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## **Companies Push to Repeal Provision of Health Law**

By STEVEN GREENHOUSE

An association representing 300 large corporations urged President Obama and Congress on Monday to repeal a provision of the health care overhaul that prompted AT&T, Caterpillar and other companies to announce substantial charges for the current quarter.

The association, the American Benefits Council, said the provision — which reduces the tax deductions for companies with drug coverage for their retired employees — would deal a significant blow to corporate profits and would discourage companies from hiring more workers.

AT&T announced last week that it was taking a \$1 billion charge because of the provision. Deere & Company announced a \$150 million charge, Caterpillar a \$100 million charge, and 3M a \$90 million charge.

Many companies said they were taking these charges now, before the current quarter ended, to comply with accounting rules. But some corporate critics asserted that the companies' rapid response to the health legislation was aimed at pressing the administration to repeal the provision.

James A. Klein, the president of the American Benefits Council, called the provision “a serious mistake that is having negative and unintended consequences.”

White House officials defended the provision, saying it was a deliberate effort to eliminate what they said was an unusually generous tax loophole.

They said the overall health care overhaul would save businesses more than \$150 billion over the next decade by reducing health care inflation.

“We’re confident that the benefits are going to accrue and strengthen business’s bottom line,” said Linda Douglass, the communications director for the White House Health Reform Office.

When Congress and President George W. Bush enacted a prescription drug plan for seniors in 2003, the legislation encouraged companies to continue providing prescription coverage to retirees, instead of shifting retirees to Medicare Part D, by having the government give those companies large subsidies for each retiree — and also allowing them to deduct those subsidies from their income taxes.

Under the health care overhaul, the federal government will continue providing those subsidies — amounting to 28 percent of a drug plan’s costs — but companies will lose the tax break.

In a telephone news conference on Monday, Mr. Klein cited a study by Towers Watson, a consulting firm, saying the loss of the deduction would cost companies \$14 billion in future years.

“Particularly in this economic environment, it makes no sense to impose this type of a hit on companies’ financial statements,” Mr. Klein said. The provision takes effect in 2013, but accounting rules require companies to take immediate charges equal to the current value of any known hit to future profits.

Defending the provision, White House officials said it was rare for companies to obtain a tax-free federal subsidy and be able to deduct it as well.

These officials added that the health care legislation contained a \$5 billion subsidy for companies that maintain health plans to early retirees.

“Let’s put these changes into perspective,” Ms. Douglass said. “While accounting rules required companies to book this cost upfront, there are a whole set of benefits that will accrue to companies over time that they’re not booking upfront.”

Federal officials estimate that the provision will raise \$4.5 billion to \$5 billion in revenue over 10 years, but Mr. Klein maintained that it would cost the government more than it raised.

About 6.3 million retirees — an estimated two-thirds of them from the private sector — are covered by employer drug plans. Mr. Klein cited a study by the Moran Company, a health care consulting group, estimating that as a result of the legislation, drug coverage would be altered for 1.5 million to 2 million retirees.

Many companies, he said, will stop providing drug coverage to retirees and will instead push them into Medicare Part D, causing the government to pay for their coverage.

**AT&T said in a filing to the Securities and Exchange Commission, “As a result of this legislation, including the additional tax burden, AT&T will be evaluating prospective changes to the active and retiree health care benefits offered by the company.”**

Henry A. Waxman, a California Democrat who is chairman of the House Energy and Commerce Committee, criticized the charges by the companies, asserting that the health reform would save companies more money than it cost them.

Mr. Waxman sent AT&T, Caterpillar and Deere a sharp letter, questioning the charges and saying he wanted top officials from those companies to testify at an April 21 hearing he has scheduled on the issue.

Mr. Waxman and Bart Stupak, a Michigan Democrat who is chairman of the House Commerce Committee’s subcommittee on oversight and investigations, wrote to AT&T’s chairman, Randall L. Stephenson, “The new law is designed to expand coverage and bring down costs, so your assertions are a matter of concern.”

Their letter said AT&T’s moves “appear to conflict with independent analyses,” including a finding by the Business Roundtable, an association of chief executives, that health care reform would reduce insurance cost trends for businesses by more than \$3,000 for each employee over the next 10 years.

Responding to such criticism, Mr. Klein said: “These announcements are required under accounting rules, and we should all expect more of such announcements in coming days and weeks. We’re very troubled that these announcements have been challenged by officials in Obama administration and Congress.”

Many employer plans for retiree drug coverage are part of union contracts. In December, the A.F.L.-C.I.O.’s legislative director, Bill Samuel, joined Mr. Klein in writing to Senator Harry Reid, the majority leader, urging the Senate not to enact this provision.

Gerry Shea, the A.F.L.-C.I.O.’s chief strategist on health care, stopped short of calling for a repeal of the provision. “We’re very concerned about the disruption that could be caused because of this, with people being pushed out of employer plans,” he said. “With all the changes we’re looking at because of the new health legislation, we feel you don’t need this.”

Mr. Klein argued that the provision would undercut Mr. Obama’s job creation plans. “If companies are going to take a hit like this on their financial statements that will certainly hurt their ability to borrow in the marketplace and make the type of investments that will retain and create jobs,” he said.

But White House officials said the provision would not affect job creation because it does not take effect for three years and any charge for a given year would not be large.