Attachment A

June 1, 2020

Delivered via email

RE: Opposition to SB20-200

Members of the Senate Appropriations Committee,

Today we write to urge you not to advance SB20-200. The proposal's goal—helping more Coloradans save for retirement—is laudable. After all, Coloradans, 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.

SB20-200 creates serious **conflicts with federal ERISA law**, which governs all employer-sponsored retirement plans. We believe ERISA will apply to the plan in SB20-200. 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 Congress then ***permanently repealed the safe harbor*** in 2017.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, SB20-200 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**.

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. And state taxpayers have already spent more than $5 million of an *estimated $23 million in startup costs*. The program created by SB20-200, which is strikingly similar to the aforementioned states, would likely face similar expenses. In the first year alone, the known fiscal impact to Colorado taxpayers is estimated to be at least **$345,738 and it more than doubles in the second year to $866,471**. At a time when Colorado is facing a massive budgetary shortfall, policymakers should avoid the temptation to create another costly state-run program. These costs and risks should not be taken lightly. To be sure, they are key reasons why **38 other states have rejected similar costly proposals.**

Fortunately, the landscape for increasing small employer retirement plan coverage is much brighter in 2020. The passage of the **Setting Every Community Up for Retirement Enhancement** (**SECURE) Act** in December 2019 provides a better alternative to a state-run plan. See attachment. Through the SECURE Act, more than 700,000 small business workers nationwide will start saving for retirement, including thousands in Colorado through private insurance carriers that specialize in such plans. It's unnecessary to start a costly state-run plan that would unnecessarily compete with the existing private retirement plan market, which already offers individuals and employers a broad range of options and a wide variety of plans. The new law is expected to dramatically increase small employer adoption of retirement plans and worker participation. Significant **tax credits** will now be available, at no cost to state governments, 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 already coming to the market and our members are committed to helping them succeed.

For these reasons, we urge you not to advance SB20-200.

Tyler Laughlin
Regional Vice President – State Relations
American Council of Life Insurers

Jason Berkowitz
Chief Legal & Regulatory Affairs Officer
Insured Retirement Institute

Carl Larson
Executive Director
National Association of Insurance and Financial Advisors

A. F. Tony Gagliardi
State Director, Colorado
National Federation of Independent Business