



**ASPPA®**

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**Testimony of Brian H. Graff  
on behalf of the  
American Society of Pension Professionals and Actuaries  
Connecticut Joint Committee on Labor and Public Employees  
Hearing on  
An Act Promoting Retirement Savings (SB 249)  
March 11, 2014**

Thank you Co-Chairman Holder-Winfield, Co-Chairman Tercyak, Vice Chair Gerratana, Vice Chair Santiago and members of the Connecticut Joint Committee on Labor and Public Employees for the opportunity to speak with you today in strong support of SB 249, An Act Promoting Retirement Savings. My name is Brian Graff, and I serve as Executive Director and Chief Executive Officer of the American Society of Pension Professionals and Actuaries ("ASPPA").

ASPPA is an organization representing more than 16,000 retirement plan professionals nationwide. Our members provide consulting and administrative services for qualified retirement plans covering millions of American workers. Our members are retirement professionals of all disciplines, including: consultants, administrators, actuaries, accountants, attorneys, and investment professionals that are united by a common dedication to the private employer-based retirement system.

ASPPA has consistently and actively supported proposals to expand retirement plan coverage. This has included auto-enrollment payroll deduction IRA ("auto-IRA") proposals supported by the Obama Administration that would require employers to offer payroll reduction savings at work through private sector providers while encouraging employers to set up private sector qualified retirement plans, as well as similar state-based proposals such as the California Secure Choice Retirement Savings Trust Act, as enacted in 2012.

In Connecticut, ASPPA has worked closely with both Majority Leader Looney and Majority Leader Aresimowicz over the past year as they have developed their latest iteration of the proposal addressing this critical issue, and we stand ready to do what is needed to see this effort through in order to achieve this policy goal. The private employer-based retirement system works well for those who have access to it. The challenge is to expand the availability of workplace based retirement savings.

## **The Current Retirement System Works Well but It Is Not Perfect**

Workplace based retirement plans have been successful at providing retirement benefits for tens of millions of American workers. These plans primarily benefit middle class families. Data from the Statistics of Income Division within the Internal Revenue Service (“IRS”) show that almost 80% of participants in 401(k) and profit sharing plans make less than \$100,000 per year. 43% of participants make less than \$50,000.

The primary factor that determines whether or not these middle class families save for retirement is if there is a retirement plan available at the workplace. Data from the Employee Benefits Research Institute (“EBRI”) shows that workers earning between \$30,000 and \$50,000 per year are fifteen times more likely to save at work than to go out and set up an IRA to save on their own. In other words, workplace payroll deduction savings works when it is available.

The Bureau of Labor Statistics (“BLS”) found that 78 percent of all full time civilian workers had access to retirement benefits at work, with 83 percent of those workers participating in these arrangements. For private sector workers, BLS found the access and participation rates are 74 percent and 80 percent respectively. Availability and take up rates are substantially lower for part-time workers, so if part time workers are included, BLS found that 68 percent of civilian workers had access to retirement plans, and 80 percent of those actually participate in the offering. For the private sector only, the access and participation rates for all workers are 64 percent and 76 percent respectively.<sup>1</sup>

Alternate research suggests these estimates are less than what is actually happening in the workplace,<sup>2</sup> but regardless of what the exact percentages may be there are tens of millions of workers across the country that do not have a workplace retirement savings plan and find it challenging to save for retirement. More than 800,000 of these workers who do not have access to a workplace retirement plan live in Connecticut. That is why it is so critical that the availability of payroll deduction retirement savings be expanded.

## **Automatic IRA Arrangements Will Increase Retirement Savings and Plan Coverage**

These stark facts are the reason why ASPPA has long supported the concept of automatic payroll deduction IRAs at both the federal and state levels. The United States Government Accountability Office (“GAO”) agrees that auto-IRAs would increase retirement savings. An August 2013 GAO report on auto-IRAs found that 36% of households across all income groups could see an increase in their retirement savings if auto-IRAs were implemented nationwide. In addition, households in the lowest earnings quartile would benefit the most, as the GAO calculated that the projected median annuity for those households could increase by 66%.

Because contribution limits for IRAs are less than for employer-sponsored 401(k) plans, auto-IRAs are expected to expand the availability of retirement savings, not replace current 401(k) plans. In fact, once employers and employees get used to payroll withholding for retirement savings through auto-IRAs, employers may be more comfortable moving up to a plan that includes employer contributions, such as a 401(k) plan, Simplified Employee Pension (“SEP”) plan, or

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<sup>1</sup> Bureau of Labor Statistics, Employee Benefits Survey: Retirement Benefits, March 2013: Retirement benefits: access, participation, and take-up rates: National Compensation Survey March 2013 available at <http://www.bls.gov/news.release/pdf/ebs2.pdf> (hereinafter “BLS Survey”).

<sup>2</sup> Irena Dushi, Howard M. Iams, and Jules Lichtenstein, Assessment of Retirement Plan Coverage by Firm Size, Using W-2 Records, Social Security Bulletin (2011), available at <http://www.ssa.gov/policy/docs/ssb/v71n2/v71n2p53.pdf>.

Savings Incentive Match Plan for Employees ("SIMPLE") plan.

### **Background on the Automatic IRA**

The concept of the auto-IRA is not new, and in the past has had bipartisan support. Auto-IRA was first detailed in a paper for the Retirement Security Project authored by David John, of the Heritage Foundation, and Mark Iwry of the Brookings Institution in 2006. Since that time proposals to codify these arrangements into law have been included in presidential budget submissions, and in both federal and state legislation.

The auto-IRA proposal, offered in legislation by former Senator Jeff Bingaman (D-NM) and Representative Richard Neal (D-MA, 1st), included a requirement that employers with 10 or more employees who do not sponsor another retirement plan offer the auto-IRA arrangement. Other proposals (Senator Baucus' Savings Competitiveness Act of 2006 and Rep. Kind's SAVE Act first offered in 2008) included a framework and incentives, but no requirement that employers offer the arrangement.

### **Auto-IRA Is a Good Fit for State Proposals**

A number of state legislatures, including California, Connecticut, Illinois and Maryland, have considered mandating retirement plan coverage for private employers at the state level. To date, California is the only state to pass such legislation, but additional action by California's legislature will be required to make the program operational. Proposals mandating retirement plan coverage for private employers remain attractive to state legislators who recognize that failure to address the coverage gap means future retirees could be more dependent on social services, straining state resources. SB 249 addresses this coverage issue by creating a state-based auto-IRA program, similar to the California program. SB 249 requires private employers who do not otherwise offer a retirement savings plan for their employees to either establish a private plan or adopt the state-run auto-IRA arrangement. ASPPA strongly supports the auto-IRA provisions in SB 249, with a few minor amendments, because the proposed auto-IRA arrangement will address the policy objective of expanding the availability of workplace retirement savings.

Because of a desire to avoid fiduciary obligations under ERISA, it makes sense that, like California, state proposals take the form of auto-IRA for employers of a certain size, with a marketplace open to private providers, and a state-run default option. Unlike auto-IRA arrangements, a state-run qualified retirement plan would make the state subject to ERISA fiduciary liability. There are many consequences if the state chooses to go this route. The state would become a fiduciary on all plans that are covered by their program because the state would be selecting the investments and presumably serving as plan administrator. There are also other risks associated with non-compliance with federal rules under both ERISA and the Internal Revenue Code ("IRC"), such as penalties, or a loss of expected tax deductions for employers who adopt the plan if any mistake is made, and penalties if required disclosures are not completed on a timely basis. These rules are important – they are designed to protect rank and file workers. They are also complicated, time consuming to administer, and generally apply separately to each adopting employer. Although the state could contract the fulfillment of these ERISA and IRC responsibilities to an outside vendor, the state would retain ultimate legal responsibility for the plans' administration and operation.

As noted above, ASPPA would like to see some minor changes to SB 249 to make the bill language tighter and more workable. The major issue with SB 249, as currently drafted, is that the legislation insinuates multiple times that employers are able to make contributions to the state-run auto-IRA arrangement. On the other hand, the legislation makes crystal clear that the state-run auto-IRA arrangement shall not be determined to be an employee benefit plan under ERISA.

Unfortunately, the Department of Labor has already determined that IRAs with employer contributions are indeed covered under ERISA. So to remove any implication that the state-run program includes employer contributions that make the arrangement subject to ERISA, references to employer contributions throughout the bill should be deleted.

### **Private Sector Role is Critical**

ASPPA also strongly recommends that the private sector manage and administer the auto-IRA program. The private retirement plan marketplace is extremely competitive, with an entire pension industry of record keepers, financial services companies, consulting firms, and other professional firms, already in place. There are a plethora of reasonably priced private retirement products, (like 401(k) plans, SEP plans, or SIMPLE plans), for private employers and private providers, in some cases, are already maintaining payroll deduction accounts that function exactly like the proposed auto-IRA arrangement. The number of small accounts established under an auto-IRA mandate would present special challenges. The majority of these accounts are expected to have small balances and it is critical that employee savings not be eaten up by fees. However, using collective investment and uniform administrative processes allows providers to keep fees low. Competition among private sector firms will drive innovation resulting in better services for participants. And importantly, it is private sector providers that will be encouraging employers that are offering auto-IRA to step up to a more robust arrangement that includes employer contributions.

The California program encourages private sector involvement through an online clearinghouse where employers will be able to identify private sector providers that are offering auto-IRA arrangements. ASPPA is pleased to see the Connecticut program follow this online clearinghouse approach and would encourage the state to do whatever it can to advertise and market the online clearinghouse when it becomes operational to ensure that Connecticut residents will have access to a vetted and high quality retirement savings arrangement. One option would be to require that all communications from the Connecticut Labor Commissioner to private employers about their obligations under the Connecticut program include information about the online clearinghouse for the private employers' benefit.

### **Conclusion**

The current system is working very well for millions of working Americans. Expanding availability of workplace savings is the key to improving the system. There is no need for dramatic changes, but Connecticut could take a big step forward by adopting an auto-IRA proposal similar to the California model to make it easier for employers, particularly small businesses, to offer a workplace savings plan to their employees. To reiterate, ASPPA strongly supports SB 249 with our recommended amendments and we stand ready to work with you to ensure that the goal of expanding the availability of workplace retirement savings is met. ASPPA commends Majority Leader Looney, Majority Leader Aresimowicz, the Chairmen, the Vice-Chairs and all the members of this committee, for addressing this critical issue.

Thank you and I will be happy to discuss these issues further and answer any questions that you may have.