NRLN
NATIONAL RETIREE LEGISLATIVE NETWORK

GMRA
GM Retirees Association

May 20, 2010

The Honorable Sander Levin, Chairman
U.S. House Ways & Means Committee
United States House of Representatives
1236 Longworth House Office Building
Washington, DC 20515-2212

The Honorable George Miller, Chairman
U.S. House Committee on Education and Labor
United States House of Representatives
2181 Rayburn House Office Building
Washington, DC 20515-6100

Dear Chairman Levin and Chairman Miller:

The over 2 million members of the National Retiree Legislative Network urge you to keep the provision limiting the ability of companies opting for funding relief to use pension plan assets to make lump sum severance payments, which has been considered as part of the pending Tax Extenders legislation (H.R. 4213). The practice of using pension assets for restructuring purposes that should instead come out of corporate operating expenses has been used by companies to the detriment of pension plan participants as market downturns have led to the depletion of pension assets and destabilization of the plan.

These “back door reversions” were considered so harmful that the Treasury Department restricted the practice as a condition of the federal bailout loan package. The only way to ensure that companies don’t misuse and destabilize pension assets is to legally limit these “back door reversions," on a temporary basis, by those companies asking Congress for temporary relief from their contribution obligations. Although these limitations should be permanent, at the very least you should include these restrictions on a temporary basis. This would be consistent with the action taken by the Treasury Department to mitigate the volatility of pension plans subject to market downturns.

Last month, the NRLN, the General Motors Retirees Association, the National Chrysler Retirement Organization and the Detroit Edison Alliance of Retirees wrote you a letter outlining this abusive practice. In that letter, we cited the egregious actions by U.S. automobile companies which, by using pension assets for severance payments, completely debilitated the pension plan their employees and retirees have relied upon after years and years of service to the company.

General Motors, for example, has abused pension assets for these purposes over several years. According to SEC filings, GM claimed its pension funds were overfunded by $18.8 billion dollars at the end of 2007. However, the combination of withdrawing billions for severance payments and the 2008 market downturn more than erased that surplus. Furthermore, the market crash of this week should be enough to validate our concerns. GM reported a $1.8 billion shortfall as of October 31, 2008, a deficit that had swollen far larger by February 2009. This is due to the fact that earlier in 2008, as reported by the *Free Press*, GM and Chrysler admitted that for the first time in their history, the companies were using pension assets to fund lump sum severance payments, ranging from $45,000 to $62,500, that would be paid in addition to workers’ accrued retirement benefit.

These abuses are not limited to General Motors. Retirees from the U.S. auto and other industries have seen this consistently. Delphi’s misuse of pension assets resulting in significant PBGC reductions of

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pension benefits, particularly for salaried employees, should be a constant reminder of the consequences of allowing such abuses. Statements to the effect that these companies will no longer be offering severance payments are not sufficient. If companies are legally permitted to do so once this crisis is over, they will use pension assets again for purposes contrary to the interests of retirees who should be protected by ERISA and in direct opposition to sound public policy.

We find it hard to believe that the House Ways and Means Committee and the Committee on Education and Labor are unwilling to act to protect retirees with this temporary measure after retirees and all plan participants have already been harmed so much by corporate abuse. It is imperative that this provision remain in the House bill in order to help older workers and retirees. They have already lost so much. Please do not disappoint them.

Sincerely,

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