



NATIONAL CONFERENCE of STATE LEGISLATURES

*The Forum for America's Ideas*

January 19, 2016

Phyllis Borzi  
Assistant Secretary  
Employee Benefits Security Administration  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

**Curtis Bramble**  
*Senate President Pro Tempore*  
*Utah*  
*President, NCSL*

**Karl Aro**  
*Director of Administration*  
*Department of Legislative Services*  
*Maryland*  
*Staff Chair, NCSL*

**William T. Pound**  
*Executive Director*

**Re:** RIN 1210-AB71, Savings Arrangements Established by States for Non-Governmental Employees

Dear Assistant Secretary Borzi,

The National Conference of State Legislatures (NCSL) submits the following comments regarding state savings programs for non-government employees. NCSL is the bipartisan national organization that represents the legislatures of our nation's 50 states, its commonwealths and territories.

NCSL urges the Employee Benefits Security Administration (EBSA) to consider the impact of regulatory preemption on the intergovernmental relationship between states and the federal government. States should not be undercut through the regulatory process by preempting the decisions of elected legislatures of the sovereign states. Rather, states should be provided the flexibility to reach our mutual goals.

The idea of respecting state sovereignty has resonated with the current administration. In the wake of previous unwarranted attempts to preempt state law by federal agencies in recent years, the president issued a Preemption Memorandum for the Heads of Executive Departments and Agencies, 74 FR 24693 (May 20, 2009). This presidential memorandum called for agency restraint in the area of preemption of state laws and cautioned that, "preemption of state law by executive departments and agencies should be undertaken only with full consideration of the legitimate prerogatives of the states and with a sufficient legal basis for preemption."

NCSL appreciates your consideration of our concerns, and calls for the EBSA to engage in meaningful consultation with states prior to issues rules that significantly impact states. Please contact Jeff Hurley ([jeff.hurley@ncsl.org](mailto:jeff.hurley@ncsl.org); 202-624-7753) with any additional questions.

Sincerely,

William Pound  
Executive Director, NCSL