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Behalf Of

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Today's Topics:

1. Information on the Senate HELP Bill (Ryan Williams)
2. HELP Bill email follow-up (Ryan Williams)

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Subject: [Pension.action] Information on the Senate

HELP Bill

Hi everyone:

Your hard work paid off! The Senate HELP Committee bill approved last week recognizes the importance of keeping long-standing promises to older and longer-service employees.

The Committee bill does not include the provisions that would have eliminated special early retirement benefits earned by workers in multiemployer plans, and it acknowledges some - but not all - of your concerns about future cash balance plans and future conversions. (As you will see from the following update from our policy staff, we still have quite a bit of work to do on the provisions, both

prospectively and
retroactivity, before the bill goes to the Senate
Floor later this month.)
You should also know, that provisions were included
in the bill to help
specific groups of divorced widows whose husbands
worked under the Railroad
Retirement System. In addition, there are provisions
that will affect the
calculation of lump sums and the funding of single
employer plans. If you
have any questions, please contact us. .

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Cash Balance update

The Senate HELP Committee passed a bi-partisan bill that includes cash balance provisions that take steps in recognizing that older employees are hurt in cash balance conversions and that, with strengthening and clarification, could provide, in many cases, worker protections in the future. While we didn't get all we wanted, you should know that your hard work has had an impact. The Committee listened to your concerns and made an attempt to address them - although in many cases inadequately.

We need to keep in mind that the cash balance provisions are only one section of a 400 page bill largely devoted to addressing pension underfunding. There was a lot of pressure on

Committee members from all sides of the issue, particularly from business lobbying groups, who were pushing and pulling with their concerns. There is no question that Senator Kennedy and Senator Mikulski and their staff worked hard to negotiate with Senator Enzi and Senator DeWine to include protections for older employees in the bill and they should be commended for taking initial protective steps.

But, as currently drafted, these steps are NOT enough. Senator Harkin took a hard and principled stance in the Committee mark-up and opposed the bill. He said that the bill, as passed by the Senate HELP Committee, will "erode age-discrimination protections for millions of older employees," whose companies converted to cash balance plans in the past. He said, "I cannot

support trading off older workers who have been
cheated in the past for
protections going forward, or for other provisions in
this bill."

The challenge is now to try to strengthen the bill
before it is meshed with
the Senate Finance Committee bill. If the bill is
strengthened in necessary
ways, it could warrant the support of employees,
retirees and grassroots and
national organizations.

There is no question this is going to be a fierce
fight as the business
community is already working to weaken rather than
improve the bill's worker
protections. The business community's hope is to have
Congress deem cash
balance plans legal, both in the past and future,
without any protections

for workers. (Senator Enzi, at the mark-up, said that the business community had already offered suggestions to "strengthen the bill that he would take into consideration.).

While we are still working to parse the language, here is some of what the bill will do (and won't do).

For future cash balance conversions:

* The bill would provide some transition benefits that recognize the older employees are hurt in cash balance conversions. In this regard, the Senate HELP Committee has the same requirements as the Senate Finance Committee bill. To meet the requirements for a cash

balance conversion in the future, employers would be allowed to choose among options: they could provide a "grandfather" clause to enable all employees, at the time of the conversions, to earn five years of additional accruals under either the old plan or the new (whichever is greater). Or the employer could provide that older employees, after the conversion, are allowed to choose between the old and new plan or to get the "greater of" the old and new. The bill will allow other possibilities as well.

* The bill intends to ban both the wearaway of normal and early retirement benefits. While the bill intends to ban wearaway, we have identified problems both conceptually and technically with the language that would continue to allow wearaway and benefit erosion to occur. These

problems need to be addressed.

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* The bill would require 3 year vesting in new cash balance plans.

For past cash balance conversions:

* While the bill would not affect companies where employees have filed a lawsuit or age discrimination claims, it would give other employers that converted their plans in the past a pass from age discrimination rules as long as they meet specific standards. While the bill acknowledges that older employees have been hurt, we are concerned that the bill's retroactive legalization provisions, while potentially well-meaning, will, in real world

application, ONLY provide shelter for companies and not help employees at all. If these provisions are not strengthened, the bill would hurt most employees who have been harmed by conversions of traditional plans to cash balance plans.

Right now, we are working to prepare a letter to Committee members outlining how the provisions need to be strengthened and clarified. We will get you a copy of the letter once we have it done.

We look forward to talking with you soon. If you have questions, please feel free to e-mail us!