



**STATEMENT OF DAVID CERTNER  
ON BEHALF OF AARP**

**BEFORE THE US SENATE COMMITTEE ON HEALTH,  
EDUCATION, LABOR AND PENSIONS**

**SUBCOMMITTEE ON PRIMARY HEALTH AND  
RETIREMENT SECURITY**

**ON**

**RETIREMENT PLAN OPTIONS FOR SMALL BUSINESSES**

**October 28, 2015**

**Washington, DC 20015**

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Chairman Enzi, Ranking Member Sanders, and other members of the Subcommittee, thank you for inviting me to speak to you today on behalf of AARP.

AARP is the nation's largest nonprofit nonpartisan organization representing the interests of almost 38 million Americans age 50 and older. We share many of the same concerns as other speakers here today on the need to expand pension coverage – particularly for small employers -- and we have been working for decades, at both the federal and state levels, to improve and expand coverage under the private retirement system.

It goes without saying that we need a strong and adequate retirement system for when we no longer work and need sufficient income to live in retirement. Social Security provides a strong base of income, but Social Security was never intended to be the sole source of retirement income.

According to the Center for Retirement Research, access to a workplace retirement plan is second only to having a job as the most important factor in helping families build retirement savings in addition to Social Security. However, only about half of the workforce has access to a retirement plan at work, leaving approximately 55 million Americans without the ability to save for retirement at work.

We know that people will take advantage of the opportunity to save for retirement at work. Having access to a workplace retirement plan makes workers 15 times more likely to save. When employees are offered a plan, about 70% voluntarily participate. Even better, when workers are automatically enrolled in a plan, with the option to opt out, participation jumps to about 90%.

For these reasons, AARP has long supported encouraging or requiring employer sponsorship of retirement savings vehicles. We have supported legislative proposals for Automatic Individual Retirement Accounts (IRAs) for employers that do not offer any retirement plan. We also have supported tax credits to encourage small employers to set up plans, including for administrative costs and employer contributions. And we have supported credits to help lower income workers save, such as the Savers credit. We also believe that proposals such as the President's MyRA initiative and opening retirement plans to part-time workers are worthy of legislative support.

The problem is not that there are not enough types of retirement plans. If anything, the many types of plans – including defined benefit, 401(k), SEPs, Simples, payroll deduction IRAs, etc -- can make it confusing and lead to inertia among employers.

The real challenge is to make it as easy, and as automatic, for employers and employees to have retirement plan coverage. Small employers in particular are focused on keeping their doors open; they do not have human resource departments or in-house plan experts to call on. It is unreasonable to ask over five million small employers to become retirement experts.

To effectively tackle financial insecurity in retirement, we should continue to learn from the growing body of behavioral economics research, including the demonstrated power of automatic

plan designs, such as automatic enrollment and escalation. We have also learned the importance of professionally managed, diversified, and low cost investment portfolios to overcome our personal biases, including tendencies to buy high and sell low, failure to rebalance and lack of portfolio diversification, and even the inability to make decisions if presented with too many choices.

AARP continues to work at both the national and state level to make it easier to have retirement coverage for employers and employees. While we believe there are ongoing opportunities at the national level, we are also engaging interested state and local leaders to consider what can be done at the state level.

Increasingly, states are realizing that if retired individuals do not have adequate income, they are likely to be a burden on state resources such as housing, food, and medical care. For example, according to a recent Utah study, the total cost to taxpayers for new retirees in that state will top \$3.7 billion over the next 15 years. The study also found that 18% of retirees in the next 15 years will retire with more debt than savings. Failure to address the retirement savings shortfall will translate into more costs for taxpayers.

Several states have already enacted statewide legislative reforms, including Illinois, Oregon and Washington. Massachusetts passed a law providing a plan for non-profit organizations. California passed legislation to create a program that is under development, with a vote on a finalized plan in 2016. Utah and Virginia passed study bills, with overwhelming bipartisan support, to examine what their state legislatures can do to avert the retirement crisis. Minnesota and Connecticut have both appropriated funds to conduct feasibility studies as a precursor to setting up state facilitated savings plans. Over a dozen other states are actively considering similar types of laws or feasibility studies to determine how to do so.

While AARP has strongly supported these state efforts, we support and are committed to working at all levels on many different models to expand coverage. At the federal level, we are open to and willing to work with Congress and other stakeholders on developing what is being called an open multiple employer pension (MEP) model. In many ways open MEPs have many elements in common with ongoing state work, and we believe both efforts have merit and can complement each other. With both efforts, we also need to make sure that the model works not only for individuals saving for retirement, but for employers, private providers and government.

For consumers, the key is to make sure there is a licensed and fully qualified entity that is acting in their interest to offer them high performing low cost investment options. Several models have been proposed, and we urge Congress to adopt the best features of these proposals. For example, some have proposed empowering the Department of Labor (DoL) to establish criteria for these entities or to develop a model MEP. Others have not delegated design authority to DOL, but rather proposed that entities be required to register with DOL and undertake some or all of their activities as fiduciaries – i.e., legally required to act prudently and solely on behalf of covered workers.

For small employers, we must keep it simple. Congress should avoid burdening employers with too many requirements and not expect them to become retirement experts. Employers who want

to offer and design their own plans and legally oversee them should be able to do so. But, for employers who do not wish to take on the responsibility of administering a retirement plan, we should also provide automated options in which employers -- or their payroll service providers -- simply transmit payroll contributions to a designated legally responsible entity.

We believe the open MEP models under consideration can be made to work with the right development and bipartisan stakeholder input. We stand ready to work with the Committee to help move a proposal forward. AARP believes any proposal in this area should include specific essential features and protections to ensure all parties are fairly protected:

- 1) Employer and multiple employer plan duties should be clear** -- Employers or the MEP must be under a duty to timely transmit payroll contributions, distribute materials, prudently select investments and other providers, and periodically monitor and review provider performance. For example, in the health plan area, we have seen problems where an employer fails to timely transmit contributions. In order to avoid the issues that arose with failed employer contributions to multiple employer welfare arrangements (MEWAs), clear rules are needed to specify the employer and plan duties, including when and how the MEP and DOL need to act if parties do not act as required.

Employers also should continue to comply with ERISA's requirements for fair participation of all qualified employees. Congress should decide if all workers will be vested immediately in any employer contributions -- which AARP believes is the right standard to maximize retirement savings -- or whether employers can impose individual employer vesting requirements.

- 2) Multiple employer plans should meet minimum qualification requirements** -- The Committee or DOL should establish the licensing, bonding, reserve, and insurance requirements that plans must meet. We also believe the MEP should agree to act in a fiduciary capacity. All monies should be held in trust and timely transmitted for investment and to pay benefits to participants. Plans should prudently select and monitor all investment options -- either through a transparent internal process or an external competition for appropriate retirement investments. The potential advantage of MEPs is the ability to lower costs for employers and participants through pooled size and bargaining power. However, Congress should establish the framework to ensure that participants benefit from the economies of scale derived from pooled investments and group pricing, comparable to similar groups in the marketplace.
- 3) Plans should include consumer standards and safeguards** -- Consumers need access to understandable information either provided by the MEP or the participating employer. Plans need trained staff to handle consumer questions and grievances, with the consumer right to either file a complaint with DOL or seek court redress.

There should be clear rules as to which entity, the employer or the MEP, will file plan documents and financial statements with participants and necessary government agencies. Participants and the public have a right to know all employer members of a MEP in order

to track their benefit eligibility. The Department of Labor should have clear authority to audit any MEP and ensure it is in compliance with all legal requirements.

In addition to the above features, we also urge the Committee to consider encouraging retirement plans to pay benefits in the form of lifetime income so that retirees are protected from outliving their retirement savings. Workers covered by any retirement plan should also be encouraged to retain or roll-over their savings to another retirement vehicle when they change jobs or retire. Spousal consent features will also help to enhance women's retirement security.

Most of these consumer protections currently exist in ERISA, but Congress needs to specify which functions remains the responsibility of the small employer and which will be carried out by the MEP. The easier we make it for small employers, the more likely they are to use a MEP or similar option. In addition, ensuring that MEPs are required to act in the best interests of workers and employers will help improve overall retirement security.

Meaningfully expanding retirement security, particularly for employees of small employers, remains a critical challenge for the Congress. We believe there are many promising ideas worthy of consideration. We look forward to working with the committee on the ideas discussed today and other proposals to expand retirement coverage and adequacy to the tens of millions of Americans who need access to workplace retirement savings vehicles.

Thank you for this opportunity to share AARP's views.