

March 8, 2010

U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative:

We are writing to express our strong opposition to language contained in the Senate-passed health care reform legislation (H.R. 3590), which mandates small businesses in the construction industry provide a government-approved standard of health insurance to their employees.

As congressional leaders move again to debate on a flawed health care package with sweeping and burdensome employer mandates and vast new tax increases, the Merkley provision singles out the construction industry for additional punishment, and only serves to make a bad bill profoundly worse. We strongly urge you to oppose any language that arbitrarily targets the construction industry.

Recognizing the negative impact that a mandate to provide health insurance will have on employers, both the House and Senate bills contain small business exemptions from this mandate. However, H.R. 3590 specifically singles out the construction industry by altering the exemption so that it applies only to those firms with at 5 employees or less—an extraordinary difference from the 50 employee threshold that every other American small business will enjoy.

This narrowly focused provision is an unprecedented assault on the industry. Employers' benefit packages reflect the reality of their business models, and they proudly offer their employees the best health insurance coverage that they can afford. It is unreasonable to presume that small business owners can bear the increased cost of these new benefits simply because Congress mandates that they do so.

In addition, the lack of a clear definition of the term "construction employer" in current statute or regulation could mean that this provision would impact any small supplier, distributor or manufacturer whose business is dependent on the construction industry.

The proponents of this provision targeting small employers in the construction industry have used the faulty logic that a mandate to provide health insurance will somehow "level the playing field" between open shop and union contractors. Unfortunately, this ignores the reality that open shop contractors, who employ 85% of the construction workforce according to the Bureau of Labor Statistics (BLS), are unable to enter into the type of multiemployer health plans that are available to union contractors. These plans exempt union contractors from the cumbersome web of state mandates that directly contribute to the skyrocketing costs of health insurance. Our members have long advocated for insurance reforms and pooling arrangements that would allow small employers the same flexibility and choice that is currently enjoyed only by labor unions and large corporations.

Similarly, we feel compelled to challenge the assertion that the construction industry should be so narrowly targeted because of a high rate of workplace illnesses and injuries. This argument ignores the fact that construction employers already provide workers compensation insurance that covers all workplace injuries and illnesses, with no deductibles, co-pays or limits. Workers comp also provides compensation for lost wages. It also ignores both the significant decline in workplace injuries over the past decade, and the BLS data showing the construction industry reporting fewer injuries and illnesses than the manufacturing, retail and health care sectors. Further, the same BLS data shows that employers with fewer than 50 employees have a lower rate of injury and illness than larger employers.

When these facts are combined with an industry unemployment rate exceeding 27% and more than \$200 billion in economic activity lost in the past year, it is unconscionable that Congress would target the construction industry for the increased burden caused by both the House and Senate-passed mandates to provide health insurance.

We strongly encourage you to oppose any legislation that contains this arbitrary and onerous provision that needlessly singles out small construction industry employers. Thank you for giving consideration to our grave concerns with this provision.

Sincerely,

Air Conditioning Contractors of America  
American Concrete Pressure Pipe Association  
American Concrete Pumping Association  
American Council of Engineering Companies  
American Institute of Architects  
American Supply Association  
Associated Builders and Contractors  
Associated Equipment Distributors  
Associated General Contractors  
Cement Employers Association  
Electronic Security Association  
Heating, Airconditioning & Refrigeration Distributors International  
Independent Electrical Contractors  
International Franchise Association  
Mason Contractors Association of America  
National Association of Home Builders  
National Association of Wholesaler-Distributors  
National Black Chamber of Commerce  
National Federation of Independent Business  
National Lumber and Building Material Dealers Association  
National Precast Concrete Association  
National Ready-Mixed Concrete Association  
National Roofing Contractors Association  
National Utility Contractors Association  
Plumbing-Heating-Cooling Contractors-National Association  
Small Business & Entrepreneurship Council  
U.S. Chamber of Commerce