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Congress Should Encourage State Innovation to Strengthen Retirement Security

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The new Republican Congress and Administration want to limit federal power and devolve more programs to the states. As longtime Republicans, we believe state experimentation leads us as a nation to better outcomes.

Today, one-half of the private sector workforce – 55 million Americans - lacks access to an employer-sponsored retirement savings plan. Small businesses are among the least likely to provide these retirement benefits to their workers because of the costs, burden and complexity imposed by Washington.

Numerous states have created innovative public–private partnerships to expand access to auto-enrollment individual retirement accounts (auto-IRAs). This is a bipartisan model designed by the Heritage Foundation and the Brookings Institution. It would cover more workers, offer equivalent if not greater consumer and fiduciary protection than current federal law, and provide lower cost products. Five states are currently implementing such programs for small businesses to automatically enroll their employees unless they choose to opt out, and more than 30 states have considered proposals.

In 2016, at the request of the states, the U.S. Department of Labor (DOL) clarified that these innovative new retirement savings programs would not be subject to the federal Employee Retirement Income Security Act (ERISA) that regulates pensions and 401(k)s. Republicans should welcome when Washington chooses to restrain rather than expand the reach of federal rules.

Organizations opposed to these state-facilitated programs suggest that not extending ERISA oversight is a radical departure from longstanding practice. This is untrue.

For example, ERISA does not cover most IRAs. The purpose of ERISA is to protect employees when an employer establishes and maintains an employee benefit plan. Because IRAs are rarely established or maintained by employers, they fall outside ERISA's scope. If a customer walks into a financial services provider's office today and opens an IRA, ERISA does not apply to that account and never has.

In fact, state governments are raising the bar for employee savings protections. Every state that has enacted an IRA plan for private sector workers has included ERISA-like protections that are not offered on similar products sold by industry.

Opponents also raise concerns that states will divert funds from these programs for other uses. But these programs are designed with specific protections in law to make sure the funds remain within the program and handled like other state savings programs that have been very successful.

Consider state 529 college savings programs. There were 12.5 million active 529 accounts in the United States in 2015, with $250 billion in assets under management. States have worked with and invested monies with private investment firms, kept costs low, options simple, with no risk to taxpayers. Building upon this success, states are establishing ABLE programs to assist individuals with disabilities and their families save and achieve a better life.

Competition can make incumbents uncomfortable. These public-private partnerships will help drive fee based competition for investment management and lower product costs. This is something Republicans should support.

Who could have imagined last year that DOL would have recognized the need for less regulation only to find this year that Republicans would call for more federal regulation. Empowering states to find solutions has a rich tradition rooted in our federalist system. The question for Congress now is, do we give states the chance to solve these problems, or does the Federal government want to address the retirement savings crisis?

Every day 10,000 Americans turn 65 and too many of them with be entering their post-work lives with little more than their Social Security benefits. States will be increasingly pressed to deal with the dramatic increases in the costs of social service programs for seniors, such as Medicaid, housing subsidies and energy assistance. A recent study by Segal Consulting estimated that in the first 10 years after state-facilitated retirement plans are established, states will save $5 billion in Medicaid spending.

The Department of Labor's rule is a rare example of a federal regulation achieving a conservative goal. A bipartisan coalition of State Treasurers, those often tasked with the responsibilities for managing state savings programs, has asked the Senate to vote against a Congressional Review Act resolution (HJR 66) that would repeal the DOL state rule and, by doing so, support the rights of all states to experiment and implement their own unique approaches.

More competition, less regulation, less Washington meddling, more retirement savings for private sector workers, and at no cost to the federal government. Sounds like a solution Republicans should encourage.

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