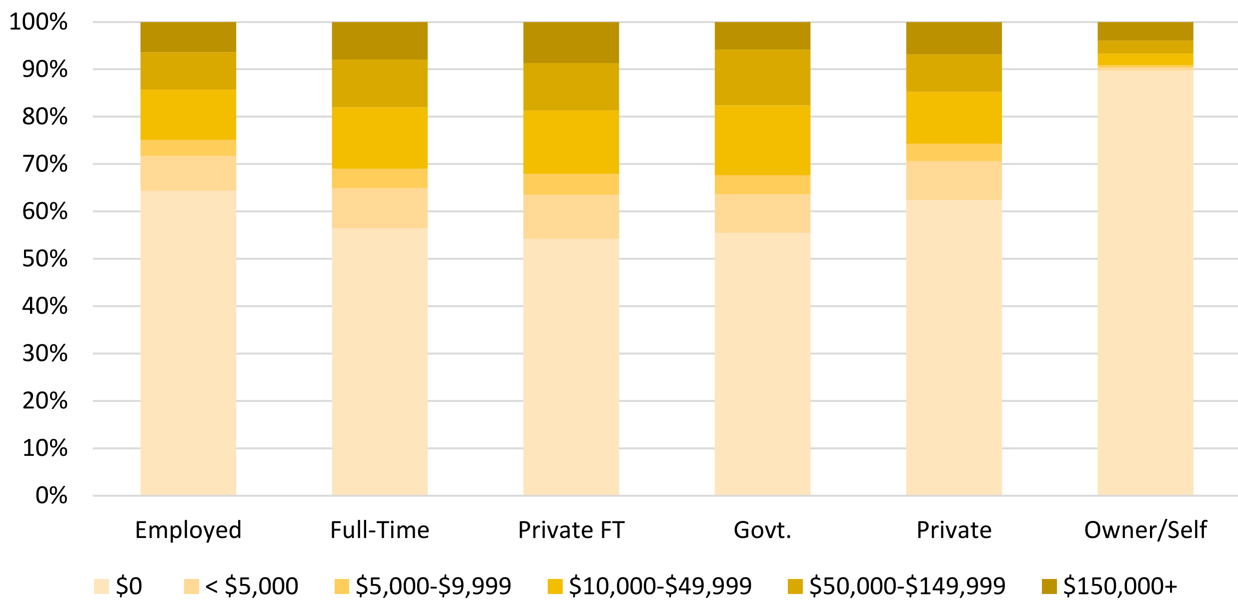


Figure A15. New Mexican Retirement Plan Cash Savings by Age Cohort (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

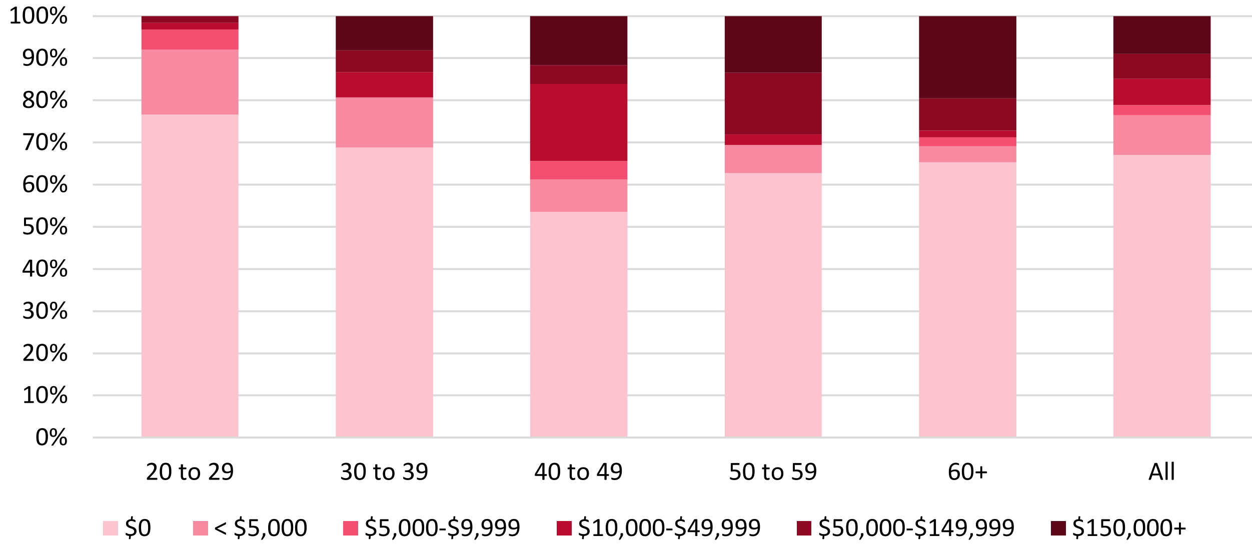


Figure A16. United States Retirement Plan Cash Savings by Age Cohort (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

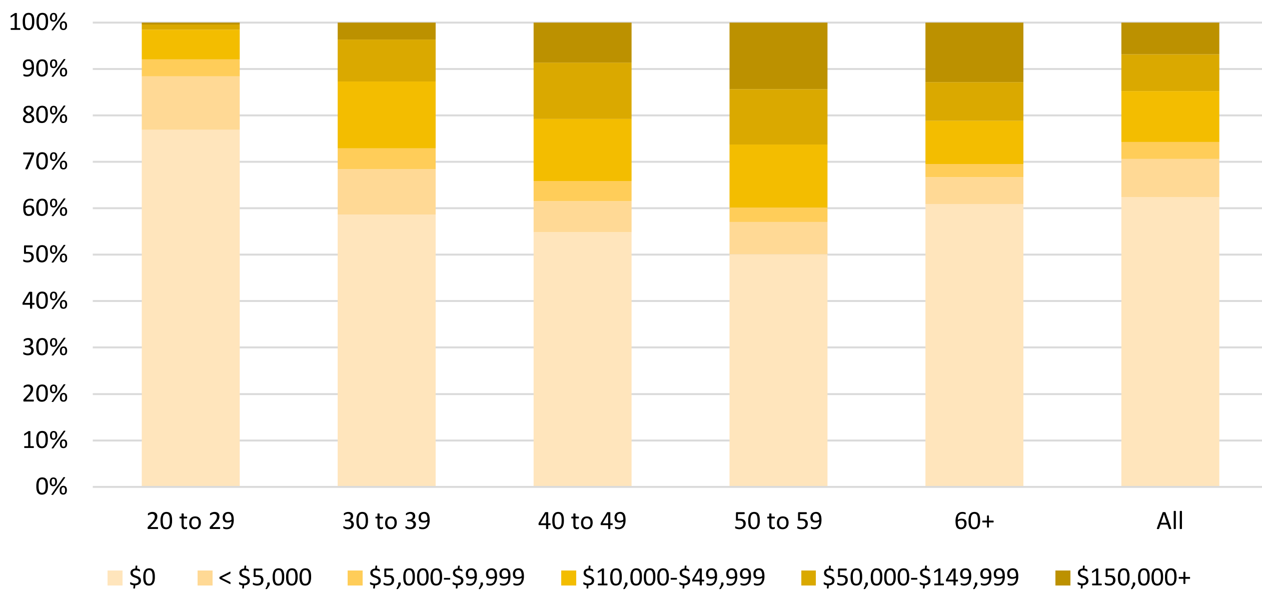


Figure A17. New Mexican Retirement Plan Cash Savings by Educational Attainment Level (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

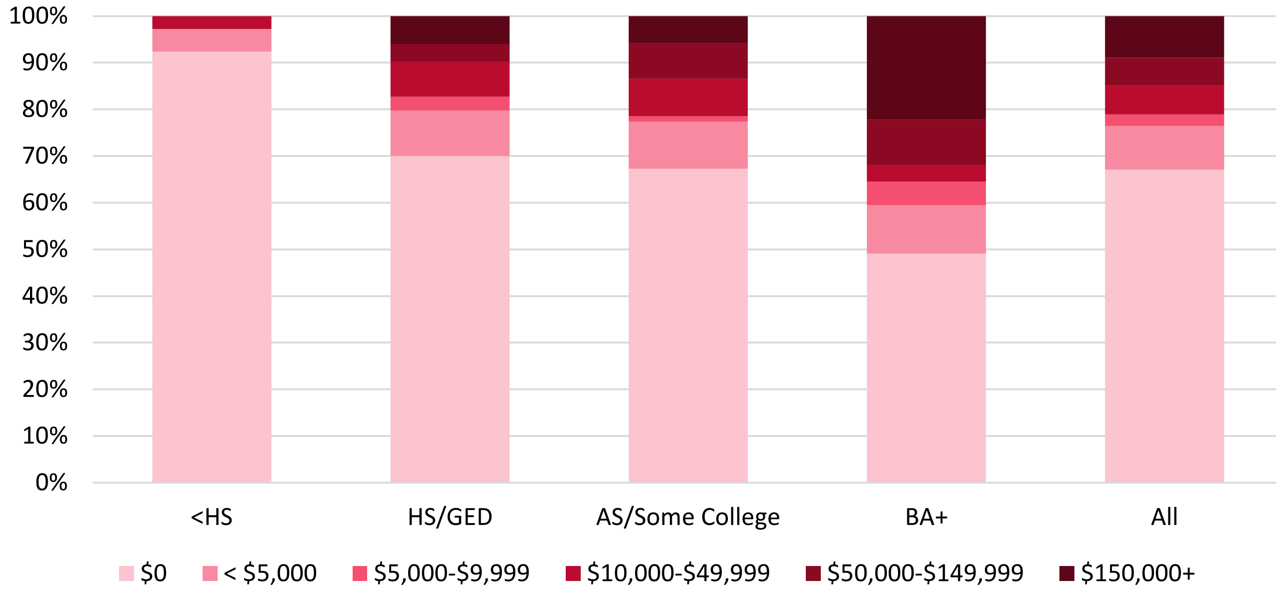


Figure A18. United States Retirement Plan Cash Savings by Education (2014). Source: US Census Bureau, Survey of Income and Program Participation (SIPP). Social Security Administration Supplement (SSA). 2014 Microdata.

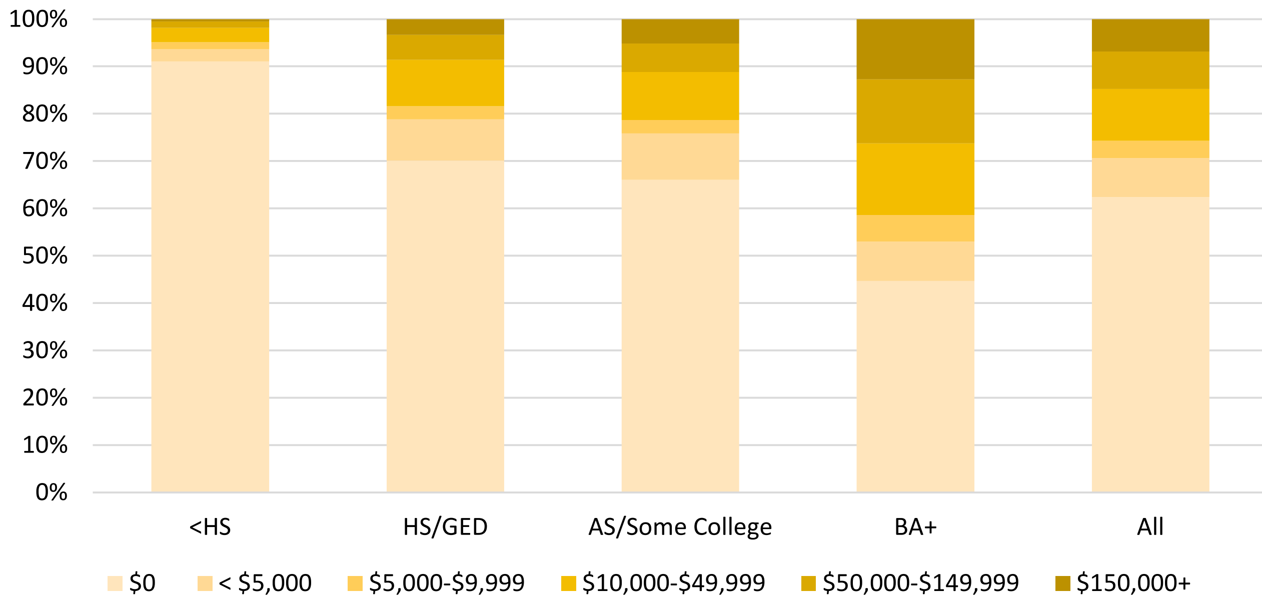


Figure A19. Percentage of New Mexico workforce with more than one job, by Industry (2015). Source: New Mexico Unemployment Insurance Microdata.

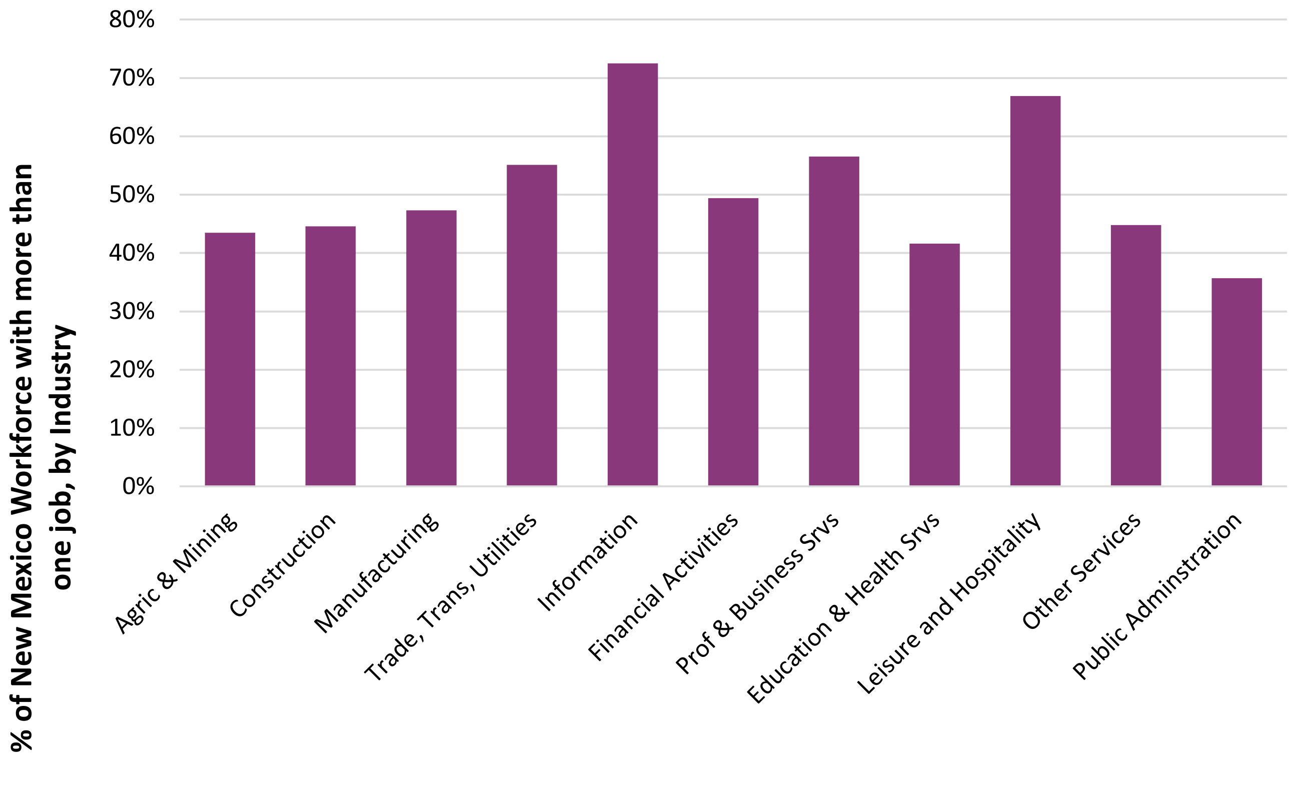


Figure A20. Proportion of Workforce with Multiple Jobs (2014-2016). Source: US Census, Current Population Survey (CPS), Annual Social and Economic Supplement (ASEC), 2016 Microdata.

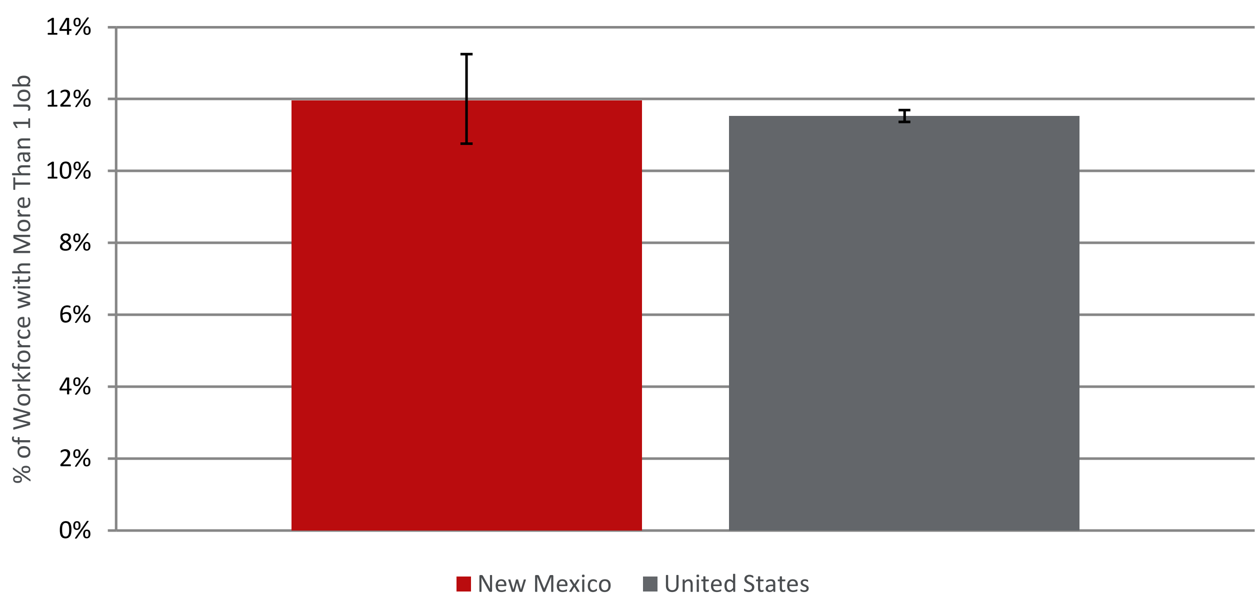
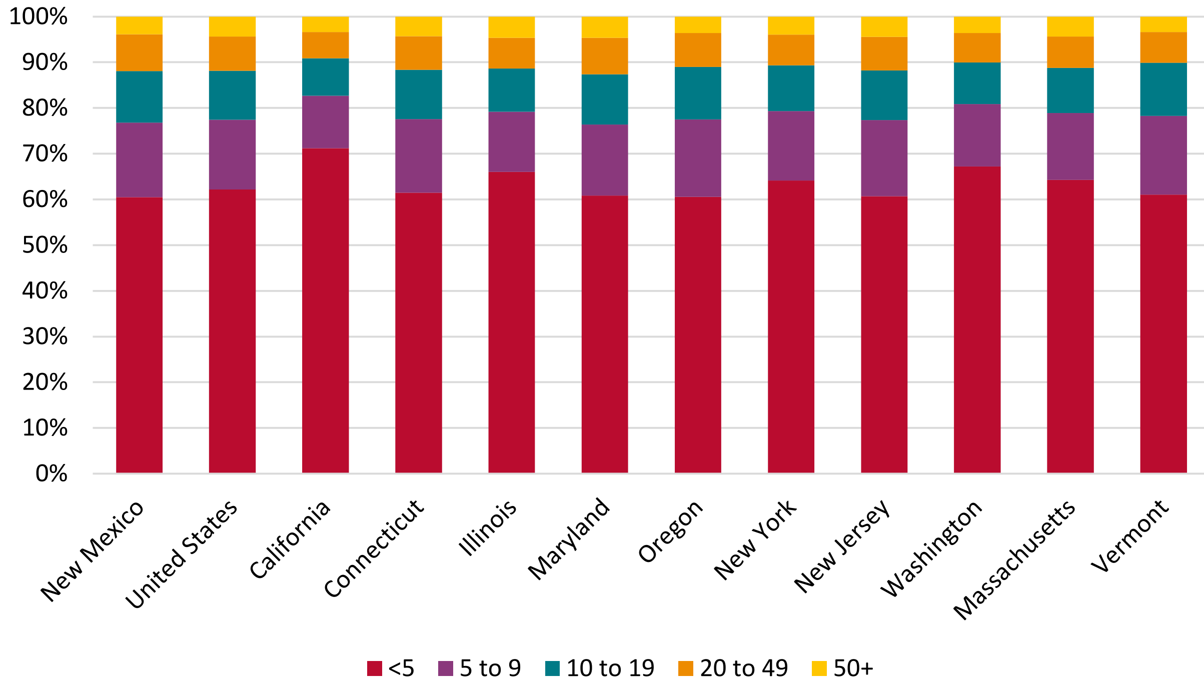


Figure A21. Comparison of Private-Sector Firms, by Establishment Size. Source: Bureau of Labor Statistics, Quarterly Census of Employment and Wages (QCEW). First Quarter, 2016.



4. Comparison of State Retirement Programs

	Auto-IRA					
	California	Connecticut	Illinois	Maryland	Oregon	Seattle, WA
Program Title	CalSavers	Connecticut Retirement Security Authority	Illinois Secure Choice Savings Program	Maryland Small Business Retirement Savings Program and Trust	OregonSaves	Seattle Retirement Savings Plan
Year Enacted	2016, amended 2017	2016	2015, amended 2016 and 2017	2016	2015	2017
Legislation	Senate Bill 1234	House Bill 5591	Senate Bill 2758	Senate Bill 1007 (Ch. 323)	House Bill 2960 (Ch. 557)	Seattle Municipal Code 14.36
ERISA Applicable	Will not implement if program is an employee benefit plan under ERISA	Will not implement if program is an employee benefit plan under ERISA	Will not implement if program is an employee benefit plan under ERISA	Will not implement if program is an employee benefit plan under ERISA	Will not implement if program is an employee benefit plan under ERISA	
Administrative Entity	The California Secure Choice Retirement Savings Investment Board, chaired by the Treasurer	The Connecticut Retirement Security Authority Board, chair appointed by the Governor	Illinois Secure Choice Savings Board, chaired by the Treasurer	The Maryland Small Business Retirement Savings Board, chair elected by the Board members	The Oregon Retirement Savings Board, chaired by the Treasurer	The Seattle Retirement Saving Plan Board of Administration, chair appointed by the Mayor
Employer Participation	Mandatory	Mandatory	Mandatory, 2 year deferral for new businesses.	Mandatory, 2 year deferral for new businesses	Mandatory	Mandatory, 1 year deferral for new businesses
Private Market Plans Allowed	Yes	Yes	Yes	Yes	Yes	Yes
Minimum Number of Employees to Qualify	5+	5+	25+ employees who were not offered qualifying retirement plan in past 2 years	All Employers who do not offer qualifed plans	All Employers who do not offer qualifed plans	All Employers w/o qualifying plan available or partiqpate in MEP
Available to Employees of noneligble employers	Yes	Yes	Yes	Yes	Not Currently, plans to allow self-employed in future	Board can establish rules for self-employed or noneligible employers.
Structure of Account	Roth IRA (Default), Can Contribute to Traditional IRA	Roth IRA	Roth IRA	1 or more Payroll Deposit IRA Arrangements	Roth IRA	1 or more Payroll Deposit IRA Arrangements
Automatic Enrollment	Board gives employees info packet about mechanics of program, Employees must acknowledge and consent.	Yes	Yes	Yes	Yes	Yes
Employee Opt-In or Opt-out	Opt-out	Opt-out	Opt-out	Opt-out	Opt-out	Opt-out
Default Contribution Rate	5%, auto-escalate 1%, to max 8%. Option for Employee to opt-out and set own rate.	3%	5%	Set by Board	5%, with auto-escalation of 1% per year, until maximum of 10%	Set by Board, must offer default escalation
Employer Contribution	Permitted if it would not trigger ERISA	No	No	No	No	No
Fees	On or after 6 years, ≤ 1% of Total Program Fund	After 4th year, ≤ 0.75% of total value of program assets	≤ 0.75% of Total Trust Balance	≤ 0.5% of assets under management	≤ 1.05% per year	Not Specified
Current Progress	Program Launch (1/1/17), Pilot Launch for end of 2018	1/1/19 Program Implentation Date	1st Pilot Program (mid-2018), phased enrollment (2019), All Eligible Employees enrolled by 12/31/20	Effective 7/1/16, no addl' implentation timeframes	Two Pilots Completed (2017), Current Registration in Waves by Firm Size, All Eligible Employers by 5/15/20	Contributions begin between 1/1/19 - 1/1/21
Investment Options	Capital preservation fund, core bond fund, a global equity fund, a risk-based or age-based suite of funds, an Environmental, Social and Governance (ESG) fund. First $1,000 of contributions will be sent to Capital Preservation Fund		Target date/life cycle index fund(s), equity index fund, bond index fund, capital preservation fund	Range of investment options, including a default investment selection for employees' payroll deposit IRAs.	Aged-based/target date funds, capital preservation fund, growth fund. First $1,000 of contributions will be sent to Capital Preservation Fund	
PROS	Higher participation/coverage; No Cost to Employer; Auto-Enrollment w/ Opt-Out Option to Employee; Flexibility in the % contributed by employee; Portability between employers within state; Businesses only need to distribute program materials and manage payroll deduction					
CONS	No ERISA Protection; Employer Mandate; Relatively low contribution levels for Roth IRA ($5,500 or $6,500 if 50+ years old); No Employer Contribution; Only allows for Portability within State; Cost to Set-Up Plan (Loan from State to Program until Self-Sufficient); Potential disincentive to employers to continue providing private plans that includes an employer match					

	Voluntary Payroll Deduction IRA	Marketplace		Multiple Employer Plan (MEP)	
	New York	New Jersey	Washington	Massachusetts	Vermont
Program Title	New York State Secure Choice Savings Program Fund	New Jersey Small Business Retirement Marketplace	Washington Small Business Retirement Marketplace	Massachusetts Defined Contribution CORE Plan ("CORE Plan")	Vermont Green Mountain Secure Retirement Plan
Year Enacted	2018	2016	2015, amended 2017	2012	2017
Legislation	Senate Bill S7505	Chapter 298	ESSB 5826 (RCW 43.330.730)	Chapter 60	Act 69
ERISA Applicable	Not Covered by ERISA	Doesn't apply for state operation of marketplace; ERISA Plans allowed in marketplace and normal ERISA requirements for Particp. Employers	Doesn't apply for state operation of marketplace; ERISA Plans allowed in marketplace and normal ERISA requirements for Particp. Employers	Yes	Yes
Administrative Entity	NY State Deferred Compensation Board	Office of the State Treasurer	State Department of Commerce	A not-for-profit defined contribution committee, within the Office of the State Treasurer and Receiver General.	Green Mountain Secure Retirement Board, chaired by the Treasurer.
Employer Participation	Voluntary; Only Responsible for Enabling Payroll Deduction to Roth IRA	Voluntary	Voluntary	Voluntary	Voluntary
Private Market Plans Allowed	Yes	Yes	Yes	N/A	Yes
Minimum Number of Employees to Qualify	All Employers w/o qualifying plan in past two years	≤100 Employees	≤100 Employees	Non-Profits w/ 20 or FEWER Employees	Employers w/ 50 or FEWER that do not offer plan
Available to Employees of noneligble employers	N/A	Yes (Self-Employed, Sole Proprietors)	Yes (Self-Employed, Sole Proprietors)	No	Yes (Self Employed), Clearinghouse/Marketplace for Non-Eligible
Structure of Account	Roth IRA; IRA - Payroll Deposit	SIMPLE IRA; myRA5 (Roth IRA); payroll deduction IRA and ERISA plans can be added. May also offer "life insurance plans designed for retirement purposes."	SIMPLE IRA; myRA5 (Roth IRA); payroll deduction IRA and ERISA plans can be added. May also offer "life insurance plans designed for retirement purposes."	DC 401(k) plan	DC 401(k) plan
Automatic Enrollment	Voluntary; Board gives Employees Information Packet, and can decide to opt-in and/or adjust rate	No; Employers may auto-enroll as IRS rules allow	No; Employers may auto-enroll as IRS rules allow	Yes	Yes, after Employer opts to join
Employee Opt-In or Opt-out	Opt-in (but under review to determine feasibility of automatic enrollment)	Opt-in	Opt-in	Opt-In	Opt-In
Default Contribution Rate	3%; Opportunity for Worker to adjust withholding rate	N/A	N/A	6%, Auto-Escalation of 1-2%, max 12%	N/A
Employer Contribution	No	Permitted if an ERISA plan option	Permitted if an ERISA plan option	Permitted	Permitted
Fees	≤0.75% of Total Trust Balance	≤1% per year to investors; no Charge to Employers	≤1% per year to investors; no Charge to Employers	$65 annual fee, deducted automatically from particpant account, Basis Point Fee Ranges.	N/A
Current Progress	Implentation 24 months after effective date	N/A	Launch 3/18	Launch (10/17), open for enrollment	Launch before or on 1/15/19
Investment Options	Conservative Principal Protection Fund, Growth Fund, Secure Return Fund, Annuity			11 CORE default target date funds based on expected retirement age and 4 objective base funds: CORE Growth Fund; CORE Income Fund; CORE Inflation Fund; and the CORE Capital Preservation Fund	N/A
PROS	Compromise between auto-IRA plans and voluntary requirements to prevent ERISA preemption	Fees are restricted to 100 basis points; Transparency into fees and plan structure; Lower start-up costs to the state and faster implementation; ERISA doesn't apply to state operating marketplace		ERISA Protections; Allows Employer Contributions; Employees are auto-enrolled with option to opt-out; Larger Contribution Limits; Employers pooling assets could allow for economies of scale	
CONS	Voluntary participation from employers and employees could minimize impact	Fee Restrictions might limit vendor participation; Not clear participants will enjoy economies of scale for the cost; No auto-enrollment so potentially less impactful		Plans tend to be offered with a maximum cut-off for firm size; Voluntary Employer Participation (No mandate allowed) could limit impact; Participating Employers would need to maintain ERISA-covered DC Plan; Potential Administrative Fees to Employer	

(Source: Georgetown University, 2018)