

February 15, 2017

The Honorable Virginia Foxx, Chair
House Committee on Education & Workforce
2262 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Bobby Scott, Ranking Member
House Committee on Education & Workforce
1201 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Foxx and Ranking Member Scott:

The Pension Rights Center is the nation's oldest consumer organization working to promote and protect the retirement income security of workers, retirees and their families. We are writing to urge you to vote against H.J. Res. 66 and H.J. Res 67, resolutions of disapproval under the Congressional Review Act that would overturn the common-sense rule issued by the Department of Labor in 2016 to expand retirement savings opportunities for private-sector workers who are not covered by an employer-sponsored retirement plan, such as a traditional pension or 401(k) plan.

Legislators in twenty-five states have passed or are considering legislation to implement or study innovative approaches that will make it easier for their private-sector constituents to save money for retirement in a tax-favored plan. The Department of Labor's final rule on "Savings Arrangements Established by States for Non-Governmental Employees," makes clear that states can give their citizens better access to an individual retirement account without running afoul of federal law.

Under the rule, states can provide for payroll deductions directly into individual retirement accounts. The rule does not force people to save in an IRA; it simply makes it easier. The IRAs used by each state – which are partnerships between the states and private enterprise, much like the popular state-sponsored 529 college savings plans – have the same federal protections that apply to all IRAs, and, in some cases additional state protections. We note also that the rules do not apply to any employer that sponsors a workplace retirement plan for its employees.

The Congressional Review Act resolutions are based on a misunderstanding of the law. ERISA covers 401(k) and other retirement plans established by an employer. The Department of Labor's 2016 guidance does nothing more than clarify that state legislation providing for payroll deduction into an IRA is not an employer retirement plan. The employer has no involvement beyond transmitting payroll deductions to the IRA negotiated by the state with a private vendor.

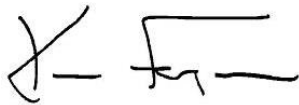
These voluntary payroll-deduction IRAs plans are aimed at providing retirement income to employees of small employers who do not offer plans. They are modest plans, subject to the low \$5,500 IRA limits, and will not compete with existing defined benefit plans or 401(k) plans (which have higher contribution limits). Moreover, we expect that as employees use these plans

and become accustomed to saving on a regular basis, many small businesses will decide to graduate to 401(k) and other traditional employer retirement plans to help them.

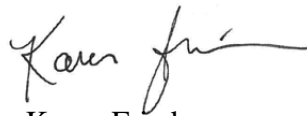
The Congressional Review Act resolutions, if adopted, will slow down or stop these promising state experiments, experiments that are in the best tradition of American federalism. The Pension Rights Center urges Congress to vote “No” on the Congressional Review Act Resolutions to overturn the Department of Labor’s common sense rule on “Savings Arrangements Established by States for Non-Governmental Employees.

If you need additional information, or have further questions, please contact us at (202) 296-3776.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Ferguson'.

Karen Ferguson
Director

A handwritten signature in black ink, appearing to read 'Karen Friedman'.

Karen Friedman
Executive Vice President and Policy Director