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Testimony on Senate Bill 615
Senate Business and Labor Committee
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Chair Beyer and Members of the Committee:

My name is Richard Schwarz. I traveled from Portland today to urge the committee's support and recommendation for passage of Senate Bill 615.

By way of background I served as Vice Chair of the Retirement Savings Task Force and participated in each and every one of its meetings, heard all the presentations and received and read the submissions of those appearing before the Task Force. I am retired from AFT-Oregon where I served in the position Executive Director for 24 years. That role included all the employer tasks and responsibilities of any private sector small business, whether for profit or tax-exempt, including personnel, payroll and benefit plans for a payroll. There I also had the experience of establishing and managing a Simplified Employee Pension Plan (SEP), and applying for and managing an individual 401(k) plan for employees.

SB 615 takes the crisis in retirement savings head-on establishing a critical mechanism for Oregonians to help themselves toward securing a degree of financial safety in their retirement. It is abundantly clear to me that the state of retirement savings in Oregon is a crisis that grows worse year-by-year. Without serious attention to the trends, Oregon will find itself straining to support the needs of seniors and retirees as more and more retire without sufficient resources to support themselves.

I want to thank the sponsors of SB 615 for their attention to the Task Force[1] recommendations in shaping the contours of the legislation. I believe this bill embodies the recommendations to address a crisis in Oregon that can no longer be ignored.

The Task Force heard nine different presentations involving some 13 different speakers; and 21 additional speakers with testimony and comment, some more than once, representing 16 different organizations institutions and agencies and hundreds of pages of resources on the range of issues influencing retirement savings and Oregon circumstances on issues across the spectrum of questions presented in the charge to the Task Force.[2]

What SB 615 does provide is *access*: employee access to participation and for contribution toward their own retirement security where there is no workplace retirement savings program available; or where they are not eligible to participate in an existing workplace program. Its

[1] The task force was created by House Bill 3436 (2013) and delivered its report and recommendations to the Legislature in September, 2014.

[2] The Task Force report includes more than 50 sources, including websites with information about retirement, retirement savings, products, programs and explanations, from government, industry and private organization publications and websites, as well as three pages of the key mutual fund terms for navigating the current retirement savings environment. These underscore the complexities faced by small employers in addressing retirement savings programs for their employees.

portability provisions are a bridge across the many jobs research says workers will have over an entire work life, providing continuity in retirement savings. Automatic enrollment, with an opt-out, a default contribution rate and escalation, with an opt-out, work to overcome behavioral momentum that inhibits retirement planning and participation.

The days of the common employer-sponsored defined benefit plan are long gone. The last 25 years alone have seen a continuing steep decline in the availability of these plans, down from 35 percent of employees covered by such plans in 1990 to less than 20 percent by 2011; and of those less than one percent are available in employers of less than 50 employees. We now live in a 401(k) world, where the term is used to describe collectively the host of options available and where nearly half of Oregonians lack access to a plan through the workplace. That world includes more than 7,000 mutual funds of all kinds since the creation of the 401(k) and a growth from less than 400 funds before.

SB 615 creates a framework for addressing the many factors affecting retirement savings. These include employer size; employment status (full-time versus part-time); gender, race and ethnicity; income; and age. It embodies conditions behavioral economics describes as necessary for increasing retirement savings. A plan available to any employee without access to a retirement savings plan at the workplace, with the attributes already noted, overcomes these influences.

Opponents of this bill argue that it fails to address the root cause of lack of retirement savings, that being a lack of money. That is a desperate statement, a distraction and certainly not a universal truth. More disturbingly, they argue cavalierly that anyone can walk into any bank or credit union and open an IRA in 15 minutes. That ignores the complexities in decisions an individual faces in such an act and all the research in behavioral economics about why it isn't the case.

It obscures some of the most basic stumbling blocks. Initial deposits to IRAs can be $1,000 to as $3,000. Even an online service such as e-Trade requires $600. Subsequent deposits can be in whole increments of from $100 to $500 or more. Then there are questions about risk tolerance. Does the account opener want a large, medium or small cap fund; short, medium or long term bond fund; blended, or total return fund; an index fund; or maybe a targeted fund? Or maybe just a simple CD. Then there's investment objective and years 'til retirement. Perhaps there's a declining penalty fee for closing the fund. There investment classes with funds. There are load, no-load, back-end load funds. There may be charges such as deferred sales. There may be distribution. There certainly will be management and operating expenses. That's for the individual.

The small enterprise employer, whether profit or non-profit, in deciding whether to establish a plan who must choose from among regular or Roth 403(b), SIMPLE IRA, SEP, Simple 401(k), regular or Roth 401(K), profit sharing (which doesn't work in a non-profit), Money purchase or defined benefit plan. I once inquired about developing a defined benefit plan for our employees and was told by the actuary, after he asked what our total payroll was, that the cost of an actuarial analysis would exceed my entire operating budget for that year. A SEP, for example, has a minimal application process, but requires all contribution from the employer for each employee and none from the employee. SIMPLE and 401(k) plans, in addition to more significant paperwork, requires and employer contribution or match. These run counter to the common concerns we heard about resources, time and expertise in establishing and managing the plan as well as the financial requirements. While there now are individual 401(k) plans contribution from pre-tax payroll to consider, these require significant time and expertise in establishing as I experienced with a two-inch binder of necessary questions and answers to meet legal requires and designation of a trustee even though no funds were coming from the employer.

A small employer may have to rely on a single individual navigate all this and to manage administrative, payroll, and employment law compliance. A complicated evaluation and decision process for small business owners confronted by the wide range of plans, varying characteristics and applicability of different plans, the various and complex IRS rules, and ERISA inhibit establishing plans. This range of variables can reach a serious cost in time and money, especially if it becomes necessary to hire expertise in these areas.

SB 615 accommodates all these concerns. It does not impose a complex regulatory framework on employers. It does not create a retirement funding obligation on employers or the state. It does not impose contribution requirements or recurring costs on employers. It does not intervene in any existing workplace retirement programs offered by employers. It does not place any requirements on existing employer retirement savings programs.

Opponents also argue that the bill's provisions place the State in competition with the financial industry. It does not. If the industry were serving the segment of the workforce this bill aims to help, there would be no need for it. The range of information I found on these matters, and as reflected in the Task Force source material, simply codifies those very conditions that the Task Force learned contribute to current confusion, reluctance or resistance and inhibit some employers in providing retirement savings programs for employees.

Opponents also argue that the bill bypass other options that should be considered and are less costly. Yet, not one has been identified that answers all of the reasons identified in the report that inhibit employers from adopting and employees from engaging in one. In the face of all the options the industry says are available, only 55 percent of Oregonians have access to a pension or tax-deferred retirement plan through their employer. The products for these employers include features that prevent them from engaging in the first place.

Opponents also argue SB 615 runs counter to ERISA. The Task Force heard from representative of the Department of Labor who made one thing very clear. It would not provide speculative answers to "what if" questions. It would not offer an opinion on plan characteristics unless and until it had a specific plan in front of it. This bill describes general plan features, not a specific plan. That will be left to the Board. Even so, under SB 615 conflict with ERISA is to be avoided will derail a conflicting plan.

That the program in SB 615 is needed is reflected in the makeup of the Oregon workforce. Nearly a fourth is employed in small businesses with less than 20 employees. Of the total number of businesses, some 87 percent employ less than 20 employees, including 60 percent with less than five employees. Also, Oregon tax-exempt organizations are a significant portion of the small business employment sector. For Oregon, less than 30 percent of businesses with less than 25 employees provide access to an employer-sponsored plan.

The alternative of doing nothing, or something less than this will only aggravate an already bad situation. Current trends highlighted in the Task Force report are that:

> "One out of every 10 Oregonians aged 65 or older lives in poverty; one in six Oregonians aged 45 to 65 have less than $5,000 in retirement savings; the annual income of half of those 65 and older is less than $18,500; and without Social Security (the average monthly Social Security benefit is $1,256), the incomes of some 41 percent of those aged 65 or older would be below the poverty level. 6 Indeed, '[t]hree out of five families headed by a person 65 or older have no money in retirement savings accounts.'" (footnote omitted) *Report and Recommendations of the Oregon Retirement Savings Task Force,* at 1. (September 2014)

HB 615 is not a switch that will automatically re-set these circumstances. Passage will not create financial security overnight for those without adequate resources. As I learned in the Task Force, it may take a generation before the current path can be fully turned toward a greater measure of retirement security. But, doing nothing will guarantee current trends reach further into the future and increase the population without adequate retirement resources. They will certainly turn to the state for services to meet their needs.

This bill can help Oregonians help themselves. I urge your support for SB 615.

Thank you for the opportunity to speak to you today and I will be pleased to answer any questions you may have.