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CHRISTINE M. BRANDT
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Via email to e-ORI@dol.gov

January 19, 2016

Office of Regulations and Interpretations
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Subject: Proposed Regulation On State Savings Programs for Non-Government Employees, RIN 1210-AB71

Dear Assistant Secretary Borzi,

This letter is to provide comment on the proposed regulation §2510.3-2(h), which proposes safe harbor provisions for state-administered payroll deduction savings programs relative to the Employee Retirement Income Security Act (ERISA).

I commend the Administration for its thoughtful and responsive approach to states' needs for clarification in this area, and I am appreciative of the opportunity to make comment on certain of the proposed regulation's provisions:

1. **Mandate on employers.** The proposed regulations put forth an assumption that "state law would require certain private-sector employers to make the program available." While Utah seeks to maximize employee access to employer-sponsored payroll deduction savings programs with automatic enrollment, it is not our intent to create any program that would provide for mandatory participation by any class of employer. We would prefer to promote participation through education, outreach, and incentives – not mandates. We ask that the Administration provide for voluntary participation by employers within the regulatory framework.
2. **Delegation of state's responsibility for security of payroll deduction and employee savings.** To the extent that in Utah we will endeavor to maximize use of private sector solutions in developing our program, we ask for clarification regarding the State's ability to contract certain functions of the program to vendors, and by so doing, to contractually delegate certain aspects of "control," "responsibility," and "security" to vendors. A state's liability when contracting functions of its program bears further clarification.

3. **Specificity and clarity on types of functions permitted under safe harbor.** I ask that, in general, the Administration provide greater specificity and clarity on the types of functions that could be permitted consistent with the requirements of the safe harbor.

I am deeply appreciative of the Administration's efforts to provide clarification and safe harbor for states that choose to develop retirement savings programs for non-government employees.

Thank you for the opportunity to provide these comments.

Sincerely,

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

David C. Damschen
Utah State Treasurer