



AMERICAN BENEFITS  

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COUNCIL

September 22, 2008

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Mitch McConnell  
Senate Republican Leader  
United States Senate  
Washington, D.C. 20510

Dear Majority Leader Reid and Republican Leader McConnell:

I am writing on behalf of the members of the American Benefits Council (Council) regarding Pension Protections Act (the "PPA") technical corrections legislation (H.R. 6382), as passed by the House. The Council represents major employers and other organizations that collectively sponsor and administer health and retirement benefit plans covering more than 100 million Americans.

While there are many important provisions in the technical corrections bill, one urgently needed correction concerns so-called "asset smoothing". It is critical that the provision in the House-passed bill to clarify the asset smoothing rules for defined benefit pension plan funding be enacted as soon as possible, in the technical correction bill or any other legislation that is moving.

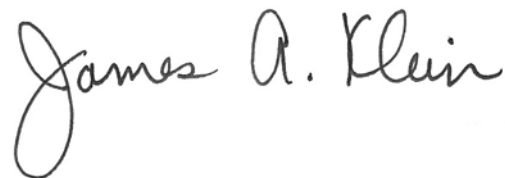
One of the key policy debates with respect to the PPA was the extent to which smoothing of interest rates and asset values would be permitted. Asset smoothing provides an employer with greater predictability with respect to the value of its pension assets and thus greater predictability with respect to its funding obligations. If an employer's funding obligations were subject to the constant fluctuations of the market, funding obligations would be so unpredictable that business planning would be exceedingly difficult.

The PPA preserved a degree of predictability by retaining interest rate and asset smoothing over a 24-month period, down from 48 months. Unfortunately, the U.S. Treasury (Treasury) and Internal Revenue Service (IRS) have, contrary to clear Congressional intent, essentially eliminated all asset smoothing in their proposed regulations. In addition, a subsequent Notice issued by Treasury and the IRS would make this proposed regulation immediately effective.

Recent events have transformed the smoothing issue from a very important issue to an urgent issue. As the market fluctuates wildly, without asset smoothing, employers face an extremely uncertain pension obligation for 2009. In light of other serious economic pressures, many employers will feel compelled to freeze their plans, to reduce the potential cost of their plans. And those employers that do not freeze their plans could have their viability threatened by unpredictable pension costs. Asset smoothing will provide a measure of predictability, thus helping prevent plan freezes and business hardship. It is urgent that Congress correct the IRS' error and conform the law to Congress' intent by preserving two-year smoothing.

We look forward to working with you to pass this critical provision. We strongly urge you to include it in the technical corrections legislation and pass that legislation. But if that legislation does not move, the smoothing provision needs to be included in other legislation that is moving. We thank you for our consideration of our request.

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

CC: The Honorable Max Baucus

The Honorable Charles E. Grassley

The Honorable Edward M. Kennedy

The Honorable Mike Enzi