# 1,000,000 of Our Neighbors at Risk: Improving Retirement Security for Marylanders

***Report of the Governor's Task Force to Ensure Retirement Security for All Marylanders***

**Kathleen Kennedy Townsend, Chair**

# 1,000,000 of Our Neighbors at Risk
# Improving Retirement Security for Marylanders

Last summer, this Task Force was appointed by Governor Martin O'Malley to examine the issues and develop, by February 15, 2015, *"productive steps that the State of Maryland could take to ensure that every private-sector employee in Maryland has the opportunity to enjoy a secure retirement"*.

The Task Force, chaired by former Lt. Governor Kathleen Kennedy Townsend with representatives of retirees, employers, financial firms, labor, and government, has held hearings and public meetings, consulted with experts and constituencies, and discussed both the need for better retirement security and how best to achieve it. This report represents the consensus of the Task Force, although not every member subscribes to every point.

- **For many Marylanders, there is a retirement crisis. Some 1,000,000 of us working in private business have no employer provided retirement plan & virtually no retirement savings. Many who do have a plan still are saving less than they need to meet their own goals. The situation is not improving; it is getting worse.**

- **Other states and other governments have found ways to improve retirement saving and are taking action. Maryland can, too. Acting now will save Maryland taxpayers hundreds of millions of dollars in the future.**

- **The best way to improve retirement security is to ensure that *everyone* who works has access to a retirement plan – a plan that enables them to save automatically out of every paycheck and whose funds are invested professionally and at low cost.**

- **The best way to provide that access is to make sure that employers offer such plans – in ways that even small businesses can afford, by using their current payroll systems and without extensive financial commitments or burdensome regulatory requirements.**

- **The Task Force has catalogued a range of possible proposals and the principles that should be considered in judging them. We strongly urge the State to take the next step: develop and enact a specific program.**

The report was written by Hon. Joshua Gotbaum and David John, affiliates of The Retirement Security Project of The Brookings Institution. The Task Force greatly appreciates their work, but the views here are those of the Task Force, not necessarily of The Brookings Institution or the authors.

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## I. *Summary: Improving Retirement Security for Marylanders*

### Increasingly, many Marylanders are unprepared for retirement.

The US has the broadest range of retirement savings options in the world. There are thousands of retirement products offered. But most Marylanders don't use them.

The need is growing. The Baby Boomers are the largest generation in history. They will live longer in retirement than any generation in history.

But – financially – many are not prepared. ***Many have virtually no retirement savings***: more than a third those within ten years of retirement age have saved less than $10,000.[1] $10,000 invested and spent over the average person's retirement works out to about $1,000 of income *per year*.[2] Even with Social Security, that's not much to live on.


***Fears about retirement are the #1 economic concern.*** Many Marylanders know they're unprepared – and they're worried about it. Concerns about retirement security are now more broadly based than the cost of health care, fear of job loss or other economic concerns – and have been for over a decade.[3] Those concerns have grown since the financial crisis, even though the stock market has recovered. Many know they'll have to defer retirement -- and many fear they will never be able to afford to retire at all.

[1] The bottom 41% have savings of less than $25,000. *EBRI 2014 Retirement Confidence Survey*, Fact Sheet #4 *http://ebri.org/pdf/surveys/rcs/2014/RCS14.FS-4.Age.Final.pdf* Survey excludes housing equity & DB plans.

[2] Assumes retirement in 5 years, 20 years in retirement with savings earning an average of 5% per year after taxes & fees.

[3] Gallup & other polls. Retirement concerns have topped the list of financial worries since 2000 with slightly higher levels since 2009. *http://www.gallup.com/poll/168626/retirement-remains-americans-top-financial-worry.aspx*

***The key to retirement saving is having a retirement plan and contributing to it every paycheck. But many businesses, including most smaller businesses, don't offer retirement plans.***[4] ***As a result 1,000,000 Marylanders***[5] ***working in private businesses across the State don't have a retirement plan.*** There are, of course, individual retirement accounts (IRAs) -- but almost no one uses them who didn't get access through an employer-based plan via payroll deduction.[6]

Having a plan is essential, but not a panacea. Even when plans are available, many employees don't join.[7] Many who do contribute & save less than they need to meet their own goals.[8] Even with plans, many will need to save more.

The challenge continues at retirement, because most of these plans are paid out in a single lump sum payment -- few plans offer reliable retirement income for life that traditional pensions do. Since most retirees do not consult financial advisors and are not financial experts themselves[9], some who live longer than average or are unlucky in their investments will find that they haven't saved enough and will exhaust their savings.

They will, of course, have Social Security. That's why it's so important that Social Security be both preserved and strengthened. But the average monthly benefit in Maryland is about $1,300[10] and for most people Social Security covers only a fraction of their basic needs in retirement.[11] Most Marylanders will need additional income from retirement savings – and the State of Maryland can help them get it.

## Other states and other governments are making it easier for people to save and for private employers to help them do it. Maryland should, too. Acting now will save Maryland taxpayers millions in the future.

*California, Massachusetts, and Illinois have already enacted legislation. Illinois* created a new program that requires employers who have no retirement plan to automatically enroll their employees in a state-created program. Massachusetts authorized a program for uncovered

4 AARP Public Policy Institute analysis using data from Census Bureau's *Current Population Survey* March Supplement 2012-14 ("AARP Analysis")

5 AARP Analysis

6 EBRI, unpublished estimates from 2006 data for workers with incomes of between $30k and $50k. (Provided by AARP)

7 US Dept of Labor Employee Benefit Security Administration (*http://www.dol.gov/ebsa/publications/automaticenrollment401kplans.html*) and BLS 2014 Survey reports.

8 4 out of 5 working households age 25-64 and 3 out of 5 working households approaching retirement (ages 55-64) have less than one times their annual income saved in retirement accounts. NIRS: Rhee, N. (2013) "The Retirement Savings Crisis: Is It Worse Than We Think?" NIRS. Washington, DC.

9 Financial education, however helpful, is not enough. Most people are confused by the jargon and mathematics of pensions and investments, and don't use the information. Often the complexity of existing retirement saving options and fear of being "taken" leads people to do nothing at all. These issues are discussed in section IV.

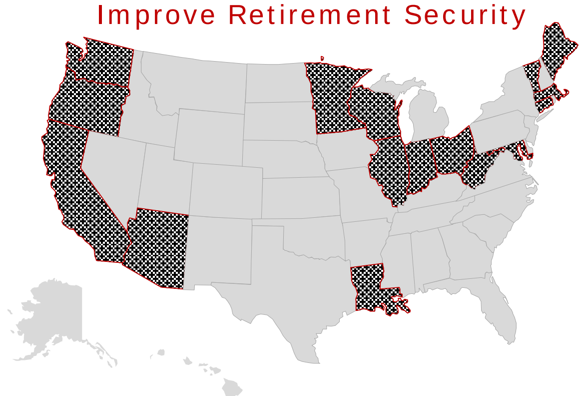
10 Social Security Administration *http://www.socialsecurity.gov/policy/docs/factsheets/cong_stats/2013/md.html*

11 Gerontology Institute, University of Massachusetts Boston, "The National Elder Economic Security Standard Index" (2012). Gerontology Institute Paper 75. *http://scholarworks.umb.edu/gerontologyinstitute_pubs/75* Reports that for single renters over age 65 the average annual Social Security benefit of $14,491 will replace just 53 percent of the annual amount needed to meet basic living expenses.

employees of non-profits. California created a board to plan and propose program similar to that in Illinois. *Similar legislation is being or has been introduced in some fifteen other states* – states all across the country with varying political orientations, populations, and economic bases.

Although there are many variations under consideration, these programs generally provide for an automatic payroll deduction of a set amount unless the employee opts out. Funds are to be invested professionally and may be pooled to achieve higher returns and lower costs. Those who cannot or do not want to make complex financial decisions are not required to do so – their contributions are placed automatically into a reliable fund or set of funds.

Many States are Acting to Improve Retirement Security



In order to ensure that employers – many of whom are small businesses – can participate in a program, it must be designed to help them avoid significant disruption, expense or administrative burden. This can be accomplished by enabling employers to use current payroll processes to help their employees to build retirement security, without requiring employers to make contributions themselves.

***If Maryland doesn't act now, Maryland taxpayers will face higher costs for decades to come.***

These plans are designed to be self-sustaining: their operating costs are paid for by plan contributions and the State would not assume any obligations.

In practice, however, these plans will end up *saving* taxpayer funds: If Maryland doesn't act now, Maryland taxpayers will face higher costs for decades to come, as retirees are forced to turn to State assistance instead of living on their own savings.

## There are many ways to improve retirement security. The key is for *businesses to help their employees save*, without becoming overburdened themselves.

Task Force is not recommending any one approach, but strongly recommends that Maryland join other states, by developing and implementing a plan that helps Marylanders have more secure retirements. We recommend development of a specific state-based program that meets Maryland's needs from the options discussed in our report.

## We Can Do Better: Principles for Improving Marylanders' Retirement

In developing that program, we recommend the following principles as guidelines:

***Make it easier for all Marylanders to save for retirement.***

– *Access: Every Marylander should have access* to an ***automatic*** *payroll deduction* retirement savings plan through their employer. People who are self-employed or unemployed should be able to make contributions at the same time that they pay their State taxes.

– *Simplicity*: People should have access to simple, low cost retirement savings *plans that make enrollment automatic* (*auto-enrollment*), *that don't require complex investment and savings decisions by providing low-cost automatic (default) options, and that enable savers to grow their saving rate over time* through *auto-escalation*.

– *Portability: They must be able to keep their retirement savings plan when they change jobs.* Individuals should never be forced out of a plan because they change or lose their jobs. Workers should have the choice of keeping their existing retirement savings in the plan when they move to another employer or consolidating their retirement savings by moving it to another retirement plan.

– *Choice:* Of course, *they should have the ability to change the amount that they save, change their investments, move to another plan, or stop saving entirely*.

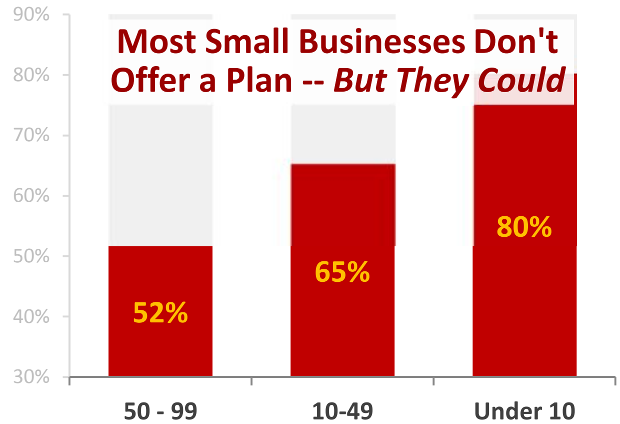
***Make it easier for private employers to help their employees save.***

– Since most of the companies who do not offer a retirement plan are smaller businesses, *it's essential that they aren't forced to take on significant additional financial, administrative or regulatory burdens.*

– Employers *should be able to use their current payroll processes* to quickly and easily forward employee contributions to a savings plan *without assuming significant additional legal or fiduciary responsibilities or taking on significant additional cost*.

– *Employer contributions should not be required, but should be permitted* if allowed by federal law.

– Consumer protection, disclosure, and other protections are essential, but these and other *regulatory responsibilities should be undertaken by the program itself and not imposed on businesses*.



*Businesses not offering retirement plans, by number of employees.*
*Source: AARP*

***Make it easier for Marylanders to get reliable retirement income for life.***

When people retire, they no longer have a paycheck that provides reliable monthly income. They should be able to have a reliable monthly income stream from their retirement savings, too. Retirees should not have to worry about how much their retirement income might be or how long their pension will last if, like half of Americans, they live longer than average.

***Investments should be low cost, provide good value, & be professionally managed.***

***Any program should be self-sustaining.*** Maryland should help Marylanders save for retirement *without risking the State's credit*. It should cover its own operating costs without relying on taxpayer funding or risking the State's credit by creating contingent liabilities.

## II. The Maryland Task Force & Its Activities

### *Maryland's Legislature Moves to Protect Retirement Security for Private-Sector Employees*

Historically, the State of Maryland provided retirement services only for employees of the State and of local governments. The Maryland State Retirement Agency (MD SRA) provides a traditional multiple employer defined benefit[12] (DB) pension plan both to employees of the State and of some 150 local governments who choose to participate. Maryland also operates the Supplemental Retirement Plans, voluntary tax-preferred defined contribution (DC) plans for State employees; local government employees (teachers) also participate. Neither program has been available to private sector employees. In Maryland, as in other states, the retirement security of private-sector employees was historically viewed as a concern of the private sector and the federal government.

However, Maryland legislators were aware that many private sector employees lack any retirement plan and began to propose that Maryland find ways to help them. In 2013, legislation was introduced in both the House of Delegates and the Senate to develop a state-sponsored program that would make retirement plans available to those private-sector Marylanders that didn't yet have them.[13]

In 2014, the Maryland Secure Choice Retirement Savings Program and Trust Act[14] was introduced in both houses. It would establish a retirement savings plan for private sector employees whose employers didn't offer one.

- The Maryland Secure Choice Retirement Savings Investment Board would administer the program, which would include portable individual retirement accounts (IRAs).
- Employees would be automatically enrolled in the program unless they chose to opt out. They could choose whether to participate and the amount, but if they took no action 3% of pay would be contributed automatically to the plan (or to an IRA).
- Employers of more than 5 people would be required to make the program available to their employees through a payroll deduction, but employers would not be required to contribute anything themselves (although the bill would permit such contributions if consistent with federal law) and would not become fiduciaries under federal law.

[12] A "defined benefit" plan is one where the plan is responsible for paying a particular level of benefit on retirement. Defined benefit formulas traditionally were based on pay and length of service, however in the private sector many are now defined in terms of achieving a minimum investment return. "Defined contribution" (DC) plans are plans in which only the amount contributed is specified, and the plan has no responsibility for achieving a particular result.

[13] Senate Bill 1051 and House Bill 1318

[14] Senate Bill 0921 and House Bill 1251

- The State of Maryland would not be responsible either for ongoing costs or investment risks; the program was required to be self-sufficient. The bill also required that the program be consistent with federal tax and retirement law.

Maryland's Senate Budget and Tax Committee held hearings and in 2013 reported out a bill requiring further study of the program. The House Economic Matters Committee, in a joint referral with the House Appropriations Committee, held hearings, but did not report a bill.

### *Creation of the Task Force*

In May of 2014, the Governor implemented the suggestion in the Senate bill, and created by executive order[15] the Governor's Task Force to Ensure Retirement Security for All Marylanders. Members were to be appointed by both the Governor and the leadership of the Senate and House of Delegates and include representatives of the public as well as State officials and interested constituencies. The Task Force mandate was to produce a report and, unless extended, cease operation on February 15, 2015.

### *Public Hearings & Meetings*

The Task Force met repeatedly and in public from August through January. Public testimony from Marylanders and outside experts was heard at Task Force meetings on August 7, November 19, and December 1, 2014. In addition, some Task Force members and staff met with senior staff of the US Department of Labor. A public meeting was held in January to discuss the Task Force's view and decide its recommendations. Notes from Task Force meetings can be found on its website, *http://www.dllr.state.md.us/retsecurity/*.

### *Wide Variety of Witnesses & Organizations Consulted*

The Task Force sought the views of a wide range of Marylanders and experts. Maryland AARP and the Pension Rights Center described the fears and retirement needs of Marylanders. Experts from the Georgetown University Center for Retirement Initiatives, the National Conference on Public Employee Retirement Systems, and AARP, provided information and perspective on efforts by other governments, in other state, at the federal level, and internationally. Senior officials of the US Department of Labor met to discuss how a Maryland effort could provide worker protections and be consistent with federal pension law.

Maryland Business and the owners of small businesses explained their interest in providing retirement options for their employees, but noted that the complexity and cost kept them from doing so. The National Federation of Independent Businesses (NFIB), by comparison, opposed an additional program as adding to the burdens businesses already face. Analysts from Maryland's Department of Labor, Licensing, and Regulation provided data on how many Marylanders are affected.

The Task Force had multiple presentations from the financial services industry. Some, such as Securities Industry & Financial Managers Association (SIFMA) and the Retirement Planning Coalition, took the view that current offerings are sufficient and Maryland should not undertake new efforts. Others, such as Legg Mason and the American Society of Pension Professionals &

[15] *Executive Order 01.01.2014.07*, dated May 12, 2014.

Actuaries (ASPPA), by comparison, supported efforts by the State of Maryland to expand retirement savings options for those who lack them. Legg Mason presented to the Task Force a new service, EZ IRA, that could be incorporated into a Maryland program.

A full list of organizations consulted, as well as written presentations, can be found on the Task Force website, *http://www.dllr.state.md.us/retsecurity/*.

## III. The Silver Tsunami: Retirement Insecurity in Maryland

In many respects, Marylanders are no different than other Americans. The baby boomer generation born after World War II is the largest in US history; nationwide, some 10,000 baby boomers turn 65 every day and more people are retiring than ever before.

Thanks to advances in public health and medical care, Marylanders today can expect to live longer, healthier lives than their parents. On average, they will have more "golden years" and those years will be healthier.

### *Increasingly, Marylanders are unprepared for retirement.*

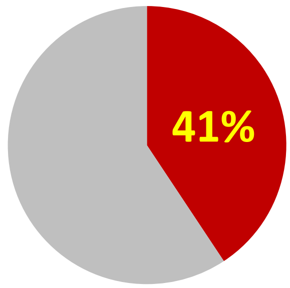
But there will be less "gold" with which to enjoy them, because retirement saving and retirement plans haven't kept pace. As the AARP reminded the Task Force, although millions do have some form of retirement plan, according to the Employee Benefits Research Institute (EBRI) *almost 40%* of Baby Boomers and Gen Xers won't be able to meet their basic retirement expenses and health care costs.[16] According to the Federal Reserve Board's 2013 *Survey of Consumer Finance*, fewer than 60% of households headed by people 55-64 had *any* retirement account of any kind.[17] EBRI estimated that, of people 55 and older, more than one third (41%) had retirement savings of less than $10,000[18]. $10,000 spent over the lifetime of an average retiree works out to an income of $1,000 *per year*; even adding Social Security, that's not much to live on.

[16] Calculated taking into account health care costs from Jack VanDerhei. *"Short" Falls: Who's Most Likely to Come up Short in Retirement, and When?* EBRI Notes June 2014, Vol. 35, No. 6

[17] 59.3% Federal Reserve Board *2013 Survey of Consumer Finances* (*"2013 SCF"*). Charts from Federal Reserve Bulletin, Sept 2014

[18] *EBRI 2014 Retirement Confidence Survey*, Fact Sheet #4 *http://ebri.org/pdf/surveys/rcs/2014/RCS14.FS-4.Age.Final.pdf* This excludes housing equity & DB plans.

**Even within 10 years of retirement, *more than 40% of families have no retirement plan***




Source: Federal Reserve Board
*2013 Survey of Consumer Finances*

### *Fears about retirement are the #1 economic security concern.*

This lack of retirement security is not a secret: according to a recent Harris Poll, *"nearly half (48%) of middle-class Americans in their 50s… say they will not have enough money to 'survive' on in retirement"*[19]. Both Gallup and Harris polls confirm that retirement insecurity is the #1 economic concern.[20] More than two-thirds (68%) of those Americans who are either employed themselves or have a spouse who is say they are worried they will not have enough money for retirement.[21] EBRI survey results are comparable.[22] Those concerns have grown since the financial crisis. Some say they will never retire and many fear they will never be able to afford to retire at all.

### *Yet people don't take action on their own. Why not?*

If many folks don't have enough for retirement and *know* they don't, why don't they *act*?

- There are some who are living hand-to-mouth and simply cannot afford to save. This is a tragic, but fortunately small, portion of Marylanders. For them, Social Security will be their only significant retirement income. That's why it's so important that Social Security benefits be strengthened and fully paid-for.
- However, *most of those with inadequate retirement income can save more*. They can set aside money from each paycheck – resources that will add up over the years. They can decide to defer some expenses today in order to have a better life tomorrow.

*But* ***most people without an employer provided plan don't save on their own.*** *Even those with a plan often don't save enough to meet their own retirement goals.*

The primary reason seems to be that – *despite many retirement savings options – it's a lot easier for most people to spend money than to save it*. There are thousands of individual retirement

[19] Wells Fargo description of Harris poll: "Wells Fargo Middle Class Retirement Study" July/August 2014

[20] Gallup & other polls. Retirement concerns have topped the list of financial worries since 2000 with slightly higher levels since 2009. http://www.gallup.com/poll/168626/retirement-remains-americans-top-financial-worry.aspx

[21] Harris poll, July 2014

[22] In the 2014 EBRI Retirement Confidence Survey, 43% told EBRI they were not too or not all confident of having adequate funds throughout their retirement. In 2007, only 29% did so. (Fact Sheet #1) Of those without a retirement plan, 69% responded that they were not confident.

account (IRA) programs available, but every one requires spending time trying to compare them (what they invest in, what their fees are, and who stands behind them), and then filling out the forms. That's a lot of work – and the vast majority of people who don't already have some sort of retirement account simply don't do it. If their employer doesn't offer a retirement plan – and make most of the decisions and do most of the work in setting it up – most people won't set up a plan themselves and won't save much for retirement.

Sadly, about one-half of workers in private business *are* on their own – without any kind of employer-provided retirement plan.[23] As a result, most of them have no retirement funds at all.

## Why Employers are Key to Better Retirement Security

That's the reason why most of the experts the Task Force consulted recommend taking the burden off individuals.

***When:***

- ***people are enrolled into a plan automatically*** *– even though they can opt out –*
- ***<u>and</u> contributions are automatically deducted from their paycheck,***

***many <u>more people save for retirement</u> and they will <u>save more</u> for retirement.***

That's the reason why employers are so important. They can – if they choose – pick a sensible retirement plan, negotiate reasonable fees, and automatically enroll their employees in it (while giving them the ability to opt out). When employers have chosen to do this, most of their employees participate, and as a result are far better prepared for retirement.

Increasingly, however, employers are choosing not to offer retirement plans. Maryland Business, an advocate for Maryland's small businesses, said in testimony before the Task Force that in the past 15 years the percentage of businesses sponsoring a workplace retirement plan had dropped from two-thirds to 57%.[24] Maryland Business suggested that Maryland step up and create a plan that relieves them of these burdens.

### *Loss of Traditional Pensions & Shift to Individual Account Plans*

It is widely known that fewer employers are offering traditional pensions that provide an income for life. When Congress enacted the Employee Retirement Income Security Act (ERISA) in 1974, it did so to ensure that employers who offered traditional pensions to their employees followed through on their commitments. However, ERISA did not require employers to offer traditional lifetime income DB pensions and since the law was passed, for many reasons, the majority of employers decided not to do so. If employers offer any plan at all, increasingly they are offering

[23] The National Institute on Retirement Security reported that 45% of US working age households do not own any retirement account assets, even an IRA. NIRS *The Retirement Savings Crisis: Is it Worse Than We Think?* June 2013, p. 1. *http://www.nirsonline.org/storage/nirs/documents/Retirement%20Savings%20Crisis/retirementsavingscrisis_final.pdf* Different methodologies result in comparable estimates. The Bureau of Labor Statistics (BLS) reported that 35% of private sector workers have no access to any employer-provided retirement plan *Employee Benefits in the United States -- March 2014* *http://www.bls.gov/news.release/ebs2.t01.htm* ("BLS 2014 Survey")

[24] Maryland Business, testimony December 1, 2014.

a defined contribution retirement savings plan that puts most of the decisionmaking and responsibility on the employee.

This shift to individual accounts and defined contribution plans has had many consequences for retirement security.

- Despite the availability of a convenient employer-provided plan, 25% - 30% of all workers who have access don't enroll[25]. Most of them save nothing at all for retirement.
- Those who do enroll on average set aside a smaller portion of income (even when employer matches are taken into account).[26] Since the employee, not the employer, makes the decision how much to set aside for retirement, and generally lacks professional advice, employees often save less than is necessary to meet their financial goals.

***Most businesses, particularly smaller businesses, don't offer any plan at all.***

Their unwillingness to do so is not because they do not care about and value their employees. In most cases, it is because in most cases establishing a plan requires considerable administrative effort and additional payroll costs. Equally important, it involves businesses in additional federal regulation under the Employee Retirement Income Security Act of 1974 (ERISA) and other laws – regulation that can result in legal liability if disclosure is inadequate or plans fail to meet federal requirements.

> ***"I offer paid time off and sick leave to 15 employees, but no retirement plan….It requires [too] much research and knowledge about costs."***
>
> Amanda Rothschild, Owner
> Charmingtons, Baltimore

### *Fewer Families Have Retirement Plans*

Furthermore, the situation is getting worse.

Some advocates claim that the share of families with individual account plans is increasing. In fact, the reverse appears to be true: Nationwide the percentage of all families with an individual account retirement plan (such as a 401(k) plan or an individual retirement account (IRA)) decreased from 52.8 percent in 2001 to 48.2 percent in 2013.[27] According to the Federal Reserve Board, in 2010 38% of families had a retirement plan from a current employer; by 2013, that had dropped to 36%.[28] The percentage of families that had *any* form of retirement plan declined from 2007 to 2013; the drop among those with below-average income was most pronounced: from 48% in 2007 to 40% in 2013[29]

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[25] US Dept of Labor Employee Benefit Security Administration (*http://www.dol.gov/ebsa/publications/automaticenrollment401kplans.html*) and BLS 2014 Survey reports.

[26] Bosworth, Barry P., *The Decline in Saving* (Brookings 2012), pp. 112-116, notes that until the Great Recession capital gains from housing and other investments in aggregate offset this reduction.

[27] EBRI "*Individual Account Retirement Plan Ownership Trending Down, but Assets Up*" *http://www.ebri.org/pdf/PR1102.IAs.20Nov14.pdf*

[28] *2013 Survey of Consumer Finances*. In 1992, the percentage was 39%.

[29] *2013 Survey of Consumer Finances.* p. 21

Maryland still has a relatively high availability and participation in workplace plans, with 52% of all private sector workers participating in some kind of plan – but that represents a 10% drop in participation the past 10 years.[30]

At least as troubling is the fact that the retirement assets of working families with median incomes regressed in the past few years, despite recovery of stock market values. The median retirement account balance among working age households *declined* from $3,000 in 2010 to $2,500 in 2013[31].

### *Most people without an employer-based plan have virtually no retirement savings.*

Without an employer-based plan, people are unlikely to open their own IRA: according to EBRI, only about one person in 20 will do so and contribute regularly.[32]

EBRI's 2014 *Retirement Confidence Survey* found that 89% had savings of less than $10,000 and 73% of those with no retirement plan had savings of less than $1,000.[33]

### *Less Retirement Planning & Less Saving for Retirement*

What about financial planning for retirement? Despite the availability of thousands of financial advisors and sources of advice, and claims in surveys by many that they've planned for retirement[34], the short answer is that most people do not plan.[35] According to EBRI, "***Few Get Paid Advice -- Fewer Take It***"[36]: Less than 20%[37] of current workers pay for financial advice and only about half follow all or most of what is recommended. Less than half of workers (44%) report *ever even having tried* to calculate how much money they will need to have saved so that they can live comfortably in retirement.[38]

### *How to Improve Retirement Security*

***While it is clear that people are feeling less secure about retirement security by most measures, it is also clear that there are many ways to improve:***

- ***Payroll deduction saving can become a standard practice.***

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30 National Institute on Retirement Security, submission to Task Force November 19, 2014, p 2

31 National Institute on Retirement Security analysis of SCF data, submitted to Task Force November 19, 2014.

32 EBRI, unpublished estimates from 2006 data for workers with incomes of between $30k and $50k.

33 EBRI 2014 *Retirement Confidence Survey* p.16

34 60% of retirees report that they did some financial planning before retiring (EBRI 2014 *Retirement Confidence Survey*, p 23). This appears to be contradicted by the admission that only 44% claim that they ever even tried to estimate retirement income. (p. 22)

35 This isn't limited to retirement income planning. According to Ameriprise's "Financial Retirement Check-In" survey, more than half of relatively wealthy people (investable assets >$100,000) nearing retirement surveyed were concerned about future health care costs, but 56% had never enquired what Medicare actually covers. Roughly 40% of this same relatively wealthy group had no financial plan & had not even bothered to estimate their retirement income.

36 EBRI *http://www.ebri.org/pdf/FF.236.Advice.3July131.pdf*

37 EBRI *http://www.ebri.org/pdf/FF.282.Advice.22May14.pdf* 19% This is a drop from the prior year's survey, where 23% reported have received paid financial advice.

38 EBRI 2014 *Retirement Confidence Survey*, p. 22

- ***Auto-enrollment into plans and auto-escalation of saving rates can become standard practice.***
- ***Investment fees can be reduced and retirement assets thereby increased.***
- ***It can and should be easier to convert a retirement fund into a reliable, affordable stream of income for life.***

## IV. Other States are Taking Action

Many other states, recognizing that their citizens need help, are acting.

In 2012, the State of California after extensive public debate enacted into law the California Secure Choice Act. The Act created a board, with representatives from business, labor, the State, and other constituencies, that has begun work to develop a market study and plan that will be resubmitted to the California legislature. The California Secure Choice plan design would require employers who do not otherwise have a retirement plan automatically to enroll their employees (unless the employees opt out) into an investment program created by the CSC Board.[39]

Also in 2012, Massachusetts enacted[40] a program under which small non-profits that did not offer a retirement plan could contribute to a separate plan established by the State Treasurer.

This year, the State of Illinois enacted into law the Illinois Secure Choice Savings Program. The Illinois program will require employers with 25 or more employees that do not otherwise offer a retirement program automatically to enroll their workers via payroll deduction into a Roth IRA arranged by the program. The accounts will be portable and employees may opt out of participation. The Illinois Secure Choice program will begin operation at the end of 2016.

California, Massachusetts, and Illinois are far from being alone. Last year some 17 states had active efforts to consider state-sponsored private retirement savings program. Those states include:

- **California, Arizona, Washington and Oregon** in the West;
- **Illinois, Indiana, Minnesota, Ohio, and Wisconsin** in the Midwest;
- **Louisiana** in the South;
- **West Virginia**, as well as **Maryland**, in the Mid-Atlantic; and
- **Maine, Massachusetts, Vermont and Connecticut** in New England

AARP expects additional states to act this year.

Significantly, the range of states is wide. It includes both large and small states. Some of them are rural with comparatively small populations, while others include major urban areas with very

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39 Additional information is available at http://www.treasurer.ca.gov/scib/

40 MASSACHUSETTS H. B. 3754, Chapter 60 Acts of 2012 (signed March 22, 2012). "An Act to Provide Retirement Options for Nonprofit Organizations," will allow nonprofit organizations with fewer than 20 employees to enter into a contributory retirement plan. No state money will be used to fund the retirement plan, which will be overseen by the treasurer's office.

large populations. It includes states with Democratic party majorities, with Republican party majorities, and with mixed party control. The common thread is their recognition that increasing the opportunity to prepare for retirement will both help their citizens and reduce future costs to their taxpayers.

***Study Commissions*** Some of these states have created commissions similar to Maryland's. Oregon has completed its study phase, and the state treasurer is drafting legislation to present to the legislature. Both California and Connecticut have secured funds and are soliciting help for initial studies. Minnesota's study has been delayed, but is authorized and funded. Other states including West Virginia are expected to authorize studies during the coming year.

***Direct Program Creation:*** Others are moving directly towards creating a plan as Illinois did. Both Washington and West Virginia saw a bill pass one house last year and are continuing their efforts. Other states are considering such a bill for the first time, often after a year or more spent developing a plan that meets its specific workforce and needs. These states include Utah, Indiana, Kentucky, Colorado, New Hampshire, North Dakota, Virginia and Wisconsin. Other states will join this list later in 2015.

**Many States are Acting**

| | *Legislation Introduced* | *Legislation Enacted* | *Program Authorized* |
|---|---|---|---|
| **Illinois** | ✓ | ✓ | ✓ |
| **California** | ✓ | ✓ | |
| **Massachusetts** | ✓ | ✓ | ✓ |
| *Maryland* | ✓ | | |
| Oregon | ✓ | | |
| Connecticut | ✓ | | |
| Indiana | ✓ | | |
| Louisiana | ✓ | | |
| Maine | ✓ | | |
| Minnesota | ✓ | | |
| Ohio | ✓ | | |
| Vermont | ✓ | | |
| Washington | ✓ | | |
| West Virginia | ✓ | | |
| Wisconsin | ✓ | | |

***A Range of Plans:*** The types of plans under consideration vary widely, with some states considering very simple IRA-based structures and others much more complex plans with a variety of features designed to reduce costs and increase consumer protections.

- Illinois is implementing an IRA-based program under which employers with more than 25 workers are required to participate, but make no contributions. Investment options will be limited and investment products and plan administration will probably come from private providers. West Virginia is considering a similar plan, but employer participation would be voluntary.
- California is studying a more complex individual account plan that might include voluntary employer contributions and investment products that offer a minimum guaranteed return. Program operation and investment products might be managed by one of the state's public pension organizations or privately.
- Some states are considering limiting the state's role to establishment of a clearinghouse or exchange that would connect employers with private sector providers of existing products tailored to small businesses, such as a SIMPLE IRA or a payroll deduction IRA.

- Other states are considering proposals along the lines of the original Secure Choice plan, under which the state's current public employees' pension organization would set up a separate defined benefit pension (either using the traditional formulas based on average pay or the more recent hybrid formulas that rely on market returns to determine the benefit).

Some of the options and the issues that must be decided in choosing among them are described in Section VI.

### *States act to protect their own financial futures*

One reason that so many states are considering private sector retirement savings plans is that they recognize that failing to do so would greatly increase the costs they would face. People who retire with little more than their Social Security benefits are much more likely to need taxpayer-financed services. Even when those services are provided by federal programs, certain of them require a significant amount of state financing.

For example, a study just presented to Utah's State Treasurer analyzed the cost of new retirees to the State and the Federal government. The study was limited to 6 government programs, but found that increasing the net worth of the poorest third of Utahans by just 10% would save almost $200 million by 2030.[41] Other states are considering similar studies.

### *Freedom to structure a plan that meets specific state needs*

A key advantage of state-sponsored retirement savings plans is the ability to tailor it to meet the specific needs of that state's workforce, budget, political environment and values. Individual states are free, within the limits set by existing federal legal and regulatory limits, to develop an innovative approach.

## V. What We Can Learn from Other Countries

Other countries, facing the same demographic and budget pressures, are also acting the better to prepare their citizens for retirement. Several are relevant to Maryland's discussions.

- The United Kingdom, Australia and New Zealand have created innovative mandatory retirement savings solutions – programs that are also being considered by other countries.
- The Netherlands and Denmark have existing plan features that also could be useful for any Maryland retirement security solution.

These national systems are presented here because each has features that could be useful in efforts to improve Maryland's retirement security. However, each is also the result of a specific political and economic heritage and the Task Force would not recommend that any be adopted in its entirety.

[41] Notalys, LLC *The Cost of Retiring Poor: Cost to Taxpayers of Utahns Retiring Poor* January 2015. The study also reported that almost one Utahn in five will retire with no net savings at all. The presentation was reported on local media. *http://kuer.org/post/local-study-1-5-utahns-will-likely-retire-poor-over-next-15-years*

### *The UK's Automatic Enrollment System / NEST*

In 2012, the United Kingdom began to phase in an Automatic Enrollment retirement savings system that, when complete in 2018, will ensure that all of its workers have the ability to save for retirement and supplement the Social Security-like state paid benefits.[42][43] Under the new system, all employees are enrolled in a retirement savings plan, and if they remain in it, will save a total equal to 8 percent of earnings, divided between employers and employees and a government tax benefit. Contributions go to a plan selected by the employer.

A key feature of the system is the National Employment Savings Trust (NEST), a very low cost government owned investment option that about 20 percent of employers use for all or some of their employees. NEST has a series of target-date funds as well as several other investment plans that the employee can choose.

The UK system is still being developed as it is rolled out. This year, a partial annuitization requirement for retirement plans is being removed. Future reforms may see the total contribution amount increased to 12 percent of income. Ireland is considering establishing a UK-style system for its workers.

### *Australia's Mandatory Savings System*

Australia created its Superannuation mandatory retirement savings system in 1992.[44] Under Superannuation, employers contribute an amount equal to 9.25 percent of an employee's income to an investment account. Plans may be based on an industry or economic sector, an individual company, or for an individual. Most are pools of funds, and small businesses can use a clearinghouse to forward contributions rather than sending them directly. Payouts are in lump sums rather than in lifetime pensions. Unlike some other programs, both contributions and investment earnings are taxed.

For the most part, Superannuation has worked very well, and it has strong support among Australians. Total assets continue to grow, and combined with its means-tested government system, total retirement costs are projected to be affordable.

A mandatory savings system is also found in Switzerland. The Organization for Economic Cooperation and Development (OECD) supports these approaches because they provide a set level of savings, rather than leaving the decision to individual workers.

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42 Additional information can be found in a recent summary from the Center for Retirement Research, *http://crr.bc.edu/wp-content/uploads/2014/02/IB_14-5.pdf*

43 The UK's state pension is relatively low by international standards, and its work-related supplementary pension system was greatly underfunded, with company plans closing at a rapid rate.

44 At the same time, it means tested its Social Security-like pensions so that they phase out if retirees have more than a set level of retirement assets. For a summary of the Australian system, see: *http://www.oecd.org/els/public-pensions/PAG2013-profile-Australia.pdf*

### *New Zealand's KiwiSaver*

New Zealand created a nationwide automatic enrollment plan for all employees in 2007.[45] The country has also changed its public social insurance system to a flat-rate "citizens pension" that pays the same amount to all who have lived in the country for a certain period.

All employees are automatically enrolled into KiwiSaver, with contributions split between employers and workers. In addition, new participants are given a bonus for joining and their costs are subsidized. The initial total contribution was set at 4 percent of income, but climbed to 6 percent with plans for additional increases in future years.

KiwiSaver offers a variety of investment options, and in all cases the government has negotiated with the provider to keep administrative charges as low as possible. Savers who fail to choose are placed in a very conservative fund that mainly protects against investment losses. Participation has been high, but as savers can withdraw funds to buy a first home, and may also take a contributions holiday at any time, only just over half of participants are making consistent contributions. Additional questions about the adequacy of the system have been raised because payouts are in lump sums rather than as lifetime pensions, and as a result there are fears that the money will be spent too quickly.

### *The Netherland's Shared Risk System*

The Netherlands has a near universal system of occupational pensions that supplement its state-financed system[46]. This system is usually based on an entire industry or economic sector rather than being offered by individual companies, and until very recently consisted overwhelmingly of traditional defined benefit lifetime pensions. However, there is legislation currently under consideration to shift to retirement savings plans.

A key feature of the current Netherlands system is the ability to share investment risk among generations. Workers are credited with a year's worth of pension benefit annually, but if the system becomes underfunded due to investment fluctuations, the value of that benefit can be adjusted. This adjustment applies to both current workers and to retirees. Usually, suspension during a period of underfunding is limited to cost-of-living adjustments, but in extreme cases, the actual benefit may be slightly reduced. When the fund is again healthy, both pension benefits and missed adjustments can be restored over time. This system protects current workers from being forced to make contributions that will provide them with little in return, while also providing retirees with fairly stable benefits. This feature is being considered for retirement savings systems in Ontario and New Brunswick in Canada and for a proposed German reform.

### *Denmark's Pooled Investment System*

In addition to a comparatively generous Social Security-like state pension, Danish workers are enrolled in supplementary retirement plans, the most important of which is ATP[47]. A key feature

[45] For a summary of the New Zealand system, see: *http://www.oecd.org/els/public-pensions/PAG2013-profile-New-Zealand.pdf*

[46] For a summary of the Netherlands system see: *http://www.oecd.org/els/public-pensions/PAG2013-profile-Netherlands.pdf*

[47] For a summary of the Danish system, see: *http://www.oecd.org/finance/private-pensions/42565773.pdf*

of ATP is its pooled investment account into which all contributions go. Because of the size of the fund, it is able to hold administrative charges to an absolute minimum, and passes these savings on to its participants. In addition, ATP's fund is somewhat actively managed in that it has investments in sophisticated instruments like derivatives, but still keeps its overall risk profile low.

## VI. Choices for Maryland

A wide range of proposals have been made for states to respond to lack of employer-based coverage. Each approach has benefits and limitations. This section describes several and some of the issues involved in deciding among them as Maryland moves forward to ensure retirement security.

***The consensus of the Task Force is that, from these choices and using the principles described in Section I, a program can and should be developed that will improve the retirement security of 1,000,000 Marylanders and their families.***

We start by discussing some of the general approaches that have been proposed, and then some of the issues that must be considered.

### *What Kind of Retirement Plan?*

1. ***State Provides Pension Services to Private Businesses:*** The original Secure Choice proposal[48] would use the State Retirement & Pension System's administrative staff to provide a separately funded traditional defined benefit pension to employees in private businesses. In Maryland, as in California and other states, the state pension plan offers its services to local governments. (In Maryland, about 150 cities and counties participate.) Under the original model, the State would use its existing organization and personnel to provide this service to private sector firms and employees as well. The program would be designed to avoid having employers be subject to full federal regulation under ERISA. Under the proposal, all funds would be separately managed and the State's taxpayers would not have any financial responsibility for the plan. The plan could manage funds itself or rely on private investment managers. It is among the options being considered in several states.

   The benefits of this approach are that can it free the individual from the risk of outliving their funds and from having to make investment decisions. This approach is generally also the lowest cost, as risks, investments, and fees are pooled. However, it requires development of a satisfactory regulatory regime with the federal government. (See the discussion of ERISA below.)

2. ***State Facilitates or Requires Participation in Individual Accounts.*** Under this approach, employers who do not otherwise offer a retirement program would be required to auto-enroll their employees into a program of individual accounts funded by employees. The program could follow the designs of private sector employer-sponsored 401(k) plans or instead use the less-complex and less-regulated Individual Retirement Accounts (IRAs). The State could

48 National Conference on Public Employee Retirement Systems, *The Secure Choice Pension: A Way Forward for Retirement Security in the Private Sector,* September 2011 http://www.retirementsecurityforall.org/document.php?f=plan Hank Kim, NCPERS Executive Director, testified on this approach before the Maryland Senate Budget and Taxation Committee February 20, 2014

manage plan administration (as some do for their own employees' DC plans) or contract it out to a private firm. In most proposals, investments would be managed by private managers. There are many possible variations on this approach:

- An IRA-based plan with only a few basic investment choices that does not allow employer contributions[49]. The Illinois Secure Choice Savings Plan generally follows this approach, and similar plans have also been considered in West Virginia and other states.
- A more complex retirement savings plan closer in structure to a private sector 401(k) plan. These plans often include employer contributions. California's proposed plan is an example of this model.
- A state could create an exchange that would connect employers with those private sector providers willing to offer certain existing products such as a SIMPLE IRA or a payroll deduction IRA. Such a plan has yet to be introduced, but is being considered in several states. Legg Mason, a Maryland-based investment firm that has participated in and worked with the Task Force, has worked with other businesses to offer EZ-IRA[50], a payroll deduction IRA which could be implemented by Maryland directly or as an option in an exchange.

The individual account approach can be implemented with less State involvement and less federal regulation (although most proposals will require discussions with federal regulators). However, these approaches generally involve higher fees and costs. Furthermore, because the accounts are generally a fixed amount for each individual and risks are not pooled, there is a greater risk that those who live longer than average will exhaust their accounts and be left with nothing except Social Security.

### *How to make it easier & less complicated for people to get retirement plans & save?*

The most important way to achieve this is to make enrollment and saving ***automatic*** and to implement saving through ***payroll deduction***. If employees are not required first to make complex investment decisions and then to fill out multiple forms, they are far likelier both to start and to continue to save. In most proposals employees are placed in the plan, contribute a set amount (e.g., three or five percent of pay), and invest in a predetermined default set of investment types. Employees are always free to decline or to stop participating, to save more or less, or to choose alternate investments, but unless they act, they will be enrolled at the recommended levels and investments. (Employers are required to provide the payroll deduction if they don't already offer a retirement plan, but not necessarily required to make any contribution.) Both Illinois and California require automatic enrollment and payroll deduction. Oregon's commission has also recommended that the state follow these approaches in its proposed plan.

### *How to ensure professional standards of operation to protect retirees and their families?*

Several of the participants and witnesses reminded the Task Force that individuals will continue to need education about and protection of funds in any plan. The traditional standard for these

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[49] Such a plan could be designed to be a Payroll Deduction IRA which minimizes reporting requirements.

[50] The service is a payroll-deduction IRA. *http://E-ZIRA.com/*

protections is that provided under the federal law, principally the Employee Retirement Income Security Act (ERISA).

Businesses that might participate and some of the advocates for state-sponsored programs have expressed reservations about making a program subject to federal pension laws. The concern is that doing so will result in both employers and the state program being subject to the full range of ERISA fiduciary obligations, recordkeeping and disclosure requirements, and legal accountability provisions. These concerns led several states to require that their program not be subject to ERISA requirements for employee benefit plans.[51]

Other advocates continue to press for plan designs that are subject to and meet ERISA standards. They argue that such an approach would allow the program to incorporate a tested, well-understood system of procedures and protections for employees and still allow for plan designs that are acceptable to employers.

Most of those advocates support the idea of a state-sponsored "multiple employer plan" where employers within a state would contribute to a centrally managed and administered retirement savings plan created by the state. Under this approach, employers' legal responsibilities would be limited the proper withholding and forwarding of employee contributions (and, perhaps, to choosing a particular fund). The fiduciary responsibility for the administrative operation and financial management of such a plan would be the responsibility of the state or the organization authorized and delegated by the state to operate the plan. Other advocates have suggested other approaches.[52]

The US Department of Labor is responding. The current US Secretary of Labor, Thomas Perez -- a former Secretary of the Maryland Department of Labor, Licensing and Regulation -- has expressed publicly his interest in helping the states improve retirement income security for their residents and doing so in ways that preserve ERISA's protections. In addition, the FY2016 DOL budget submission included a proposal for legislation that would allow DOL to waive the application of ERISA for pilot state programs. There is also support for multiple employer plans beyond the Federal executive branch, in the US Congress (where supportive legislation has been introduced by members of both parties) and in the legal community.

As a result of all these actions, there are multiple approaches to ensure that employees' retirement funds are protected and that they remain informed about the issues affecting them.

### *What role can better public financial education play for consumers?*

Task Force members recognized that making the best decisions about saving for retirement requires financial literacy that many people simply do not possess. The Task Force believes that better financial education should be incorporated into school curricula at an early age and be available to citizens of any age. However, the Task Force also recognizes that this change will not

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51 The California Secure Choice Retirement Act, Title 21, Sec 100043 and the Illinois Secure Choice Savings Program Act, Section 95, both provide that the program cannot be implemented: "…if it is determined that the program is an employee benefit plan under the federal Employee Retirement Income Security Act."

52 Another approach that was presented involves states offering their employers a *choice* between joining an ERISA multiple employer plan (like that described above) or a non-ERISA plan.

bear fruit for decades, and so is recommending broader actions by Maryland to improve retirement saving *now*.

***How to minimize administrative & regulatory burdens on small businesses?***

The best way to minimize administrative burdens on small businesses is to *use the payroll process the businesses already have*, and limit their participation to setting up payroll deduction from their employees' pay through their current payroll systems. This is a feature of all plans thus far proposed.

Minimizing the recordkeeping and other regulatory burdens on the employer has also been recognized as essential. As a result, most proposals would require that individual *businesses do not become fiduciaries subject to the reporting and other requirements of ERISA*.

A third way to minimize burden is to recognize the special resource limitations of the smallest businesses. Some proposals would exempt businesses with fewer than 5 employees (e.g. California), others with fewer than 25 (e.g. Illinois). Some programs, such as the federal My Retirement Account ("MyRA") program or the effort being considered in West Virginia, would be voluntary for employers.

In all cases to date, employers that already offer some other form of retirement savings plan or pension to their employees would be exempt from the State plan.

***How can states make sure that taxpayers don't take on obligations for private retirements?***

*Keep Separate Funds* There are several ways to accomplish this. The primary one is to have a program whose operating costs and invested funds are financially separate from the state, as was provided in both the Illinois and California legislation. Even where state personnel operate the program, its funds would be separate from a state's other pension and retirement saving funds.

*Providing Minimum Guarantees without State Liability* The State should not provide a guarantee as to the program's financial results. If, as many advocates believe, it is desirable that a plan provide a guarantee that its returns will not be negative over some period and if such a guarantee is feasible, this can be accomplished by the plan contracting with third party financial institutions rather than the State. This could take the form of purchasing annuities or other financial instruments that are already commercially available.

* * *

The Task Force believes strongly that Maryland can and should act, both to provide greater retirement security for the 1,000,000 who currently have no plan *and* to protect Maryland's taxpayers from the costs of financially unprepared retirees in the future.

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### *Additional Information*

Additional information about the Task Force and its activities can be found at: *http://www.dllr.state.md.us/retsecurity/*