

March 27, 2009

The Honorable John Tierney
2238 Rayburn House Office Building
Washington, DC 20515

Dear Representative Tierney:

The undersigned organizations are writing to express concern over the re-introduction of H.R. 1322, the “Emergency Retiree Health Benefits Protection Act of 2009.” As we expressed previously, our organizations share your interest in quality medical coverage for seniors but believe that mandating retiree health benefits will lead only to increased costs and fewer benefits. Moreover, the bill overrides one of the most important principles of ERISA and the employer-based system – the voluntary nature of employee benefits. Changing ERISA in this manner would erode the employer-based system that provides over 100 million people with access to quality, affordable health care.

Employers voluntarily offer health benefits to both current employees and retirees in response to their workforce needs. Current law prohibits employers from reducing or terminating promised benefits unless: (a) an employer expressly reserves that right in a plan document and (b) the employer fully discloses – in accordance with the requirements of ERISA – its right to reduce or terminate retiree health coverage. Without this provision to account for exigencies, employers would have to weigh the benefit of providing retiree health benefits at all against the potential liability of offering a benefit plan that could result in the loss of thousands of American jobs.

In addition, the retroactive provisions within H.R. 1322 would increase the strain on employer-sponsored health plans that are already combating sky-rocketing increases in costs. If plans that had to limit retiree coverage due to economic pressure were subsequently compelled to reassume that liability, the cost of that new unanticipated liability would be borne by employees in the form of additional cost sharing, reduced benefits, and potentially unemployment.

In either case, whether prospective or retroactive, H.R. 1322 significantly increases both the cost and risk to the employer of voluntarily providing retiree health plans at all. These costs and risks will have to be paid for by reduced benefits, wages, or jobs.

We believe that there are other ways to reach our common goals that will not impact the healthcare benefits that workers receive today. Instead, Congress should focus its attention on addressing the underlying cost drivers within our health system by promoting health information technology, wellness and prevention, coordination of care, and value-based purchasing.

The members of the undersigned groups provide different types of health care benefits and are all concerned about the threat that this bill poses to the ERISA framework that is the

backbone of the American health care delivery system. Thank you for your consideration and we look forward to further discussions with you.

Sincerely,

American Bakers Association
American Benefits Council
Associated Builders and Contractors, Inc.
Business Roundtable
College and University Professional Association for Human Resources
Financial Executives International's Committee on Benefits Finance
Food Marketing Institute
HR Policy Association
National Association of Manufacturers
National Retail Federation
Profit Sharing/401k Council of America
Retail Industry Leaders Association
Society for Human Resource Management
The ERISA Industry Committee
U.S. Chamber of Commerce

Cc: Chairman George Miller
Ranking Member Howard McKeon
Ranking Member John Kline
Representative Robert Andrews