Eric Lawyer
CalSavers Retirement Savings Board
915 Capitol Mall, Suite 105
Sacramento, CA 95814

September 30, 2022

Dear Mr. Lawyer:

Thank you for submitting the standardized regulatory impact assessment (SRIA) and summary for the Amendments to the CalSavers Retirement Savings Program proposed regulations, as required in the California Code of Regulations, title 1, section (a)(1). Proposed text of the regulations were not submitted, therefore comments are based solely upon the SRIA and other publicly available information.

The proposed regulations amend current program criteria by adjusting and clarifying the definition of an eligible employer to include businesses that employ five employees, rather than more than five employees, allow businesses to register without a full calendar year of employee data if they meet the definition of an eligible employer, accelerate the deadline for newly eligible employers to December 31 of the employers' first year, as opposed to December 31 of the second year, and removal of the required data field and extension to the timeframe of the employee receiving the program information packet. The SRIA assumes these amendments will primarily impact the 30,800 newly mandated employers in 2023, of which only around 6,200 are expected to facilitate the CalSavers program for a total of 149,000 newly eligible employees. Each facilitating employer is expected to incur a compliance cost of $179 in the first year for a total cost of $1.1 million in 2023 from staff time necessary to administer the program. Ongoing costs to each employer are expected to be around $150 annually. The SRIA assumes that in the first twelve months following employer registration, newly eligible employees will make contributions only in the last nine months of the that year. At the assumed default rate of 5 percent of the average employee income ($39,252), total contributions or new savings are assumed to total nearly $83 million in 2023. As a result of the increased savings, the regulation assumes a short-term loss of consumption for participating employees, as they will contribute some portion of their income to their CalSavers account, resulting in over a $1.6 million reduction in sales and use tax revenue in California in 2023 (assuming a sales tax rate of 8.2 percent).

Finance generally concurs with the methodology, with the following exceptions. First, the SRIA currently states that the economic baseline is the environment prior to the emergency regulations amendments evaluated in this analysis. The SRIA should include a baseline description of the number and types of businesses and individuals impacted, which would also support the CalSavers Retirement Savings Board's assessment that the regulations will benefit small businesses and lower-income individuals. The proposed regulatory alternatives should then be compared to the defined baseline and include quantified cost impacts. The SRIA currently only discusses the qualitative impacts of the alternatives; however, it must also disclose the quantitative impacts of each proposed alternative.

Second, the SRIA must include comprehensive estimates of expected fiscal impacts. Although the SRIA broadly and qualitatively discusses potential impacts to other state programs that will be impacted by the proposed regulation, the SRIA states that the impacts are estimated to be "*de minimis*." However all fiscal impacts must be quantified regardless of their magnitude. Finally, the SRIA assumes that future program participation will be in line with the actual program data through the first half of 2022, and does not discuss the potential for a higher number of eligible employers to decide to facilitate the program or that a smaller number of eligible employees might choose to not opt-out of the program. Since increased participation in the program would lead to higher total contributions and a larger reduction of total sales tax revenue, the SRIA should explain why the current assumptions are the most representative or, alternatively, include a sensitivity analysis to show how impacts may vary under different rates of program participation.

These comments are intended to provide sufficient guidance outlining revisions to the impact assessment if a SRIA is required. The SRIA, a summary of Finance comments, and any responses must be included in the rulemaking file that is available for public comment. If any significant changes to the proposed regulations during the rulemaking process result in economic impacts not discussed in the SRIA, please note that the revised economic impacts must be reflected on the Standard Form 399 for the rulemaking file submittal to the Office of Administrative Law. Please let us know if you have any questions regarding our comments.

Sincerely,

Somjita Mitra

Somjita Mitra
Chief Economist

cc: Ms. Dee Dee Myers, Director, Governor's Office of Business and Economic Development
Mr. Kenneth Pogue, Director, Office of Administrative Law
Ms. Kathleen Selenski, Executive Director, CalSavers Retirement Savings Board