NRLN
NATIONAL RETIREE LEGISLATIVE NETWORK

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February 24, 2012

The Honorable Max Baucus, Chairman
Finance Committee
United States Senate
511 Hart Senate Office Building
Washington, D.C. 20510-2602

Dear Chairman Baucus:

It is our understanding that companies have been lobbying the Senate Finance Committee to obtain relief yet again on pension obligations, this time in the form of a higher discount rate as part of "The American Energy and Infrastructure Jobs Act," otherwise known as the Highway Bill. As your Finance Committee staff can attest, the 32 retiree associations of the NRLN have been urging Congress to address the disparity between the discount rate used by companies on an on-going basis, and that used by the PBGC for calculating the termination liability of a plan taken over by the agency. Specifically, the NRLN has proposed that <u>Congress should require the PBGC to use the same corporate bond yield curve and other assumptions as plan sponsors for the purpose of allocating plan assets to pay non-guaranteed benefits</u>. Industry's proposal for relief will serve to widen this disparity.

While companies may not actively participate in this effort as they have other priorities at this juncture, it is highly unlikely they would oppose this proposal, as they well know that a higher PBGC liability discount rate results in higher funding levels and less risk that their premiums will be increased. In fact, the American Benefits Council asserts in its 2005 study, *Promises to Keep*, that the PBGC's low discount rate assumption has a variety of adverse impacts. [1]

While the NRLN does not necessarily object to short-term relief narrowly tailored to offset the impact of artificially low interest rates, we would object to considering this while ignoring the fact that the PBGC's artificially low discount rate causes tens of thousands of retirees to permanently lose earned and vested benefits that would be paid at least in part if the PBGC used the ERISA discount rate for the purpose of allocating plan assets for benefit payments.

Simply put, the government is confusing and misleading 44 million insured plan participants by requiring companies to send them year after year an Annual Funding Notice that discloses a funding level and projected benefit obligation that are substantially rosier than what the PBGC later calculates as termination liability.

[1] "Promises to Keep: The True Nature of the Risks to the Defined Benefit Pension System," Optimal Benefit Strategies, LLC, a report prepared for the American Benefits Council, September, 2005. Available at:http://www.americanbenefitscouncil.org/documents/pbgcdraft092205.pdf

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The PBGC chooses to use a different – and far more conservative – interest rate assumption in valuing benefit obligations than a plan sponsor is required to use under ERISA's minimum funding rules. In addition, because the PBGC assumes a much lower discount rate on future benefit obligations it allocates plan assets *as if* it will not be offsetting a substantial portion of future benefit costs by investing the plan assets, just as other plan sponsors offset future costs with expected market rates of return on investment. Indeed, the PBGC itself earns market rates of return on plan assets captured through termination.

As a result of the disparate rate differential, the assets recovered from a terminated plan cover the inflated "present value" of guaranteed and non-guaranteed benefit obligations to a much lesser degree than if the PBGC assumed that plan assets would earn a long-term average market rate of return (typically 6% to 8%). Because the present value of PBGC's benefit liabilities are exaggerated, plan assets rarely cover even most of the non-guaranteed vested benefits, such as benefit increases within five years of termination. This results in unnecessarily large and permanent losses for participants.

Plan participants who may become subject to PBGC jurisdiction in the future should be granted the same consideration by Congress as companies in the provisions being included in the highway bill, especially since companies who have asked for relief in the past, such as American Airlines, have been granted relief only to turn around and try to needlessly abandon their plan participants at taxpayer expense.

Please give this proposal every possible consideration on behalf of the 44 million pension plan participants, especially America's retiree, in Montana and across the country.

Sincerely,

Bill Kadereit

President, National Retiree Legislative Network

Copy to: Senator Orrin Hatch, Ranking Member
Senate Finance Committee