

*Commonsense Reporting Act – H.R. 4070*

February 7, 2020

The Honorable Mike Thompson (CA-05)  
U.S. House of Representatives  
406 Cannon Office Building  
Washington, D.C. 20515

The Honorable Adrian Smith (NE-03)  
U.S. House of Representatives  
502 Cannon Office Building  
Washington, D.C. 20515

Dear Congressmen Thompson and Smith:

On behalf of 181 million Americans insured by employment-based health coverage and employers represented by the organizations below, we write with our support for the bipartisan Commonsense Reporting Act (S. 2366) to reform the annual health information reporting process under the Internal Revenue Service (IRS).

The current IRS reporting system established under the Affordable Care Act (ACA) causes confusion for individuals and families seeking coverage through the federally facilitated and state-based Exchanges, and exposes employers that are complying with the ACA mandate to misguided tax penalties and compliance costs.

The IRS retrospective reporting system requires an employer to report data long after Exchange open enrollment and the completion of a coverage year. During this time period, our full-time employees could apply for individual coverage, for varying reasons, and receive a federal tax subsidy through healthcare.gov or a state marketplace – even though the employee is ineligible. Because the IRS does not permit employers to report pertinent information about the type of health coverage offered to full-time employees prior to Exchange open enrollment period, subsidies are given out without real-time data and this exposes employees to IRS enforcement actions.

As the IRS reconciles tax returns for individuals who have received an Exchange subsidy and who have claimed to be a full-time employee of a business, the IRS is issuing 226-J tax penalty letters to that business regardless of the employer's reporting data. The current retrospective reporting system essentially deems an employer guilty for non-compliance with the ACA employer mandate unless that employer appeals the 226-J tax penalty letter to prove their innocence. Despite the IRS' claims that 226-J tax penalty letters are settled at no penalty to the employer, that business must accrue massive compliance costs to successfully appeal an IRS penalty letter.

Under your Commonsense Reporting Act, S. 2366, employers would be provided with a second, voluntary option to report the most relevant information about the type of coverage offered to full-time employees, dependents and spouses to the IRS prior to Exchange open enrollment. Providing this voluntary, prospective reporting option will enable businesses to populate the Exchange datahub used by healthcare.gov and state marketplaces with real-time employer coverage data to help consumers navigate their appropriate coverage needs and healthcare home. Prospective reporting will also reduce misguided 226-J tax penalty letters to employers which will provide relief and eliminate compliance costs to businesses.

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The streamlined, voluntary prospective reporting system under S. 2366, the Commonsense Reporting Act, provides clarification to millions of American consumers and relief to businesses of all sizes.

Sincerely,

Alabama Restaurant & Hospitality Association  
Alabama SHRM State Council  
Alaska Cabaret, Hotel, Restaurant, & Retailers Association  
Alaska SHRM State Council  
America's Health Insurance Plans  
American Eagle Outfitters, Inc.  
American Hotel & Lodging Association  
American Rental Association  
American Staffing Association  
Arizona Association of Health Underwriters  
Arizona SHRM State Council  
Southern Arizona Association of Health Underwriters  
Arkansas Hospitality Association  
Arkansas SHRM State Council, Inc.  
Associated Builders and Contractors, Inc.  
Associated General Contractors of America  
AssuredPartners of New Jersey, LLC  
Auto Care Association  
Automotive Aftermarket Association of the Mid-South, Inc.  
Automotive Aftermarket Association Southeast, Inc.  
Biggs Insurance Services  
Brinker International  
CAWA - Representing the Automotive Parts Industry (CA, NV, AZ)  
California Association of Boutique and Breakfast Inns  
California Association of Health Underwriters  
California Hotel and Lodging Association  
California Restaurant Association  
California State Council of SHRM  
Hotel Association of Los Angeles (CA)  
Long Beach Hospitality Alliance (CA)  
Inland Empire Association of Health Underwriters (CA)  
Golden Gate Association of Health Underwriters (CA)  
Ventura County Association of Health Underwriters (CA)  
Cascade Valley Insurance  
Colorado Restaurant Association  
Colorado State Association of Health Underwriters  
Colorado SHRM State Council  
Northern Colorado Association of Health Underwriters  
Conover Beyer Associates  
Connecticut SHRM State Council

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Crisp Insurance Advisors, an Alera Group Company  
Delaware Association of Health Underwriters  
Delaware Restaurant Association  
Delaware SHRM State Council  
Florida Restaurant and Lodging Association  
Florida Retail Federation  
Southwest Florida Association of Health Underwriters  
Food Marketing Institute  
HR Florida State Council, Inc.  
Gulf Coast Health Underwriters of Florida  
Georgia Hotel & Lodging Association  
Georgia Restaurant Association  
Georgia SHRM State Council  
North East Association of Health Underwriters (GA)  
Global Financial Resources, Inc.  
Hardenbergh Insurance Group  
Hawaii SHRM State Council  
Home Furnishings Association  
HR Policy Association  
Idaho Lodging and Restaurant Association  
Idaho Retailers Association  
Idaho SHRM State Council  
Illinois Restaurant Association  
Illinois SHRM State Council  
Illinois State Association of Health Underwriters  
Downtown Chicago Chapter Association of Health Underwriters (IL)  
Indiana Restaurant & Lodging Association  
Indiana State Association of Health Underwriters  
HR Indiana SHRM  
Greater Northern Indiana Association of Health Underwriters  
International Franchise Association  
Iowa Association of Health Underwriters  
Iowa SHRM State Council  
The Kansas State Council of SHRM, Inc.  
Keller Stonebraker Insurance  
Kentucky SHRM State Council  
Central Kentucky Association of Health Underwriters  
Kistler Tiffany  
Lobosco Insurance Group, LLC  
Louisiana Restaurant Association  
Louisiana SHRM State Council  
Lubenow Agency  
Maine Association of Health Underwriters  
Hospitality Maine  
Maine SHRM State Council  
Maryland Hotel & Lodging Association

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Maryland Retailers Association  
Maryland SHRM State Council, Inc.  
Massachusetts Restaurant Association  
Massachusetts SHRM State Council  
Michigan Association of Health Underwriters  
Michigan SHRM State Council  
Michigan Tire Dealers Association (Michigan Retailers Association)  
Midwest Automotive Parts & Service Association  
Minnesota Association of Health Underwriters  
Hospitality Minnesota  
Minnesota SHRM State Council  
Mississippi Hospitality and Restaurant Association  
Mississippi State Council of SHRM  
Missouri Restaurant Association  
Missouri Retailers Association  
Missouri State Council of SHRM, Inc.  
Springfield Association of Health Underwriters (MO)  
St. Louis Association of Health Underwriters (MO)  
Montana SHRM State Council  
National Association of Health Underwriters  
National Association of Home Builders  
National Association of Wholesaler-Distributors  
National Federation of Independent Business  
National Grocers Association  
National Restaurant Association  
National Retail Federation  
National Roofing Contractors Association  
Nebraska Association of Health Underwriters (Lincoln Chapter)  
Nebraska Hotel & Lodging Association  
Nebraska Restaurant Association  
Nebraska Retail Federation  
Nebraska SHRM State Council  
Nevada Association of Health Underwriters  
Nevada SHRM State Council  
Retail Association of Nevada  
Northern Nevada Association of Health Underwriters  
New Hampshire SHRM State Council  
New Jersey Gasoline, C-Store, Automotive Association  
New Jersey Restaurant & Hospitality Association  
Garden State Council of SHRM, Inc. (NJ)  
Monmouth Ocean Association of Health Underwriters (NJ)  
New Mexico Restaurant Association  
New Mexico SHRM State Council  
New York Association of Health Underwriters  
New York State Restaurant Association  
New York State SHRM, Inc.

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North Carolina Association of Health Underwriters  
North Carolina SHRM State Council  
Independent Garage Owners of North Carolina  
Coastal Association of Health Underwriters (NC)  
Triangle Association of Health Underwriters (NC)  
Western North Carolina Association of Health Underwriters  
North Dakota SHRM State Council  
Northwest Automotive Trades Association  
Ohio Restaurant Association  
Ohio SHRM State Council  
Greater Cincinnati Association of Health Underwriters (OH)  
Oklahoma Hotel and Lodging Association  
Oklahoma Restaurant Association  
Oklahoma Retail Merchants Association  
Oklahoma SHRM State Council  
Tulsa Association of Health Underwriters (OK)  
Oregon Association of Health Underwriters  
Oregon Restaurant & Lodging Association  
Oregon SHRM State Council  
Otterstedt Insurance Agency  
Partnership for Employer-Sponsored Coverage  
Pennsylvania Restaurant & Lodging Association  
Pennsylvania SHRM State Council  
Greater Philadelphia Association of Health Underwriters (PA)  
Premier Benefit Services  
Rhode Island SHRM State Council  
Sage Benefit Advisors  
Savoy Associates  
Self-Insurance Institute of America  
Service Station Dealers of America and Allied Trades  
Society for Human Resource Management  
South Carolina Association of Health Underwriters  
South Carolina Restaurant and Lodging Association  
South Carolina SHRM State Council  
South Dakota Retailers Association  
South Dakota SHRM State Council  
Tennessee Association of Health Underwriters  
Tennessee SHRM State Council  
Middle Tennessee Association of Health Underwriters  
Mid South Association of Health Underwriters (TN)  
Texas Association of Health Underwriters  
Texas Hotel & Lodging Association  
Texas Restaurant Association  
Texas Roadhouse  
Texas SHRM State Council  
East Texas Association of Health Underwriters

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The Bank of San Antonio Insurance Group  
The Council of Insurance Agents & Brokers  
The Hyland Group Inc.  
The Malone Company  
Upshaw Insurance Agency  
Utah Association Health Underwriters  
Utah Human Resource State Council  
Utah Restaurant Association  
Vermont Chamber of Commerce  
Vermont SHRM State Council  
Virginia Restaurant, Lodging & Travel Association  
Virginia SHRM State Council  
Washington Association of Health Underwriters  
Washington Retail Association  
Washington State SHRM  
Watkins Group  
West Virginia SHRM State Council  
Wisconsin Restaurant Association  
Wisconsin SHRM State Council  
Woodmanee & Co.  
W.S. Badcock Corp.  
Wyoming SHRM State Council  
Zeller Insurance, LLC