Congress of the United States
House of Representatives
Washington, DC 20515

The Honorable John A. Boehner
The Honorable Howard McKeon
The Honorable William M. Thomas
The Honorable Sam Johnson
The Honorable John Kline
The Honorable Patrick J. Tiberi
The Honorable Dave Camp
The Honorable George Miller
The Honorable Charles B. Rangel
The Honorable Robert E. Andrews
The Honorable Donald M. Payne

March 15, 2006

Dear House Conferees:

Pensions represent a long-term financial covenant between workers and employers to provide a lifetime retirement income. Our first objective in crafting pension reform legislation should be to do no harm to the defined benefit pension system that provides retirement security for millions of workers.

As you work to reach consensus with the Senate Conferees on the pension reforms set forth in the Pension Protection Act of 2005 (H.R. 2830) and the Pension Security and Transparency Act of 2005 (S. 1783), we urge you to carefully consider the adverse impact that certain provisions could have on the retirement benefits of workers of many U.S. companies. We encourage you to favorably consider provisions that allow the airlines to honor their promises, facilitate advanced funding of defined benefit pension liabilities and expand retirement savings by low and moderate American families.

Clearly, we do not want to continue the disturbing trend followed by a small group of employers who have discharged their unfunded pension obligations on the federal government. At the same time, we must act to avert a greater retirement crisis that would freeze retirement benefits for tens of millions of workers who have forgone current wages for long term guaranteed monthly pensions. In all cases, freezing worker benefits should be a last resort, which is why we have serious reservations about provisions in the House bill that would restrict worker benefits when plan funding dips.

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A bipartisan majority of House Members voted to insist that workers in well-funded pension plans be protected from requirements that would push employers to freeze benefits accruals in retirement plans. While the Administration acknowledges that changing the pension funding rules increases the probability that a plan sponsor will enter bankruptcy, it has not assessed the impact the changes would have on particular sectors or on plan freezes, nor how that would impact the adequacy of retirement benefits provided to American workers.

Crafting successful pension funding reform requires a delicate balance. Without pension funding predictability, corporations fear that their business plans will be adversely impacted. In fact, nearly three-fourths of large employers with a defined benefit pension plan reported to PricewaterhouseCoopers that added expenses and funding volatility may drive them away from pension plans. One example of added volatility is found in the provisions contained in both bills that will reduce employers' ability to smooth changes in investment experience and interest rates. The Bush Administration has evaluated the combined impact of its funding reforms, but the Department of Labor in written response to questions from a Ways and Means Committee mark-up acknowledged that "the separate effect of each reform element has not been modeled." This fact is disturbing, given the profound impact the change in smoothing could have on worker retirement security.

As you seek "a Conference Report that imposes the smallest additional funding requirements" on well-funded pension plans that have no likelihood of imposing a liability on the Pension Benefit Guaranty Corporation, we particularly urge you to consider the following three defined benefit pension issues:

- *A plan's funding status, not the sponsor's credit rating, should be used to determine "at risk" status.* We urge you to reject from the Senate bill use of credit rating, as determined by a credit rating agency, in calculating the ability of a company to fund its plan. If a soundly funded plan is classified as "at risk," then its liabilities increase enormously. Under death spiral assumptions, the employer would be forced to lock away unnecessarily large amounts of dollars in their plans, which otherwise could be used to boost wages, create jobs, or fund research. Congress has seriously questioned the methods used by credit rating companies. Perhaps more frightening, this provision would require the federal government to judge the viability of unrated companies. In an unprecedented intrusion, especially into small business, the proposal amounts to the government ruling, through regulations, on the financial soundness of a company.

- *Companies require predictability in funding their pension plan obligations.* Short term drastic and unpredictable fluctuations in the amount that must be contributed to pension plans in a given year can disrupt corporate business plans and disrupt job creation by reducing business investment. Reducing the current smoothing period to three years as contained in the House bill is more appropriate than the twelve month average required under the Senate bill. In times of stock market downturns, the unpredictability would rise to levels that many businesses would

find unacceptable, particularly when combined with the switch to a yield curve interest rate contained in both bills. Business executives have indicated that they would react to these changes by lowering the equity exposure in the pension portfolios; however, the PBGC has not modeled changes in asset allocation in their analysis leaving us with great uncertainty as to the impact of these provisions on our capital markets.

- *Recent stock market experience demonstrates the importance of advanced funding*. Both the House and Senate raise the full funding limit, which will encourage plan sponsors to make additional contributions to pensions during periods of strong economic growth. However, requirements in the House bill that subtract a plan's credit balance when determining the minimum required contribution for plans that are funded below the phase-in funding target are inconsistent with the desire to encourage plans to fund for "rainy days" in the future.

While there is a great deal of uncertainty about the impact of some of the pension funding proposals in the House and Senate bills, three other provisions are clearly needed and urgent. We hope the conference will take action in these areas without damaging the stability of the rest of the retirement system.

- Multiemployer Pension Plans - We strongly support multiemployer pension plan reform that will enable the plans themselves to address their funding problems. Current law has limited the ability of multiemployer plans to deal with investment losses and a declining number of active workers supporting the plan. The companies and workers covered by these plans have joined together to support one comprehensive reform plan. While only 10 percent of defined benefit pension plans are multiemployer plans, those plans cover 25 percent of all workers in defined benefit plans. We urge the Committee to take action to ensure the continued survival of these plans.

- Airline Pensions - We also support provisions in the Senate-passed bill that would give troubled airline pension plans more time to pay off their liabilities. Clearly the best outcome for companies, workers, and the federal Pension Benefit Guaranty Corporation is for the airlines to continue their plans, rather than terminate them. The companies have indicated that given time, they can restore their plans to financial soundness, and we support giving them the opportunity to keep their promises.

- Saver's Credit - It is critical that we increase the retirement savings that supplement guaranteed benefits provided by Social Security and defined benefit pension plans. Although 55% of all workers currently participate in some type of retirement plan, less than a third of those who earn less than $15,000 are able to participate. The House-passed bill includes a provision to make permanent the Saver's credit, which is currently scheduled to expire on December 31, 2006. This credit, which matches contributions to IRAs and 401(k) plans made by low

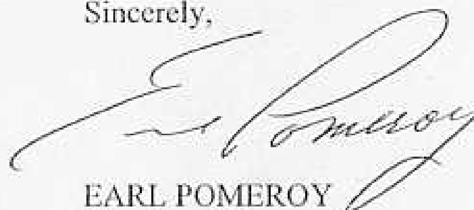
and moderate income workers, was used by over 5.3 million Americans in 2002 and 2003, and nearly 60 percent of the value went to families earning less than $30,000 a year. In the long term, we believe this important savings incentive should be made refundable, greatly expanding its reach. We urge you to retain the House provision to make the Saver's Credit permanent at a minimum.

In conclusion, employees, retirees and employers have a lot at stake in pension reform. We hope that the report that comes out of the Conference strikes the needed balance so that the pension promises made to plan participants will be adequately protected and that the burden placed on employers will not drive them away from offering defined benefit plans. The Conference agreement should also provide a transition period that would be at least as long as the period provided in the House bill, so that plans have sufficient time to implement these changes.

Pension reform must strengthen worker's retirement security and not weaken the employer-sponsored system that supports it. Thank you for your attention to our views.

Sincerely,

SANDER M. LEVIN
Member of Congress



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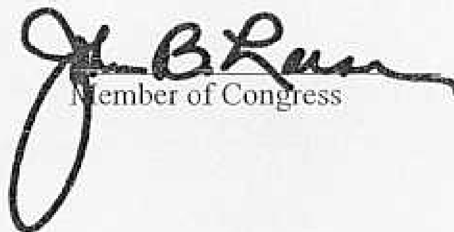

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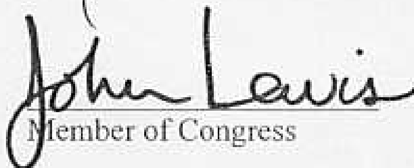

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