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**NRLN is a coalition of 30 Retiree Associations advocating the rights of more than 2 million American retirees from...**

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March 24, 2010

Dear Representative Robert Aderholt:

You and other members of Congress are to be commended for urging President Obama to bring General Motors (GM) to the negotiating table to work out a fair solution for Delphi salaried retirees who have had their pension plan taken over by the Pension Benefit Guaranty Corp (PBGC). It is a travesty that Delphi salaried retirees are seeing their pensions reduced by significant amounts while GM has agreed to protect Delphi's hourly workers who are members of the United Auto Workers. As you have recognized, this treatment of salaried retirees is fundamentally unfair.

I want to call to your attention another issue that is unfair to retirees. It is grossly unfair that companies are not being stopped from using defined benefit pension plan assets to make severance payments and cover other non-pension expenses during corporate restructuring.

The more than 2 million retirees from 114 companies represented by the National Retiree Legislative Network (NRLN) are very upset that last week, for the second time in two years, the Senate passed pension plan funding relief for companies but did not include in the American Workers, State and Business Relief Act of 2010 any protection for pension plan assets. I urge you to apply your leadership in the House of Representatives when it takes up the issue of pension plan funding relief for companies and include protection of pension plan assets.

There is a provision, Section 111 (pages 65 and 66) of H.R. 3936, the Preserve Benefits and Jobs Act of 2009, sponsored by Representatives Earl Pomeroy and Pat Tiberi, which would provide the pension plan asset protection that would be beneficial to millions of America's retirees.

The language in Section 111 relating to a company's ability to amend its pension plan, in part, states: *"No ad hoc amendment to a defined benefit plan which is a single employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate of which benefits become nonforfeitable may take effect during the plan year if the adjusted funding target attainment percentage for such plan year is— "(I) less than 120 percent, or "(II) would be less than 120 percent taking into account such amendment."*

Congressional members must understand that pension plan assets need to be protected before there is further damage to pensions in order to help avoid the possibility that the PBGC must take over a pension plan. If Congress does this now instead of later, you won't have to try to correct the problem after the fact as in the Delphi situation.

(More)

In 2009, the PBGC was very concerned that General Motors used \$2.9 billion in pension assets to make lump sum severance payments during 2008. The GM pension plan ended that year with a deficit of \$20 billion based on the PBGC's calculations. The Treasury Department's bailout loan program to GM included restrictions on GM's ability to continue to use pension assets for non-pension purposes.

Delphi's use of the "back door reversions" practice similar to GM contributed significantly to its pension plan being severely underfunded and resulted in the takeover by the PBGC. The NRLN does not begrudge the Delphi represented retirees keeping their pension benefits intact. Labor contracts should be honored, including bargained agreements to use pension plan assets for severance payments and early retirement incentives.

The use of pension plan assets to pay corporate restructuring costs is not limited to the auto industry. NRLN's research has found that AT&T, Delta Air Lines, Federal Express, Lucent, Qwest and Verizon, many of whom are members of the NRLN, are among the other companies who have used "back door reversions" to circumvent Congressional intent against reverting pension assets for corporate purposes.

Unless Congress acts now to protect pension assets, the PBGC is going to require a government bailout as more and more pension plans default. That is not right for plan participants - retirees and soon-to-be-retiree baby boomers - or for a way for the U.S. Congress to govern.

Members of the House of Representatives have a golden opportunity to act on this issue when it considers whether to again give companies temporary pension plan funding relief. In the same bill retirees should receive the protection of their pension assets from being used for non-pension expenses. If the NRLN can be of assistance on this important issue, please contact Marta Bascom, the NRLN's Executive Director, at (703) 863-9611 or by email at [marta.bascom@linkspace.net](mailto:marta.bascom@linkspace.net).

Sincerely,



President, National Retiree Legislative Network