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Dear Representative:

On behalf of the three million members of the National Education Association, and the students they serve, we urge you to vote NO on the *Save American Workers Act of 2015* (H.R. 30), scheduled for a floor vote this week. Votes associated with this issue may be included in NEA's Report Card for the 114th Congress.

We oppose the bill because we believe it would create a disincentive for employers to provide health care coverage, negatively impacting employer-sponsored health insurance and harming families, children and educators who need coverage.

We believe that the Affordable Care Act's (ACA) shared responsibility for employers, sometimes referred to as the employer penalty, supports the overall goal of expanding quality, affordable coverage to all Americans.

We are concerned that this bill's changes to the ACA's definition of what constitutes full-time employment from "on average at least 30 hours of service per week" monthly to an average of 40 hours per week monthly would adversely affect overall employer-sponsored health coverage. That change would make a shift towards part-time employment much more likely. Employers could respond by cutting employees' hours to under an average of 40 per week to avoid possible shared responsibility penalties and could eliminate coverage for these employees without fear of penalties.

The result of a cut in employee hours would be substantially less employer-sponsored health coverage — and as a result, a potentially large increase in federal spending for the premium tax credits that many low- and moderate-income people will receive under health reform to help them buy coverage through a health insurance marketplace (exchange). Employers and employees would also face a complex new administrative burden as they tried to determine which employees paid on a salaried basis fell above or below the 40-hour mark; salaried school employees' exact hours of service are generally not counted the same way as hourly employees' hours, but tallying their in-school and out-of-school hours would suddenly become issues of concern to employers interested in avoiding penalties.

Additionally, if employment-based coverage is reduced, an even greater number of low-income individuals and their families in the 23 states that have failed to expand Medicaid would be unable to afford to buy health coverage. In those states, childless adults whose incomes fall below 100 percent of the federal poverty line would not only be denied access to Medicaid coverage, but they would be ineligible for premium tax credits and cost-sharing reductions through a health insurance marketplace. Moving the full-time definition from 30 hours to 40 hours, as this bill does, would only expand the number of people hurt by this coverage gap.

We believe H.R. 30 misses the mark by substituting “40 hours” for “30 hours” because it would do nothing to stop employers’ misuse of the ACA’s employer penalty provisions as a justification for cutting employees’ hours of service and health coverage. Experience with this portion of the ACA shows that one of the biggest implementation challenges in the education sector consists of making sure that employers and other health plan sponsors fully understand the law’s provisions related to shared responsibility for employers. For years, we have engaged with the Department of the Treasury and Internal Revenue Service to ensure that regulations on shared responsibility for employers work consistently well in the education sector, and believe regulators have taken important steps in this direction.

The changes contemplated in this bill, however, would simply shift the hours-related context in which these common errors take place:

- mistakenly believing that the only way to avoid employer penalties is to cut employees’ hours to under 30 a week or to under six hours a day. In fact, school calendars include so many unpaid days during the school year—for spring break, winter break, federal holidays, and other such times—that hourly employees can normally work more than 6 hours a day without ever being considered a full-time employee.
- misunderstanding how and when to use proposed regulations related to an optional hours-counting method called the look-back measurement method. It’s unfortunate that some school employers wrongly blame the look-back measurement method for limiting their hours-counting options when regulations recognize four different ways that employers can calculate whether an employee is a full-timer or not.
- overestimating the potential cost of complying with the law’s provisions on shared responsibility for employers. Regulations include many ways that employers can minimize or even avoid penalties, but some employers fail to factor these options into their analyses, so they exaggerate and often incorrectly state the potential for penalties.
- failing to incorporate into their decision-making the statutory and regulatory provisions that ensure that this part of the ACA establishes the possibility of a penalty on large employers rather than an “employer mandate.” Just like before the ACA became law, there is no federal law that requires employers to offer coverage to employees. Many large employers will not face penalties at all, or will face smaller penalties than they initially thought.

These and other ACA-implementation errors can lead to exaggerated responses that hurt students, workers, and families alike. Unfortunately, H.R. 30 would just shift the hours-related focal point for such errors.

Employers who take the time to understand the law and regulations as they currently stand can develop common sense, constructive, and consensual approaches to properly implementing the law. Again, we urge you to vote NO on *Save American Workers Act of 2015*.

Sincerely,



Mary Kusler
Director of Government Relations