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March 3, 2017

The Honorable Orrin Hatch  
United States Senate  
104 Hart Office Building  
Washington, D.C. 20510

Dear Senator Hatch,

I was surprised to see the U.S. House pass resolutions of disapproval (H.J. Res. 66 and H.J. Res. 67) nullifying a Rule submitted by the Department of Labor's Employee Benefits Security Administration regarding savings arrangements established by states and qualified state political subdivisions for non-governmental employees.

Paradoxically, the Rule in question was promulgated *at the request of the states*. Unlike so many federal regulations, this Rule *empowered states to innovate* in the interest of their constituents' retirement security. Establishment of this Rule was Washington at its best, enacting in a positive way the principle of federalism embodied in the 10<sup>th</sup> amendment to our Constitution.

Utah Governor Gary Herbert said: "*We have 50 states out there that are laboratories of democracy. Why are we not empowering the states to find solutions to our problems, particularly health care, as opposed to looking to a one-size-fits-all solution from Washington, D.C.?*" I agree with our good governor, and I believe deeply in the sovereign rights of states to serve their constituents with as little interference from Washington as possible. When the states roll up their sleeves to solve problems at the local level, we need the federal government to get out of the way.

DOL's Rule *provided clarity* to states and qualified state political subdivisions – helping to ensure that state-administered plans could be established without running afoul of provisions in ERISA.

I was disappointed in the misleading tone of talking points on these resolutions released by the House Majority Leader which stated the Rule "would treat employees unequally by allowing states to force some workers into...government-run retirement accounts that lack the same protections as private-sector accounts," confusing the fact that some such accounts which *may have employer mandates* feature easy opt-out provisions for employees, and that many states are exploring plans that incorporate *no mandate whatsoever* on employers or employees.

Nearly 55 million workers across the country lack access to employer-sponsored retirement plans. In Utah alone, more than 500,000 private sector workers don't have access to a retirement savings vehicle through their employer. These workers are *fifteen times more likely to save for retirement* if

they can do so through the convenience of an automatic payroll deduction workplace plan than they are by establishing a retirement account on their own.

If Utahns fail to save adequately for retirement and are overly dependent on Social Security, they are more likely to over-rely on government assistance during their retirement years. A recent study conducted by Provo-based Notalys showed that government outlays for new retirees will exceed \$3.7 billion over the next fifteen years. Nearly 75% of these outlays will be spent on the one third of our constituents who are least-prepared financially for retirement. Our efforts in Utah aim to help these constituents achieve greater economic self-sufficiency.

Many states have invested considerable effort these past several years, passing legislation and developing programs to address the retirement savings gap. Rescinding DOL's Rule at this stage would be disruptive, create uncertainty, and curb the essential innovation that is needed to address this critical problem.

If these resolutions come before the Senate I urge you, as a fellow Republican fortunate enough to represent the great state of Utah, to join me in opposition to them, and further to vote "No" on their passage.

I am happy to provide additional information or clarification to assist you with your decision.

Sincerely,

A handwritten signature in black ink, appearing to read "David Damschen", with a long horizontal flourish extending to the right.

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