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Transcriber's Office

Nebraska Retirement Systems Committee  
January 27, 2017

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[LB79]

The Committee on Nebraska Retirement Systems met at 12:00 p.m. on Friday, January 27, 2017, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB79. Senators present: Mark Kolterman, Chairperson; Brett Lindstrom, Vice Chairperson; Mike Groene; and John Stinner. Senators absent: Kate Bolz and Rick Kolowski.

SENATOR KOLTERMAN: First of all, welcome, all of you, to the Nebraska Retirement Systems Committee hearing. My name is Senator Mark Kolterman. I'm from Seward and represent the 24th District. The committee members are: to my left, Vice Chair Senator Brett Lindstrom from Omaha; to my right at the present time, Senator John Stinner from Gering. We're expecting Mike Groene or Kate Bolz to show up. Senator Kolowski has been excused. My committee counsel, legal counsel, is Kate Allen, to my immediate left. My committee clerk is Katie Quintero. And we have Bobby here who's going to be our page today. We're here to hear testimony on LB79. The committee will take up the bills in the order posted, which is LB79. You are part of the legislative process today so this is an opportunity to express your position on the proposed legislation before us today. To better facilitate today's proceedings, I ask that you abide by the following procedures. Please turn off or silence your cell phones. Those wishing to testify should come to the front of the room and be ready to testify as soon as the previous person is finished. We will start with proponent testimony, then move to opponent, and finally neutral testimony. Please complete a blue sign-in sheet so it's ready to hand to the clerk before you testify. Please spell your name, state your name before you testify. Be concise. And if somebody else has already spoken on your issue, please don't waste a lot of time. If you have handouts we need eight copies. If you don't wish to testify and give written testimony that's fine as well. When we do get a quorum, we will use the lights, not that we want to limit you, but we're going to experiment a little because we normally don't use lights and we've got some big hearings coming up that we feel like we need to be ready to go. So you're the guinea pigs today, other than you, Senator. You won't get the lights. With that, got all the details out of the way. Now we wait for a few minutes for a senator to appear.

EASE

SENATOR KOLTERMAN: Thank you, Senator Groene. We appreciate...

SENATOR GROENE: I've got to leave in ten minutes.

SENATOR KOLTERMAN: That's all right. We have a quorum to start the hearing. This is Senator Groene to my far left. He's from North Platte, Nebraska. So with that, Senator Blood, you're eligible to open on your bill, LB79.

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SENATOR BLOOD: Good afternoon, Chairman Kolterman and members of the Retirement Committee. My name is Senator Carol Blood, C-a-r-o-l B-l-o-o-d, and I represent the good people of District 3 in Sarpy County, Nebraska's fastest growing county. And I thank you for holding the hearing on LB79 today. As we address the long-term financial concerns of Nebraska's economy and the average Nebraskan's finances, there's a hurdle that must be addressed. That issue is that the average American household struggles to prepare for retirement. Recent studies show that 70 percent of the workers that are employed by businesses that have less than 100 employees do not offer any kind of pension or retirement plan. There's very little doubt that we need to find a solution for the working class Nebraskans so that when they reach retirement age they will have some kind of plan that they can lean on. Additionally, this is one of the many long-term solutions that we need here in Nebraska to address...we want to protect state coffers in the future. A struggling retirement sector without disposable income creates a burden to the state either through the lack of potential income for our coffers to providing services for those who can no longer provide for themselves because they couldn't participate in an effective retirement plan. That is why I introduced LB79 which would set up a small business retirement marketplace where businesses with less than 100 workers and their employees, nonprofits, and the self-employed would be able to choose from several different retirement plans. This marketplace is based on a model that's been very successful in Washington State that was implemented a few years ago that was the culmination of public and private entities coming together in order to try and find the best way to close the retirement savings gap. And I would like to point out on that note that several years ago some of you will remember that there was an interim study done by Senator Nordquist. And one of the reasons it kind of got stuck where it was at was that it didn't include a public-private partnership. It put the entire burden on the state. This marketplace would be set up and managed by the State Treasurer's Office who would work with private entities in the state in order to offer a retirement option for those employees who might otherwise feel they have no options for their future at all. This would be entirely voluntary and would not require any companies or employees to enroll unless they felt it was in their own best interest. Unfortunately, after talking to the Treasurer's Office, it appears they feel as though setting up the marketplace in the fashion laid out in this bill is going to cost the state a substantial amount of money. While I believe this retirement marketplace would eventually be able to pay for itself, I understand that a fiscal note like this is basically a death sentence for my bill. And because of that, I'm asking that the Retirement Committee IPP LB79 with the understanding that I will be looking hard at this issue over the next year and would ask that the committee look at doing an interim study on the need for a system like this over the summer. I do plan to bring another bill in the future that will help Nebraskans who badly need a retirement option. I will be working to find a way to lower the rather large fiscal note that I feel has weighted down this exceptional bill today. And I appreciate the committee's time today and attention to this issue and my bill and would certainly be happy to answer any questions. But again, I'm asking the committee to indefinitely postpone LB79. [LB79]

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SENATOR KOLTERMAN: Thank you, Senator Blood. Any questions? If not, I do have a question. [LB79]

SENATOR BLOOD: Yes, sir. [LB79]

SENATOR KOLTERMAN: Are you bringing this for any particular organization or anybody? Is this just something that you thought was important yourself? [LB79]

SENATOR BLOOD: No...as I went door to door during my campaign the one thing that I did diligently was take notes. And in fact if you look at the 12 bills that I've brought forward, the vast majority of them are from speaking with constituents or city or county people during the campaign. And what I saw was there are a lot of families taking in seniors, especially on the Papillion side of my district because their parents were either self-employed or worked for a small business which we have so many of in Nebraska. And they had nothing to fall back on because it just takes one major incident in your life, be it health or an accident, to totally blow away your savings. And so I started doing research and that's how I found out about Jeremy Nordquist's interim study and I started looking at why his was dead in the water. And I felt, and this was just my interpretation after reading through all the information because there was obviously cause in his interim study as well that said the same thing that my research did, is that this is needed. But it didn't include the private sector. It took jobs away from the private sector. And I think that as we move forward not with just this bill but other bills, we're going to have to find a lot of ways to do that public-private thing to save money in our coffers at the state level. So nope, nobody gave it to me--just me, myself, and I. [LB79]

SENATOR KOLTERMAN: Okay. [LB79]

SENATOR BLOOD: And the constituents of District 3. [LB79]

SENATOR KOLTERMAN: And I believe I've held out that I would be glad to listen to you and sit down and try and figure out some ways as well. But I appreciate you being candid and recommending that we IPP the bill then come back with some studies. [LB79]

SENATOR BLOOD: It's my pleasure. [LB79]

SENATOR KOLTERMAN: So with that, thank you. I would open it up to those in support of the bill. [LB79]

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MARK INTERMILL: (Exhibit 1) Good afternoon, Senator Kolterman and members of the committee. My name is Mark Intermill, M-a-r-k I-n-t-e-r-m-i-l-l, and I'm here today on behalf of AARP. And I concur with Senator Blood. We do believe that we need a program like this in Nebraska, but I recognize that due to the cost that it will take at this time that now might not be the time to pursue this particular option. I do agree also that we need to do some sort of a study in the interim to try to identify what the best option is for addressing what I have outlined is the retirement savings crisis that we have in Nebraska and the United States. I did take the liberty to list a couple of issues that I think could be covered in an interim study. The first four are kind of just a environmental scan of what exists in terms of retirement savings in the state at this point but also, beyond that, what are some of the issues that need to be addressed as we consider what sort of program would work best for Nebraska. So while I was excited to see this bill originally, I do understand that there is a cost associated with it and we are in a revenue crisis and accept that now is probably not the time to move forward but would encourage the committee to continue to consider how we might best meet the retirement needs of Nebraskans. [LB79]

SENATOR KOLTERMAN: Thank you, Mr. Intermill. Any questions? [LB79]

SENATOR LINDSTROM: I just have a quick question. Why couldn't an individual or small business just go to a local financial services provider and open up something like this? [LB79]

MARK INTERMILL: Yeah, there is that. I think what we have found as we've looked at what are successful retirement savings programs and whether or not as successful is the idea of an automatic deduction which I think I would, even if this bill had been considered, that would have been something that I would have encouraged, that there would have been an auto-enroll with an option to opt-out of contributing to a retirement plan. Those types of plans are the ones that are most successful in helping people to save for retirement. So I think that would be the distinction that I would see in this type of an employment-related or job-related type of retirement plan as opposed to a person just going to the existing marketplace and finding something. I think what we're finding is that people are not doing that. [LB79]

SENATOR LINDSTROM: So the basic...well, not to put words in your mouth, but they are...the individual would be, I don't want to use the word "forced," but the money would go in. They would have the option to opt out. I guess I still don't understand why someone, if they just wanted to opt out, you just wouldn't open up an account. You wouldn't need to if you didn't want to participate. I mean I understand you're...basically you're saying that the state should be involved in making people retire...have a retirement savings account and I guess I don't understand why we would want to do that. [LB79]

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MARK INTERMILL: We wouldn't be forcing them to. We would be...and if we did go with an auto-enrollment option, which, again, I would...I would highly recommend, it would...the person doesn't have to. They can either...this is kind of a behavioral economics issue of what is the path of least resistance. And in this case the path of least resistance would be to enroll you know in a retirement account. The person would proactively need to opt out of that. They would have that opportunity and that would be explained to them. There's no forced contribution to a retirement plan but just what the research continues to find is that the most successful programs have that auto enrollment that facilitate a person getting into a retirement savings plan. And those are the...you know, the earlier we can get people to do that, the better off I think we'll all be. [LB79]

SENATOR LINDSTROM: And maybe not a question so much but more maybe a statement, say, for example, if this person enrolls in this plan and they have the ability to put away, say, 4 percent for 12 months and then somehow they have an incident in the family and they lose...they're not able to anymore and all of a sudden have to pull back. Are they able to then do that? Can they say I'm going to contribute zero this month, come back in the next month, and then many increase it back 2 percent, 3 percent, 4 percent? [LB79]

MARK INTERMILL: Yeah, absolutely. There's no enforced savings here. [LB79]

SENATOR LINDSTROM: And then in the...I noticed in here there was basically two fund options. There was the balanced fund and the target date fund--obviously a little bit more conservative on the risk spectrum. Is that more just to not allow folks to take more risk and, say, if I'm a younger person that wants to participate in here and I have a longer time horizon, I'm obviously going to pick a target date. But typically those are fairly conservative, even the most aggressive are pretty conservative. Is that why, just so people aren't taking too much risk inside of the funds? [LB79]

MARK INTERMILL: I think that Senator Blood would probably be the better person to answer that question. [LB79]

SENATOR LINDSTROM: I was just curious. I noticed that there was language in there specifying what type of funds (inaudible). Thank you very much. [LB79]

SENATOR KOLTERMAN: Any other questions? Thank you. Those in support. Welcome. [LB79]

JORDAN RASMUSSEN: (Exhibit 2) Good afternoon. Good afternoon, Senator Kolterman and members of the committee. My name is Jordan Rasmussen, J-o-r-d-a-n R-a-s-m-u-s-s-e-n, and I

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am here on behalf of the Center for Rural Affairs. While I understand the need for postponement, I would like to express our support of such a bill or the consideration as an interim study. The Center for Rural Affairs supports the development of the small business retirement marketplaces as proposed. Facing the impending retirement crisis of the boomer generation, the small business retirement marketplace offers a proactive solution for small business employees who remain in the work force without a retirement plan. This plan serves as an endorsement of Nebraska's small business community by providing a recruitment and retention tool that often remains out of reach for small employers. It should also be noted, beyond Washington State, a similar plan has been adopted in eight other states. It's estimated that 70 percent of employees opt into an offered retirement plan when it's offered by their employer, yet more than 45 percent of Nebraska's work force in the private sector who have...simply do not have an employment...a plan offered by their employer. Moreover, families of working age that do have a retirement savings, the median amount in their account is \$3,000 and it only grows to \$12,000 when they are approaching retirement. This demonstrates a need for the discussion of retirement planning more proactively. Also, access to retirement planning savings would allow residents to a greater ability to secure health services and coverage beyond just what's available through Social Security and other state-funded and federal programs. It gives elders a choice and the ability to remain in their homes or adapt their homes or, when home is no longer an option, they can evaluate their other choices a little bit more freely than under just funding with Social Security. This bill is also important for the small business community of Nebraska as that community accounts for 97 percent of the employers in the state. For many rural small communities, this underpin...this small business community underpins their vitality by attracting residents and keeping the community on the map. These small businesses have been significant drivers of Nebraska economic development when attempts to bring the industry and larger employers and have stalled in accounting for only a portion of the small business sector. Nebraska's micro business industry accounts for 145,000 jobs in the state. This is 86 percent of all businesses in the state. Of these, 74 percent report the micro businesses as their sole source of household income. They employ members of the community as well. Of 24 percent of Nebraska...over 24 percent of Nebraskans are employed by a micro business. As further consideration is given to the creation of small business retirement marketplace for the state, we do consider...we do recommend that further promotion...that use this as a promotional tool to encourage the broader conversation of retirement planning and not simply letting it go by the wayside until retirement is near. One way to encourage that would be to engage individuals and groups that are a part of the small business community. At the Center, we have our rural enterprise assistance program which engages numerous businesses across the state and helps them become small business owners. It gives them the tools and, at times, the funding to get involved. And so this would be another asset for them as well. So in conclusion, I just thank you for your time and as you go forward as we continue to...we hope that you continue to consider this for Nebraskans, our small business community, and to the state as a whole. Thank you. [LB79]

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SENATOR KOLTERMAN: And thank you very much, Ms. Rasmussen. Any questions? Thank you. [LB79]

JORDAN RASMUSSEN: Thank you. [LB79]

SENATOR KOLTERMAN: Additional proponents. Opponents. Welcome, Senator Stenberg...or Senator. You were a senator. [LB79]

DON STENBERG: That was a... [LB79]

SENATOR KOLTERMAN: Yeah, a few years ago. [LB79]

DON STENBERG: I guess that would be a promotion. (Laughter) [LB79]

SENATOR KOLTERMAN: Well, I don't know. You make a lot more than we do now. (Laughter) [LB79]

DON STENBERG: Well, Mr. Chairman, members of the committee, for the record, my name is Don Stenberg, D-o-n S-t-e-n-b-e-r-g, Nebraska State Treasurer. It's certainly true that many people are not saving enough money for their own retirement. And it's also true that many small businesses do not have retirement plans for their employees. And in many cases, small businesses simply can't afford to have retirement plans. Federal law including ERISA, the IRS, and securities laws and regulations make it expensive to create and operate an employer-based plan. And this bill and this Legislature cannot change any of those federal laws that make private small business plans expensive to create and administer. LB79 creates an on-line marketplace for retirement plans that would, in some ways, similar to the Obamacare marketplace which the federal government spent over \$100 million creating. Our fiscal note is much more modest than that. We've estimated the start-up costs for the first year for the Treasurer's Office at between \$585,000 and \$685,000 in General Funds. That includes funds for staff in the amount of \$291,000 and that's because of the complexity of the federal laws that the bill would require us to work with on the plan. Basically there's three staff persons: an attorney who is knowledgeable on ERISA; an administrator who has some securities law background, possibly a securities license; and then one administrative assistant. The cost we estimate of creating the RFP that the bill calls for, evaluating the responses and entering into a contract for an outside contractor as the bill requires, we estimate the cost of that process to be \$80,000. And our best guess, that the RFP would come back with a proposal between \$200,000 and \$300,000 to create the Web site and the protocols for start-up expenses. I'd also note that on page 5, beginning on line 27, the bill requires the Treasurer to ensure the investment options offered are sufficient to meet the needs of

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investors with various levels of risk tolerance and ages. If this concept is...we recommend that that duty be assigned to the Nebraska Investment Council. They have the staff with the expertise to do that. Treasurer's Office does not. And without going into the details of the bill, because of what we are required to do, make sure all the laws, federal laws governing and retirement plans are required, that accounts for a quite a large share of the fiscal note that we've provided. I guess my one last comment is if the committee does do an interim study, and I certainly have no objection to that, I would encourage you to think a little more broadly at the beginning because it's very true that people aren't saving enough for their retirement. They're also not saving enough for their children's college education. Many statistics show people don't even have...a lot of people don't have enough savings if their...have a major cost for their automobile or the furnace in the home goes out. They don't have savings to cover that and have to borrow money. And so I really think you need to kind of look at why all of that's happening because I think it's all part of the same package. And I think it's a, what we call, financial literacy issue and I've been working on that in the State Treasurer's Office through the College Savings Plan. We support a program that we've made available at no cost to the high schools across the state for an on-line financial literacy course for high school students and we've expanded that to grade school this year. Over a hundred Nebraska high schools participated in that last year. We reached between 6,000 and 7,000 students. And we measure knowledge before the course and after the course. And the knowledge gained by high school students as a result of that program has been more than 60 percent. So we're trying to reach the high school students, are reaching high school students with financial literacy. How you reach the adult population I'll leave to the wisdom of this committee. But we're doing what we can with high school, and this year the grade school level, to improve financial literacy so in the future we'll have people who think about this and plan for their own retirement and college for their kids. [LB79]

SENATOR KOLTERMAN: Okay. Thank you very much for your testimony. [LB79]

DON STENBERG: I'll take any questions. [LB79]

SENATOR KOLTERMAN: Any questions? [LB79]

SENATOR LINDSTROM: I'll just ask one. I know we're IPPing this I just...I was reading through here quick. As far as the contributions limits, would this be similar to a SIMPLE or a SEP? Or does it specify the contribution limits? [LB79]

DON STENBERG: I don't recall any contribution limit. There's a limit on what a participating financial firm that's listed on the marketplace could charge, and that's 100 basis points or 1 percent of the assets. Washington is just in the process of implement...state of Washington, in implementing their program. And they told my deputy who had a phone conversation with their

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administrator that that 100 basis points is limiting interest by financial firms in participating in the Washington State marketplace. There's a provision in the bill, too, that would allow the State Treasurer to essentially charge a fee for financial firms to participate on the marketplace. The state of Washington has that. They are not charging that because they believe at the very early stages of start-up that financial firms would not be willing to pay until they see whether the marketplace works and is effective. [LB79]

SENATOR LINDSTROM: Okay. Yeah, I would say that a contribution limit would probably be, if one does not exist, would probably be prudent when competing with the private sector as far as what...you know, if it's a SEP, if it's a SIMPLE, or a traditional IRA. Whatever it might be, I think that would probably need to be included if it's not. And I apologize if I missed it. Just more of a clarification. [LB79]

SENATOR KOLTERMAN: It's not in there. [LB79]

SENATOR LINDSTROM: Okay. Thank you. [LB79]

SENATOR KOLTERMAN: Any other questions? Thank you again for coming. Appreciate it. [LB79]

DON STENBERG: Thank you. You bet. [LB79]

SENATOR KOLTERMAN: And the work you've done on it already. Anybody else in opposition? Welcome, Ms. Chambers. [LB79]

PHYLLIS CHAMBERS: Good afternoon, Senator Kolterman and members of the Retirement Committee. My name, for the record, is Phyllis Chambers, P-h-y-l-l-i-s C-h-a-m-b-e-r-s, and I'm the director of the Nebraska Public Employees Retirement Systems. I'm here on behalf of the Public Employees Retirement Board, the PERB, to testify in opposition to LB79. The PERB does support the idea of the retirement savings. They do feel it's important for everyone, not just public employees. They just had some concerns about the bill. There are different ways to achieve this being able to have the small businesses have retirement plans and I think that a study will be something that would be of the valuable. The PERB is concerned that state government might be competing with the private sector in creating this marketplace. We also realize it's a huge project for the Treasurer and it would be difficult not to use state resources or taxpayer dollars to create this program. Creating a retirement plan is very expensive. The PERB is concerned that some of the administrative duties might end up in NPERS's doorstep. So we just wanted to make sure that you were aware the NPERS trust funds cannot be used for other

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purposes other than for the members of our retirement plans. NPERS would like a clarification. In Section 5(2) of the bill where it talks about the Treasurer consulting with a number of people in designing and managing the marketplace, it references the director of the PERB. And so the PERB has the chairman and vice chairman. NPERS, the agency, has a director. And so we were just questioning if that was meant to be for the NPERS director or the PERB chairman that would be involved in consulting. And any measurable amount of time consulting would need to be reimbursed to NPERS. And finally, I think, and this you were just talking about, but nothing is specifically mentioned in the bill about the Internal Revenue Code or tax-deferred savings. It talks about retirement savings, but I'm assuming you're talking about tax-deferred savings and what type of plan this would be. It just mentions an IRA type of plan. So there are complex federal and state laws governing tax-deferred savings and distributions for both public and private sector plans and I'm sure you're going to need some legal assistance in creating this marketplace. And I'd be happy to answer any questions. [LB79]

SENATOR KOLTERMAN: Thank you. Any questions? Appreciate you coming today. Anybody else in opposition? (Exhibit 3) I'm going to read into the record, we have a letter from Wanda Caffrey in opposition. And we'll put that in the record. Anybody in a neutral position today? Okay, so you're open to close, if that makes sense. [LB79]

SENATOR BLOOD: It does make sense. Thank you, Senator. I have to say I am disappointed to meet the retirement representative for the first time today. I have an open-door policy. We did meet with the Treasurer which is how I found out about the fiscal note. And so I find that very disappointing. The one thing that I want you to be confident of with this bill is that there were months of research that went into this. And Washington State was the example that we had used as a template for the bill, but New Jersey and, as you heard, six or seven other states have done it successfully. I worked really hard to make sure that it was self-funding and I think I can do better because it's going to require more research to figure out how to do better. But the one thing that we didn't do is we called...that we did do is we called what would have been a roomful of proponents and asked them not to drive here today because we knew we were going to ask for IPP. Two people showed up regardless because they felt so strongly about it--from Chambers of Commerce to the self-employed to nonprofits. To say that there isn't a need would be ridiculous. There is indeed a need. And unfortunately the reason that people don't do it on their own because that would be...if it were me, I'd do it on my own. People don't know where to go. A lot of people are intimidated by investing because it seems like a very grandiose, complicated thing to them. I don't necessarily agree with that, but that's what I heard when I went door to door and that's what our research is saying as well. And so, again, I ask that you help support this cause and that we do find some way for people to retire. I don't think you can simplify it by saying that there may be other reasons...that there's...we have a 529 for people who want to save for their kids for college. All three of my kids got to go to college because I sacrificed and used a 529. We make it easy in other aspects of state statute for people to save money or to cut back. But

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sometimes I think under state statute we look at senior citizens more as objects than as people that are going to need our help. And these baby boomers are coming at us really fast and I'm pretty confident we're going to find the financial issues we're having at the state level are only going to get harsher. There's a lot, lot of people retiring without any disposable income. And do we wait until it becomes a huge crisis or do we plan ahead? I ask that you help me plan ahead for the state Nebraska, for these people that are going to need our help. And please help me with the interim study and I appreciate your time and the ability to even speak with you today. [LB79]

SENATOR KOLTERMAN: Yeah, thank you very much. I wondered if we were even going to have a hearing, but I guess we did. That will conclude our hearing. Any questions for Senator Blood? We will be talking. [LB79]

SENATOR BLOOD: Thank you. [LB79]