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To: Sen. Donna Bailey and Rep. Kristi Mathieson, co-chairs
Members, Committee on Health Coverage, Insurance and Financial Services

From: David R. Clough, State Director in Maine

Re: LD 355 – Advance the Maine Retirement Savings Program

This statement in opposition to Section 2 of LD 355 is presented on behalf of the thousands of small business owners in Maine who are members of the National Federation of Independent Business. Member businesses collectively span a wide range of economic activities; provide jobs and paychecks to about 30,000 people; and help form the economic backbone of hundreds of communities and the State.

Section 2 erodes protection from compliance costs and enforcement penalties for very small employers with 3 to 4 employees. Current law allows those employers to opt into the retirement savings program. However, LD 355 allows the retirement savings board to require participation by those employers. The opt in becomes a mandate.

We appreciate the interest in promoting access to retirement savings plans but note that NFIB members in Maine have expressed strong opposition to the mandatory offer approach:

Do you support legislation requiring Maine employers who do not offer an employer-sponsored retirement plan to offer a state-sponsored retirement account for their employees?

84.19% - NO 9.83% - Yes 5.98% - Undecided

Five-employee Threshold Most Common

Of the 15 or so states that have a mandatory retirement savings program law, most use a 5-employee threshold (CO, CT, DE, IL, ME, MN, NV, RI, VT). Three use a higher threshold (10+ in NY; 25+ in NJ & NJ). Only California, Maryland and Oregon have a mandatory participation threshold lower than 5 employees. www.aarp.org/money/retirement/states-with-automatic-ira-savings-programs/

There Are Costs to Small Employers

Although employers are not required to contribute to the retirement savings plans offered by the program (federal law prohibits employer contributions), nevertheless employers have both soft and hard costs in complying with the mandatory offer requirements. Soft costs involve time and effort required to inform employees, arrange for payroll deductions, timely file required reports (if not using a bookkeeping or payroll service), and comply with other tasks that may be imposed by the Maine Retirement Savings Board.

Hard costs involve additional expense in having a payroll or bookkeeping service deduct and remit the contributions requested by employees.

Small Employers Already Facing Increased Costs, Challenges

Employers of all sizes in Maine are already facing increased costs associated with the Paid Family & Medical Leave (PFML) law, and they will face new workplace staffing challenges when paid leave for workers takes effect in May 2026. The challenges for very small employers may be significant, because these employers have never had to cope with long-term employee absences (up to 3 months; 60 working days) and the complications of following the PFML law as well as keeping their business running as smoothly as possible. Section 2 of LD 355 interjects a new source of potential uncertainty, complication, and cost.

Unknown Characteristics of Very Small Employers

Very small employers have business and employment characteristics very different from larger employers. The nature of the workforce can be much different. The turnover much different. The daily demands on the business owner much more intense. There are factors that create particular challenges coping with mandates that are not sensitive to employment size, which is one reason why many employment-based laws in Maine and other states carve out protections.

Focus on Promotion Instead

Elizabeth Bordowitz has been helpful in explaining the program to NFIB members and other small business people. Nothing in current law governing the Maine Retirement Savings Program prohibits very small employers from voluntary participation in the program. NFIB recommends advocates of the program promote voluntary participation by employers with fewer than 5 employees. Put more sunshine on the merits of the program; use incentives instead of statutory mandates on very small employers.

Please be aware that the smaller the business, the more likely that the owner handles a variety of administrative and employment duties along with handling many other aspects of operating a successful small business. New obligations may seem minor to outside observers but, with limited resources in a small business, new obligations may increase the stress of being an employer and increase the risk of making errors.

Thank you for being mindful of Maine small business owners. NFIB respectfully urges an Ought Not to Pass decision on Section 2 of LD 355. Help small businesses survive and thrive by not opening the door to a new employment obligation mandate.