October 10, 2014

The Honorable John Kline
Chair
House Committee on Education and the Workforce
2181 Rayburn House Office Bldg.
Washington, DC 20515

The Honorable Dave Camp
Chair
House Committee on Ways and Means
1106 Longworth House Office Bldg.
Washington, DC 20515

The Honorable George Miller
Ranking Member
House Committee on Education and the Workforce
2181 Rayburn House Office Bldg.
Washington, DC 20515

The Honorable Sander Levin
Ranking Member
House Committee on Ways and Means
1106 Longworth House Office Bldg.
Washington, DC 20515

RE: Support for House Action on ERISA Section 4062(e)

Dear Chairman Kline, Chairman Camp, Ranking Member Levin, and Ranking Member Miller:

On behalf of the American Benefits Council, I am writing to express our strong support for S. 2511 as passed by the Senate, which clarifies the rules under Section 4062(e) of the Employee Retirement Income Security Act. Basically, Section 4062(e) requires companies to post security with the Pension Benefit Guaranty Corporation (PBGC) in the event the company shuts down a major facility and, as a result, lays off a substantial portion of its workforce.

While the purpose of Section 4062(e) is laudable, its enforcement has undermined the willingness of companies to continue maintaining pension plans. It has interfered in a very material way in business transactions that are unrelated to pension issues. For example, plan sponsors have been compelled to pay large amounts under Section 4062(e) when a small business unit has been sold although no employee layoffs resulted, and can be compelled to pay such amounts when a facility is temporarily closed due to re-tooling or repairs. These are not circumstances Section 4062(e) was enacted by Congress to address. Moreover, the rules as recently enforced have also imposed liabilities on employers that are disproportionate to the size of the transactions in question.

The bill that has passed the Senate would very effectively address these problems, thus removing a disincentive to maintain a plan and eliminating an inappropriate penalty on business transactions that are intended to strengthen companies and the economy.

At the same time, the bill would preserve important protections for the PBGC. By fixing one problem that has contributed to the departure of companies from the pension system, the Senate-passed bill takes an important step in addressing a serious threat to both the pension system and the single employer program at PBGC. That threat is a substantially reduced premium base for the PBGC and correspondingly less retirement security for millions of employees that would result from companies being effectively encouraged to exit the system because of increased unpredictability, regulatory burdens and costs.

We believe that this issue represents a great opportunity for bicameral bipartisanship. The Senate worked with all interested parties on a bipartisan product that was passed by unanimous consent. We would very much like to work with the House of Representatives in that same spirit to pass a bill that is based on extensive and constructive public policy discussions.

We look forward to working with you on enactment of this important legislation, hopefully when Congress is back after the elections.

Sincerely,

James A. Klein

James A. Klein
President