

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

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TO THE MEMBERS OF THE UNITED STATES CONGRESS:

The U.S. Chamber of Commerce supports H.J. Res. 66 and H.J. Res 67, resolutions of disapproval under the Congressional Review Act to invalidate the Department of Labor's ("DOL") "safe harbor" regulations on Savings Arrangements Established by State and Political Subdivisions for Non-Governmental Employees. **The Chamber urges you to support H.J. Res 66 and H.J. Res 67 and may consider including votes on, or in relation to, these resolutions in our annual *How They Voted* scorecard.**

The DOL regulations these resolutions would undo circumvent Congress' authority and will undermine critical protections for the retirement savings of private sector workers by allowing states and municipalities to automatically enroll private sector employees in state- or municipal-created retirement plans that are not subject to the requirements of ERISA. In essence, private sector employees in these plans will have less worker protections and safeguards than their counterparts covered by employer retirement plans.

Repealing DOL's state and municipal plan rules will also protect the sovereignty and authority of the states from encroachments by neighboring jurisdictions. The Department's final regulations leave it to each state "to determine the appropriate connection between employers and employees covered under the program and the states that establish such programs . . . and their ability to regulate extraterritorial conduct."¹ This leaves open the prospect that states could try to impose their plans across states lines based on a sponsoring employer's operations or intermittent presence in another the state.

The potential for such extraterritorial application could create exactly the kind of complexity and confusion for employers that ERISA was designed to prevent. It would be particularly problematic for companies with operations spanning state boundaries and, potentially, even businesses operating in different municipalities within a single state that enact their own municipal plans. It could also pose obvious problems for companies with employees who must travel to perform their work.

Instead of encouraging small business plans such as SEPs and SIMPLEs to "move up" to 401(k) plans, the DOL's regulations will likely induce some companies to forgo creating ERISA plans or to terminate ERISA-governed plans they already have. There are far better ways to address concerns about retirement savings than stripping the basic protections of ERISA from

¹ Savings Arrangements Established by States for Non-Governmental Employees, 81 Fed. Reg. at 59,469-70.

millions of workers' retirement savings and discouraging employers from creating and maintaining more generous retirement plans.

Finally, these regulations seek to radically reorder the retirement savings system for private sector workers by placing it in the hands of officials responsible for some of the pension under-funding crisis currently facing public employees across the United States. To further elaborate on the myriad of issues with the rule, the Chamber recently released the report entitled [*State Auto-IRAs: The Wrong Answer.*](#)

Accordingly, the Chamber supports H. J. Res 66 and H.J. Res 67, which would strengthen the retirement system by ensuring protections for workers while avoiding mandates and unnecessary complexity for employers. **The Chamber urges you to support H.J. Res 66 and H.J. Res 67 and may consider including votes on, or in relation to, these resolutions in our annual *How They Voted* scorecard.**

Sincerely,

A handwritten signature in black ink that reads "Jack Howard". The signature is written in a cursive, flowing style.

Jack Howard