

Subject: Retiree Pension Bill Goes to Congress
Update on Pension Overpayment

On behalf of the Board and Leaders of the NCRO, I would like to wish you all a very Happy Thanksgiving and hope this finds you well.

It has been some time since we have provided an update on the *pension “overpayment” recovery* issue we have been working on since 2016. Now, we have some great news. Our efforts over the past four years have resulted in the introduction by Ways and Means Committee Chairman Richard Neal(D-MA) and Ranking Member Kevin Brady(R-TX) of the bipartisan **Securing a Strong Retirement Act of 2020 HR8696** bill in Congress that significantly increases the protections for retirees who might face a pension “overpayment” recovery action. You may have wondered what we accomplish by sending an NCRO group to Washington, D.C. twice a year to meet with members of Congress and their staffs. Here now is tangible evidence that these efforts can in fact pay off.

As a reminder, we learned that some Chrysler retirees who have been receiving a specific pension amount were notified by the company that an error was made in the calculation of their pension amount. The company stated that they had been “overpaid,” and must repay the amount of the purported “overpayment” to the pension plan. In 2016, because several of you notified us that you received these “overpayment” notifications, the NCRO quickly got involved and discovered that around 250 Chrysler/FCA salaried retirees received such a notice. Many of the retirees had been “overpaid” for years and appeared to owe a significant amount. We brought this issue to FCA and for over a year worked to get them to change their policy on recovering the alleged “overpayment” from the retiree. Because this issue was due to FCA’s error (stemming from an audit and change in supplier), we believe it is FCA’s responsibility to cover the suspected “overpayment,” not the retiree. Unfortunately, FCA decided to continue to recover the “overpayments” from the retirees.

But we did not stop there. We enlisted the support and involvement of the National Retiree Legislative Network (NRLN), the national association of which the NCRO is a member. The NRLN realized that this was a bigger issue involving ERISA (Employee Retirement Income Security Act of 1974) law and that nationally every retiree’s pension could have been calculated incorrectly and may possibly be subject to an “overpayment” recovery action.

Working with the NRLN, groups of NCRO representatives have visited Washington, D.C. over the past several years advocating for Congress to make changes in ERISA law that regulates the “overpayment” issue and to provide increased protection for retirees. Many months of negotiations and compromises with other retirement and employer groups followed. These efforts, along with tremendous assistance and leadership from Bill Kadereit, NRLN President, and Alyson Parker, NRLN Executive Director, sustained our determination to not quit, but hope that pension “overpayment” language would ultimately be incorporated in federal legislation.

The great news for us is the introduction of the **Securing a Strong Retirement Act of 2020 HR8696**. Included in this bill is a section that addresses our concerns about pension “overpayment” recovery with the language we developed and initiates changes in ERISA that will provide significantly improved protection for retirees who may face this issue in the future.

Highlights of this section of the bill include:

Fiduciaries (companies and organizations as employers) are not required to recoup what they regard as “overpayments.” If they decide to pursue recovery from a retiree, they may do so subject to the following conditions:

- Recoupment may not be sought if the first overpayment occurred more than three years before the participant or beneficiary is first notified in writing of the error.
- The amount recouped each calendar year does not exceed 10 percent of the full dollar amount of the “overpayment.” (so, the recoupment period must be at least 10 years long)
- Future benefit payments are not reduced to below 90 percent of the periodic amount otherwise payable under the terms of the plan.
- The reduction ceases after the plan has recovered the full dollar amount of the “overpayment.”
- No interest or other additional amounts (such as collection costs or fees) are sought on overpaid amounts.
- Recoupment of past “overpayments” to a participant is not sought from any beneficiary of the participant, including a spouse, surviving spouse, former spouse, or other beneficiary.

While this is great news, however, it is not the endgame!!! There is still much work to do. The next step is to get the bill passed in both Houses of Congress. Given the current angst in Congress and two pressing needs that require action before the end of this year (passing Government funding legislation and some additional Corona virus assistance) it is unlikely that the **Securing a Strong Retirement Act 2020 HR8696** will pass both Houses of Congress this year. Assuming passage doesn’t happen this year, we have been assured that the bill will be re-introduced in the next Legislature in 2021.

Stay tuned for additional updates. As we get closer to a possible vote in Congress you will receive an Action Alert from the NRLN that we urge you to act on when you receive it.

As always, we greatly appreciate your support!

Jay Kuhnie
President – NCRO