March 12, 2018

The Honorable Orrin Hatch
United States Senate
104 Hart Senate Office Building
Washington, DC 20510

Dear Senator Hatch,

The National Association of Government Defined Contribution Administrators (NAGDCA) is an association of state and local defined contribution retirement plan administrators and their industry service providers. It is essential for public employees to build supplemental retirement savings through defined contribution plans, a crucial means of support alongside their employer-sponsored defined benefit pension and/or Social Security benefits. Our members provide access to high quality and low-cost retirement vehicles to over three million eligible participants who have accumulated over $320 billion in supplemental retirement assets.

NAGDCA is motivated by the concerns of its membership and the creativity of states and local governments in designing plans that encourage employees to work toward the goal of retirement security. NAGDCA has been able to identify, publish and promote best practices to assist in achieving this goal. The conference we sponsor has become recognized for thought leadership and draws roughly a thousand attendees annually. Over the past two years, we have created a comprehensive analysis and a benchmarking tool for governmental plans that provides comparative data, largely unavailable until now. It supports understanding trends and continual improvement in terms of reducing costs and improving participation, as plan sponsors may access valid peer comparisons. It also supports the use of goals and metrics to reach for expanded success.

NAGDCA has a rich history of participating in policy discussions and has contributed toward every piece of tax reform legislation related to retirement since its founding in 1980. Many improvements have been accomplished; however, retirement planning is still challenging for individuals and many Americans continue to experience barriers to achieving and maintaining retirement security. NAGDCA is keeping abreast of the new models being explored by some states to increase access for those without employer sponsored plans, as well as behavioral research showing how to better engage individuals in retirement planning.

National Retirement Security Week

NAGDCA members are dedicated to building awareness about personal retirement planning. To elevate the importance of this, NAGDCA brought forward the idea of a congressionally endorsed *National Retirement Security Week* and since 2006 has worked with members of the House and Senate who have introduced and supported the enabling resolutions. Over the past eleven years, NAGDCA has found these resolutions provide powerful promotional and educational tools, and we are gratified by the continued congressional support. In 2016 NAGDCA developed a united campaign for the event which won a prestigious Eddy Award from Pensions & Investment Magazine. We encourage the House and the Senate to introduce and pass a resolution to support *National Retirement Security Week* again in 2018.

NAGDCA Legislative Priorities – Protect and Enhance Governmental Defined Contribution Plan Features

NAGDCA looks forward to continuing to work with Congress and the Administration to ensure the ongoing success of public employees' retirement savings programs. We are pleased to share with you NAGDCA's views on how to protect and improve governmental defined contribution plans for your consideration. When establishing legislative priorities, NAGDCA relies on its members to bring forward ideas that would create simplicity, fairness, efficiency, or increased retirement security for retirement plan participants.

- **Protect Distribution Choice.** The primary reason for encouraging employees to build and retain their savings in defined contribution accounts is to insure adequate savings for retirement. One of the ways we can encourage savings is by reassuring prospective participants that they have some level of flexibility in accessing their savings (through hardships, loans, etc.). A principal tool for achieving that in state and local government 457(b) plans comes from the exemption from the ten percent excise tax penalty for early retirement. Although rarely used, participants are reassured by knowing that flexibility exists in the limited but important situations that may result in separation of service prior to age 59 ½.

  NAGDCA's research indicates that this provision does not contribute to significant distribution from participants accounts prior to retirement or jeopardize retirement security. NAGDCA surveyed its members to learn the extent to which their participants are taking distribution prior to age 59 ½ and found that only approximately 1.3 percent of total plan assets are being withdrawn annually by participants who have not reached age 60. The current flexibility, however, is of immense value in both marketing our plan as well as being responsive to those participants who may be impacted by unique life circumstances requiring earlier access to their funds.

- **Enhance Distribution Choice.** Extend Qualifying Charitable Distributions (QCDs) to 457(b), 401(a), 401(k) and 403(b) plans.

- **Build Roth Responsiveness**. As you explore ways to make improvements to the Nation's retirement system, we ask for your consideration of a package of improvements – as advocated by NAGDCA – to Roth provisions for 401(k), 403(b) and 457(b) plans. It has been beneficial to have after-tax Roth contributions available in employer defined contribution plans, as we believe they encourage retirement savings for a certain segment of our participants. We now have direct participant experience and feedback on the Roth option, and based on that can provide suggested improvements that we believe promote consistency and flexibility in Roth administration. These improvements involve the following three areas:

  1. Allow participants of Roth 457(b), 401(k), 401(a) and 403(b) plans to elect to roll assets from Roth IRAs to these plans;
  2. Exempt designated Roth contributions from required minimum distribution rules, as Roth IRA assets are presently exempt; and
  3. Allow the use of designated Roth assets to roll into 401(a) plans for the purchase of service credits.

- **Enhance Administrative Efficiency.** NAGDCA advocates more simplicity, flexibility and choice in existing programs and has two specific recommendations in this area:

  1. Create more choice by permitting non-spousal beneficiaries to roll assets to 457(b), 401(k), 401(a) and 403(b) plans; and
  2. Create more flexibility by eliminating the "first day of the month" requirement in 457(b) plans so participants can more easily change contribution amounts.

- **Preserve Important Unique Plan Features.**

  Consolidation or Streamlining. NAGDCA is concerned about the creation of a new retirement plan type to replace existing defined contribution 401(k), 457(b), and 403(b) plans or eliminating important unique plan features. While we believe it is unlikely a new plan type would introduce materially new features, changes to the existing structure are likely to be confusing to participants and create risks of lower participation and savings. In addition, they could introduce potentially significant costs for modifying recordkeeping systems, and those costs would likely then fall on plan participants. In addition, plan providers would need to maintain the existing infrastructure for any grandfathered assets, resulting in more administrative complexity and participant communications challenges.

  For example, some have proposed eliminating the special catch-up contributions an employee may make to a 457(b) plan for the last three years before attainment of normal retirement age. This provision is frequently used by retiring government employees to defer significant payments made to them upon their severance for accumulated vacation, sick leave and compensation time benefits. It allows the retirees to defer recognition of these often-significant payments for earnings into their retirement over an extended period. Without the special catch-up they would have to recognize the additional income in the year of payment and assume a significant tax burden all at once. Many of these retiring government employees, especially public safety professionals, retire well before Medicare eligibility and use the additional resources in their retirement accounts to cover the high costs of health insurance.

Rothification. NAGDCA is concerned that mandating a shift in retirement incentives toward after-tax savings would result in reduced retirement savings overall. In fact, NAGDCA's 2016 Benchmarking survey determined that while 64 percent of plans offered a Roth option, only .03 percent of reported assets were Roth assets. Roth is an option that appeals to some but not all of our participants. The immediate tax savings created by pre-tax saving is a tremendously important incentive that encourages people to enroll. To lose that incentive would be highly detrimental to the goal of early enrollment and future retirement security. Reduced retirement savings and retirement readiness are clearly unwanted outcomes.

This is why NAGDCA favors retaining both pre-tax and Roth savings options. This provides the flexibility to be supportive of and responsive to the diverse needs of our participants and support their retirement readiness.

NAGDCA is part of the solution to America’s need for greater retirement security for all. While our members are focused on public employees, NAGDCA supports all efforts to make it possible for the average person to achieve retirement security. Thank you in advance for your consideration of these issues. Please call upon us as a resource and a reference on governmental DC issues.

Sincerely,

Keith Overly
NAGDCA 2018 President

NAGDCA Recommendations – Addendum
March 2018

In addition to maintaining the existing structure and administration of governmental defined contribution retirement plans, NAGDCA acknowledges that changes should be sought to improve administration and participant outcomes. NAGDCA, therefore, recommends the following improvements.

1. **Create more portability by allowing participants of 457(b), 401(k), 401(a) and 403(b) plans to elect to roll assets from Roth IRAs to these plans and by permitting non-spousal beneficiaries to roll assets to 457(b), 401(k), 401(a) and 403(b) Plans.** Now that these employer sponsored plans have a Roth provision, rolling Roth IRAs to an employer sponsored plan would be extremely beneficial to those employees who are making Roth contributions to their employer plan as employer sponsored plans offer access to lower fees.

   In addition, retirement plan participants with assets in Roth 457(b), 401(k), 401(a) and 403(b) plans are not allowed to use them to purchase service in a defined benefit plan. This is unnecessarily limiting since defined benefit plans consistently track contributions as being either before-tax or after-tax. NAGDCA recommends changing IRC 402A(c)(3) to allow the use of designated Roth assets to roll into 401(a) plans for service purchase.

   Lower expenses and coordination of retirement are two important ways to improve retirement outcomes. Employer sponsored plans very often have lower fees and administrative costs than other retirement savings plans and, therefore, rolling outside retirement savings to an employer sponsored plan can achieve better retirement outcomes. The Economic Growth and Tax Relief Reconciliation Act of 2001 and the Pension Protection Act of 2006 acknowledged that the coordination of retirement plans is valuable to those with multiple retirement savings accounts and permitted most plan participants to roll assets from outside retirement vehicles to 457(b) plans. Current law does not allow non-spousal beneficiary IRA rollovers into employer-based plans. Allowing rollovers would assist employees in achieving consolidation, enhanced portability, administrative simplicity and, in many cases, ensure access to lower fees.

2. **Create more equal treatment by exempting designated Roth contributions from the required minimum distribution rule.** Roth deferrals and conversions in a 457(b), 401(k) and 403(b) plans are subject to federal income taxation at the time of deferral or conversion and, therefore, are the same as assets in a Roth IRA account. Roth IRA assets are not subject to an RMD provision. However, Roth assets in a 457(b), 401(k), or a 403(b) plan must be included in the determination of plan assets when determining the amount of an individual's RMD payment. This unequal treatment provides an incentive to plan participants to roll their Roth assets to a Roth IRA to avoid the RMD. NAGDCA

believes it would be more beneficial for participants to maintain Roth assets in their employer's sponsored plans because they generally offer lower costs and administrative fees than outside IRAs. The change will not impact Federal tax revenues.

3. **Create more flexibility by eliminating the "First Day of the Month" requirement in 457(b) plans.** This requirement provides that deferral changes must be made prior to the first day of the month in which the change is to commence. This provision of Section 457(b) was enacted prior to today's technology as an administrative convenience. Today it is an administrative inconvenience to delay requested changes and is detrimental to an employee's desires and to their ability to manage their retirement assets. This restriction is not applicable to other types of retirement savings plans and should no longer be an impediment within 457(b) plans.

4. **Extend Qualifying Charitable Distributions to 457(b), 401(a), 401(k) and 403(b) plans.** Code §408(d)(8) permits "qualifying charitable distributions" (QCDs) from traditional IRA or Roth IRA accounts of up to $100,000 to be excluded from gross income each year. The taxpayer's required minimum distribution (RMD), or any portion thereof, is included in the QCD and thus is tax free. This same tax break is not available for RMDs from qualified plans, 403(b) or governmental 457(b) plans.

   Public policy should not force 457(b) and other plan participants to roll the plan assets to an IRA in order to receive the tax advantages of QCDs. RMDs are not eligible rollover distributions and thus RMDs cannot be rolled to an IRA in order to make a QCD from the IRA. The participant would have to roll their money out of the 457(b) plan to an IRA prior to age 70 ½ in order to use the QCD. If only a portion of the 457(b) account is rolled out of the 457(b) plan to an IRA, RMDs would be required from both the plan account and the IRA.

   Tax reform effective in 2018 makes this issue more relevant. Making QCDs from an IRA allows the taxpayer to receive RMDs tax free even if claiming the standard deduction ($26,500 standard deduction for married couples), rather than itemizing deductions. Many more taxpayers are expected to use this increased standard deduction.