



# NRLN Focus

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**NRLN**  
NATIONAL RETIREE LEGISLATIVE NETWORK, INC.

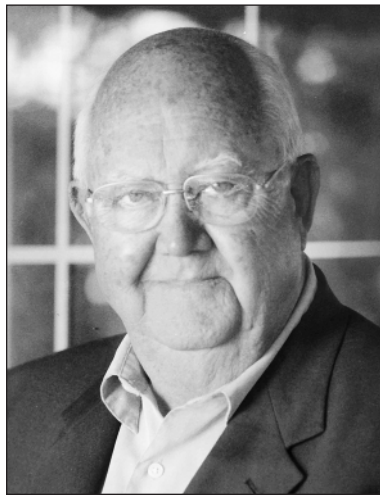
Spring 2005

## A VIEW FROM WASHINGTON

If you are new to the NRLN, and this is your first issue of the newsletter, congratulations, and thank you for joining us in our efforts to protect retiree benefits that we all earned when employed.

At NRLN, our mission is to do whatever we can at the congressional level to promote legislation that protects retirees from the encroachment of our incomes while in retirement. We have interpreted this to include pensions that we earned and health care benefits we were promised. Even though our charter, in the strictest interpretation, does not include Social Security and Medicare issues, we have decided to at least study, debate, and arrive at a position on the Social Security issue. This process has just begun.

In this issue of the *NRLN Focus* there is an article that discusses the history of Social Security. The article was written by Robert Foresta, a member of the NRLN Board, President of the Detroit Edison Alliance of Retirees, and Chairman of the Committee on Social Security and Medicare. Currently, we take no position on the many proposals made on Social



**A. J. (Jim) Norby**

Security, however, we have formed a bipartisan committee of retirees assigned to study and monitor the debate. Later, the NRLN and its Board of Directors will carefully consider alternate positions. This is going to be a contentious, perhaps divisive issue, but we must step up to the plate and take a stand.

In this “View From Washington,” I would like to discuss a legislative initiative that the NRLN has undertaken. The reason that so many of us find that we’re in a financial bind is that while we were tucked away in retirement tending to our grandchildren, our family and gardens, our former employers

were busy in Washington lobbying Congress to change the law that was to protect our pensions. That law, the Employee Retiree Income Security Act (ERISA), was passed in 1974 after 11 years of winding its way through Congress.

Since that time, there have been scores of amendments to the original bill. Relatively few of these amendments enhanced the protection of retirees. Most, in one form or another, took something away that in the final analysis favored our former employers. What we have left has more holes than a piece of Swiss cheese. It’s time to plug some of those holes and repair the damage by amending ERISA.

As I write this (mid-April), the NRLN staff in Washington is busy writing a platform on which to base a bill to be introduced into Congress. This will require a great deal of time and effort – without guarantees – to get members of Congress to act on these changes, despite opposition from the steady stream of lawyers and lobbyists acting on behalf of corporations. Nevertheless, it is imperative that we make the effort.

Let’s examine a few of the  
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### ***View from Washington*** *(continued from page 1)*

leading elements of our proposal.

Clearly, the intent of Congress in enacting ERISA was to assure that pension plans and their assets were to be used solely for their beneficiaries. Unfortunately, congressional action and court decisions have eroded the strength of pension plans by enabling their assets to be transferred out for other uses.

Pension funds are now being tapped for voluntary lay-off bonuses, sometimes amounting to as much as a year's salary or wages. This cost is normally paid for from corporate operating expenses. Such added payments are not accounted for in the calculation of the liabilities, which end up being understated. Surplus pension funds also may be used to establish health care trusts 401(h). This has the effect of lowering the pension fund base which makes it more vulnerable to under funding and less able to weather a financial market downturn. The company reaps the benefits of dual advantages of offering retiree health care while not having to contribute current revenues to pay for it.

The plot thickens. Under current law, a company is not required to report detailed information on how it calculates its funding status. No one, including the federal government, can verify with accuracy the worth of the fund.

There are serious flaws and omissions in the way pension plan trustees and advisors discharge their fiduciary responsibility. The ERISA statute (Section 1103) states that "a fiduciary shall discharge his duties with respect to the plan solely in the interests

of participants and beneficiaries." Something has been clearly lost in the current diluted concept of 'fiduciary' under ERISA. Let me share just a few examples:

- According to a study in 2002, about 69 percent of corporate profits reported in 2001 were 'derived' by companies inflating their bottom lines with estimated gains in the value of their pension funds. Additionally, it has been estimated that 2001 corporate profits (some \$150 billion) were non-existent. This speaks volumes about how ERISA fiduciary responsibilities have been corrupted.
- ERISA's main goal was to assure adequate funding of defined benefit pension plans.

But according to published sources citing the U.S. Treasury Department, 'American pensions are under funded by some \$300 billion' – in other words, some \$300 billion short of paying the legal promised pensions according to the ERISA law.

- There are a number of peculiarities of ERISA that combine to render it virtually impossible for pension plan participants to acquire any meaningful verification that a pension plan is 'secure.'
- Other issues, such as audits, timeliness, and actuarial assumptions need to be addressed in any plan for amending ERISA.

My comments have been lifted, plagiarized, and otherwise borrowed from an accumulation of work done by a committee of legal experts. The Lucent Retiree Association quarterbacked the data gathering and included the solicitation from legal experts and other authorities throughout the country. As mentioned before, the accumulated data, along with recommendations, is now in the hands of the NRLN legal staff in Washington. When the platform is written, it will be reviewed and voted on by NRLN's Board of Directors. At that point, we shall endeavor to find a courageous Congressman and Senator to introduce the bill into Congress. Again, we will call on the necessary grass roots support to get the measure passed. And given the present composition in Congress, the passage of our amendments promise to be a 'dogfight.' Somehow, someway, we must prevail.

God speed and good luck.

## **NRLN Datelines**

### **Jan. 11-12, 2004**

NRLN Board of Directors focus on 2005 legislative agenda during its annual meeting.

### **Feb. 16, 2005**

NRLN pledges its support of the Pharmaceutical Market Access and Drug Safety Act recently introduced in the U.S. Senate. The proposed legislation provides for U.S. consumers to buy safe prescription drugs from Canada and other countries.

### **April 4, 2005**

NRLN calls on President Bush to prevent a threatened U.S. Justice Department appeal of a federal court ruling that prevents the Equal Employment Opportunity Commission (EEOC) from publishing a regulation stripping older retirees of their health care benefits from former employers. That regulation would have allowed employers to reduce or eliminate retiree health care benefits to Medicare-eligible retirees.

### **April 21, 2005**

NRLN endorses the re-introduction of the Emergency Retiree Health Benefits Protection Act (HR 1322) in the U.S. House of Representatives.



# FACTS ABOUT SOCIAL SECURITY SOLVENCY AND MEDICARE

*By Robert Foresta, Detroit Edison Alliance of Retirees*

Social Security Reform are three words that have retirees, and those approaching retirement, wondering about the ability of the program to provide the benefits they expect to receive upon retirement. Add two words to Social Security Reform – Personal Accounts – and the majority of the work force of America join the discussion of the solvency of Social Security.

## **Social Security Components**

There are three major components to Social Security, consisting of Old Age Social Insurance (OASI); Disability Insurance (OASDI); and Health Insurance (OASDHI). Health Insurance is better known as Medicare Part A. For 2005, the employer and the employee each contribute 7.65 percent of the gross wage up to a limit of \$90,000. (The self-employed pay a total FICA tax of 15.9 percent).

However, that portion of the 7.65 percent FICA tax collected for Medicare (1.45 percent), has no ceiling on earnings. The OASI component takes 5.30 percent of the tax. The OASDI component takes 0.9 percent of the tax. OASDHI (Medicare Part A) gets the remaining 1.45 percent.

Medicare Part B is not a part of the present FICA tax structure. In 1997, Congress mandated that beneficiaries who accepted the Part B program would pay a premium of 25 percent of the total cost of that program. The balance of the cost of the Part B

program is paid out of general revenue. In 2006, Medicare Part D, the prescription drug program, will begin full operation. As with Part B, the cost of this program will be shared by the participants and the general fund.

## **Personal Ownership**

The present Social Security program is a “pay-as-you-go” system which means that current workers pay for the benefits of current beneficiaries. There is no ownership of benefits under the present system. All funds go first to the federal government’s general fund. The prescribed payments are made to the Social Security beneficiaries and the balance is used for other government programs. The value of this “surplus” is “invested” in U.S. Treasury bonds and is currently valued at approximately \$1.5 trillion. While Congress continues to promise future benefits, the U.S. Supreme Court ruled in a 1960 decision, *Fleming vs. Nestor*, that such promises are not an individual asset and thus the taxes people pay today guarantee nothing in the future. Each future Congress will have to face the promises of past political promises.

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## **Pressures on the current program**

In 1937, there were an estimated 41.9 workers per beneficiary and today that number is 3.1 workers per beneficiary. When the “Baby Boomers” start to retire in 2008, the ratio of workers to beneficiaries will be approximately 2 to 1. By 2018, the system expects to be paying more in benefits than it takes in, thus the trustees will start redeeming the U.S. Treasury bonds. Under this assumption, without changes in the present system, there would be no surplus FICA taxes going into the general fund and the government will have to seek new taxes or cuts in other programs. It is estimated that by 2042, the Trust Fund will be depleted and the current promised benefits may have to be reduced.

The Committee on Economic Security projected that by 1940, there would be 8.3 million Americans 65 or older. At that time, the average life expectancy for males reaching 65 was 77.7 years, and 79.7 years for females. By 1990, there were 31.9 million Americans 65 or older. The life expectancy for males was 80.3 years, and 84.6 years for females. This trend is expected to continue for years to come.

## **Members of Congress**

On Jan. 1, 1984, all members of Congress, the President and Vice President, federal judges and most political appointees came  
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into the Social Security program. Social Security is one component of their retirement program.

### Conclusion

While Medicare Part A (OASDHI) is only one component of Social Security, the Medicare Trustees Report for 2004 concludes with this statement:

*“The projections shown in this report continue to demonstrate the need for timely and effective action to address Medicare’s financial challenges – both the long-range financial imbalance facing the HI trust fund and the heightened problem of rapid growth in expenditures. We*

*believe that solutions can and must be found to ensure the financial integrity of HI in the long term and to reduce the rate of growth in Medicare costs. Consideration of such reforms should occur in the relatively near future. The sooner the solutions are enacted, the more flexible and gradual they can be. Moreover, the early introduction of reforms increases the time available for affected individuals and organizations – including health care providers, beneficiaries, and taxpayers – to adjust their expectations. We believe that prompt, effective, and decisive action is necessary to address these challenges.”*

**Source:** Social Security Administration,  
“file:///C:/Documents%20and%20Settings/Robert/My%20Documents/Social%20Security/www.ssa.gov.”

We invite you to visit our Web site, “<http://www.nrln.org/>” for more information about Social Security.

## National Retiree Legislative Network, Inc.

We seek to secure federal legislation that will guarantee the fair and equitable treatment of retirees in private and public sectors, health and pension programs, and will improve the adequacy of benefits provided by such programs. Also, we are committed to watch for and stop legislation that threatens retiree health and pension programs.

### President

A. J. (Jim) Norby - anorbz@aol.com

### Vice President/Legislative Affairs

Bill Kadereit - wkhome@att.net

### Vice President/Secretary Treasurer

John Leasher - JohnWLeasher@cs.com

### Vice President/Grass Roots Organization

C. William Jones - cwj@friend.ly.net

### Board Members

Sandy Anderson - anderso001@aol.com

Joseph R. (Dick) Ciocca - JRCDick@hotmail.com

Robert Foresta - DEARalliance@comcast.net

JoAnn Alix Gagain - jagagain@snet.net

Mimi M. Hull - Mm5hull@msn.com

Walter Justice - stjamesvt@aol.com

Jack Treece - JTR2420122@aol.com

### NRLN Headquarters

1630 Connecticut Avenue, N.W., 7th Floor

Washington, D.C. 20029

Tel: 202-659-0620

Fax: 202-659-0631

[www.NRLN.org](http://www.NRLN.org)

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