February 8, 2021

RE: Joint Opposition to SB 527

Members of the Senate Finance Committee:

Today we write to urge you to vote no on SB 527. The proposal's goal—helping more Oklahomans save for retirement—is laudable. After all, Oklahomans, like all Americans, are living longer and many are ill-prepared for retirements that could last 20 years or longer. However, the bill saddles employers with **new mandates and ERISA liabilities** during an economic recession that eclipses Great Depression era levels.

Fortunately, the landscape for increasing small employer retirement plan coverage is much brighter in 2021. The passage of the **Setting Every Community Up for Retirement Enhancement** (**SECURE) Act** in December 2019 provides market-based incentives for small employers in lieu of a state-run plan. Through the SECURE Act, more than 700,000 small business workers nationwide will start saving for retirement, including thousands in Oklahoma through private insurance carriers that specialize in such plans. The new law is expected to dramatically increase small employer adoption of retirement plans and worker participation. Significant **tax credits** are now available to employers who start a plan. And **new multiple employer plan (MEP) rules** allow diverse employers of all sizes to join together in robust and cost-effective retirement plans through their local association or chamber of commerce. These plans are rapidly coming to the market and our members are among a growing number of major private sector plan providers committed to expanding small employer retirement plan overage.

SB 527 creates serious **conflicts with federal ERISA law**, which governs all employer-sponsored retirement plans. We believe ERISA will apply to the plan in SB 527**.** The DOL issued a special safe harbor for state-run secure choice plans in 2016. Congress then ***permanently repealed the safe harbor*** in 2017. Thus, there is no safe harbor for a state-run auto-enrollment retirement plan. The plan would subject employers to ERISA liabilities and the plan would be pre-empted by ERISA. This situation is unworkable.

It's important for elected officials to find ways to help more workers access retirement plans. However, SB 527 is not the answer. Plans under way in other states are proving to be risky for workers and a financial burden for taxpayers. And this COVID crisis is no time to impose a **new mandate on employers to reduce worker wages by 3%**.

Similar plans in California and Oregon are under enrollment but not without significant expense. Oregon has had some success getting its government-run retirement program off the ground, but enrollment is lagging projections while opt-outs and withdrawals are higher than forecast. And state taxpayers have already spent more than $5 million of an *estimated $23 million in startup costs*. The program created by SB 527, which is strikingly similar to the aforementioned states, would likely face similar expenses as the bill calls for years of **deficit state spending to be backfilled by Oklahoma taxpayer dollars**. At a time when economic pressures persist in Oklahoma, policymakers should avoid Washington D.C. tactics of deficit spending to pay for future promises. These costs and risks should not be taken lightly. To be sure, they are key reasons why **37 other states have rejected similar government-run proposals.**

For these reasons, we urge you not to advance SB 527.

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