



# AMERICAN BENEFITS COUNCIL

August 5, 2014

The Honorable Johnny Isakson  
United States Senate  
Washington, DC 20510

Dear Senator Isakson:

I write on behalf of the American Benefits Council (“Council”) in support of S. 2546, the Auto Enroll Repeal Act.

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 health and retirement plans that cover more than 100 million Americans.

Section 1511 of the Patient Protection and Affordable Care Act (PPACA) amends the Fair Labor Standards Act, creating a new Section 18A, “Automatic Enrollment for Employees of Large Employers.” The law mandates employers with more than 200 full-time employees automatically enroll new full-time employees in health care coverage (subject to any waiting period authorized by law) and continue the enrollment of current employees, with an opportunity for employees to opt out. The PPACA does not specify an effective date for the automatic enrollment requirement.

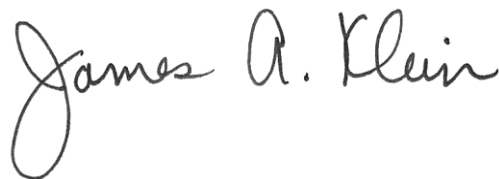
In enacting this provision, Congress likely considered that voluntary automatic enrollment has increased participation in 401(k) plans and assumed that it would also increase enrollment for health plans. The circumstances related to mandatory automatic enrollment in health plans required by PPACA, however, are considerably different from voluntary enrollment in 401(k) plans. As most Americans are now required by law to enroll in a health plan or pay a penalty, there is a compelling incentive that already exists for health coverage that is simply inapplicable in the 401(k) context. Also, as described below, mandatory automatic enrollment in health plans could have negative financial consequences for the very people it is intended to help.

Requiring automatic enrollment of full-time employees could result in confusion and possible adverse consequences on employees' eligibility for premium tax credits and cost-sharing reductions for health coverage offered in the health care exchanges. This is because enrollment in "minimum essential coverage," regardless of affordability, renders an individual ineligible for premium tax credits and cost-sharing reductions. Accordingly, requiring employers to automatically enroll employees in coverage could inadvertently disqualify employees from accessing premium tax credits and cost-sharing reductions.

Additionally, requiring employers to implement and administer automatic enrollment will be a complex and costly process. Employers would be required to make significant changes to their payroll and information technology systems to facilitate the automatic enrollment requirement. To the extent employers are required to allow individuals to opt out of coverage on a retroactive basis, employers would face significant administrative challenges. For example, employers would need to reclassify prior amounts as taxable wages and ensure correct tax reporting and withholding with respect to such reclassified wages.

In summary, automatic enrollment is not necessary for increasing health plan participation and will impose burdensome requirements on employers and potentially disqualify individuals from receiving subsidies for which they would otherwise be eligible. For these reasons, the Council strongly supports repealing the automatic enrollment provisions. We thank you for your leadership and urge passage of S. 2546.

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 Harry Reid, Senate Majority Leader
- The Honorable Mitch McConnell, Senate Minority Leader
- The Honorable Tom Harkin, Chairman, Senate Committee on Health, Education, Labor and Pensions
- The Honorable Lamar Alexander, Ranking Member, Senate Committee on Health, Education, Labor and Pensions