



AMERICAN BENEFITS
COUNCIL

July 24, 2008

The Honorable Edward M. Kennedy
Chairman
Committee on Health, Education, Labor
and Pensions
United States Senate
428 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Michael B. Enzi
Ranking Minority Member
Committee on Health, Education, Labor
and Pensions
United States Senate
835 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Max Baucus
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Charles E. Grassley
Ranking Minority Member
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Adverse Retirement Plan Implications of Energy Speculation Legislation (S. 3268)

Dear Chairmen Kennedy and Baucus and Ranking Members Enzi and Grassley:

I am writing today on behalf of the American Benefits Council to express concerns about the implications of S. 3268, the Stop Excessive Energy Speculation Act of 2008, on employer-sponsored retirement plans and the tens of millions of American workers and retirees who rely on these plans for their retirement security. The American Benefits Council (the "Council") is a public policy organization representing principally Fortune 500 companies and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover more than 100 million Americans.

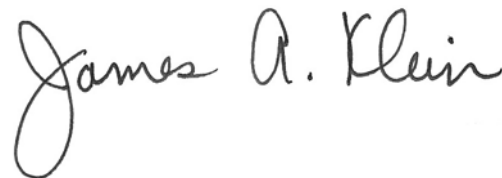
The Council is very concerned that the serious implications of S. 3268 on retirement plans and retirement plan participants have not been sufficiently evaluated. We are concerned that legislation relating to energy policy could unintentionally harm the long-term financial security of American workers and families.

Employer-sponsored retirement plans are long-term investors that invest in a wide range of asset classes in order to diversify plan investments and minimize the risk of large losses, both of which are central to employers' fiduciary obligations to act prudently and solely in the interest of plan participants. As you know, fiduciaries are subject to extremely demanding legal obligations under the Employee Retirement Income Security Act (ERISA) but have flexibility to select the investments that will allow them to carry out their mission of providing retirement benefits to employees. Commodities are one of the broad range of asset classes upon which fiduciaries rely. Specifically, commodities serve as a modest but important element of the investments held by employer-sponsored defined benefit pensions because commodity returns are uncorrelated with stocks and bonds and because they provide an important hedge against inflation. For the same reasons, commodities are used in many of the diversified "single fund" solutions (lifecycle funds, target retirement date funds) that have been developed to simplify investing for the tens of millions of Americans participating in defined contribution plans such as 401(k)s. These single fund solutions, which policymakers have encouraged through legislation and regulation, make investing easier while giving workers access to professionally managed, diversified portfolios.

The restrictions imposed on commodities investing under S. 3268 would greatly restrict the ability of employer-sponsored defined benefit and defined contribution plans to use this important asset class. The result will be less ability to diversify investments, manage investment volatility and be a buffer against inflation. Unfortunately, it is the employees and retirees who depend on employer retirement plans for their income in retirement who will ultimately suffer. We hope, with this in mind, that the implications for retirement plans and plan participants will be examined more fully before S. 3268 is considered further.

We sincerely appreciate your consideration of our views on this important matter. Please let us know if we can provide additional information or address any questions you may have.

Sincerely,

A handwritten signature in black ink that reads "James A. Klein". The signature is written in a cursive style with a large, looping initial "J".

James A. Klein,
President