

KEY VOTE ALERT!

April 25, 2017

TO THE MEMBERS OF THE UNITED STATES SENATE:

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

The DOL regulation that this resolution would undo circumvents Congress' authority and undermines critical protections for the retirement savings of private sector workers by allowing states to automatically enroll private sector employees in state-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. Recently, Congress passed—and the President signed—H.J. Res. 67, a resolution of disapproval under the Congressional Review Act to invalidate the DOL's "safe harbor" regulation on Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees. Passage of H.J. Res. 66 would ensure that all workers are protected regardless of whether the program is implemented by a state or a municipality.

Repealing DOL's state plan rules would also protect the sovereignty and authority of the states from encroachments by neighboring jurisdictions. The DOL's final regulation leaves 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 state lines based on a sponsoring employer's operations or intermittent presence in another 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 that span state boundaries. 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

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



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

Finally, this regulation seeks 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 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, 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 may consider including votes on, or in relation to, this resolution in our annual *How They Voted* scorecard.**

Sincerely,

A handwritten signature in cursive script, appearing to read "Jack Howard".

Jack Howard
Senior Vice President
Congressional and Public Affairs