AREF

American Retirees
Education Foundation

American Retirees Education Foundation

Promoting Retirement Security

A Proposal for General Support

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INTRODUCTION

While the media pays considerable attention to the retirement savings crisis – and the sad fact is that a majority of workers today lack access to a pension plan at work – a similar but less visible problem afflicts millions of low-to-middle-income retirees and older workers who have already earned benefits and depend on them to make ends meet. Simply put, retiree pension and health care benefits earned through decades of hard work are being steadily cut back and put at risk due to a variety of corporate financial maneuvers, as well as by outdated or shortsighted federal government policies. More than 11 million retired couples and individuals continue to rely on traditional pension income and millions more on retiree health benefits. Because most retired Americans are not able to return to work and depend on these benefit promises, it is devastating to older individuals, to their families and to their communities when these promises are broken.

The American Retiree Education Foundation (AREF), a 501(c)(3) nonprofit, was established in 2014 to fill a gap among the national non-profit organizations that focus on advocating for policy reforms to strengthen retirement security. AREF operates at the intersection between policy research and advocacy, providing in-depth analysis and practical reform proposals for a growing coalition of retiree advocacy groups, as well as simplified educational material for retirees, older workers, the press and public concerned about these issues. The lobbying and grassroots advocacy groups – including AARP, Pension Rights Center, the National Retiree Legislative Network (NRLN) and Alliance for Retired Americans – typically do not conduct in-depth policy analysis or extensive retiree education on issues related to protecting defined-benefit pension and retiree health care benefits. Other retiree advocacy groups – such as the National Committee to Preserve Social Security and Medicare – are focused on public benefit programs; while more academic centers (e.g., the Center for Retirement Research at Boston College) focus on research studies and do not participate actively in advocacy efforts.

In contrast, AREF leverages its policy and legal research on salient pension and retiree health care security issues extracted from typical research methodologies but validated by advocate testimony researched and categorized to establish a credible base to both educate retirees and to promote a consensus around practical reforms among other retirement security advocates and relevant policymakers. And although the problem is rarely highlighted in the mainstream media, the fragile retirement security of many millions of older low-to-middle-income retirees remain very much at risk.

American Retirees Education Foundation: Mission

AREF's mission is to research, educate and inform retirees, future retirees and the general public on how best to protect and promote retirement income security and retiree health care. The Foundation will develop and advocate policy recommendations based on its research findings to relevant constituency groups, the media, the general public, and federal and state policymakers. As an educational non-profit, the AREF is not allowed to lobby members of Congress, their staffs or Congressional Committees.

Broken Promises: The Ongoing Erosion of Retiree Pension and Health Security

Although the share of the workforce covered by defined-benefit pensions has shrunk from about 60% to less than 20% over the past three decades, retirees already receiving fixed monthly benefits could rest assured that at least they had the protection of federal insurance in case their plan failed, from the Pension Benefits Guaranty Corporation (PBGC), as well as ongoing disclosures and other fiduciary protections under the Employee Retirement Security Act of 1974 (ERISA). But even the security of these vested and insured monthly pension benefits have been eroded and shaken in recent years thanks to a number of negative trends that include:

- Alarming levels of pension plan under-funding;
- A dramatic increase in corporate bankruptcies and distress pension plan terminations;
- A rising share of vested benefits permanently lost when terminated plans are taken over by the PBGC;
- New financial engineering maneuvers by companies seeking to spin-off under-funded plans, or transfer the risk of pension liabilities ("de-risk") to insurance companies, thereby stripping retirees already relying on monthly benefits of PBGC insurance and other ERISA protections.
- At least twice in recent history, Congress has extended the time for companies to fund their pension plans through a method called pension smoothing, not to protect pension plans but to increase tax revenues to fund the highway programs, endangering pension plans.
- And, to make this trend even more salient, in December 2014 Congress, reacting to pressures from grossly under-funded multiemployer plans, for the first time in history created an exception to ERISA's most fundamental protection against reducing monthly benefits to retirees after retirement.

Until recent years, pension defaults were uncommon, plans were typically well-funded, and corporate "de-risking" strategies unknown. In 2000 defined benefit plans were actually *over*-funded by an average of 20%, with $1.2 trillion in assets to cover $1 trillion in benefit obligations. But coinciding with the recession that followed the 9/11 tragedy – and greatly accelerating during and since the recent Great Recession – a parade of large legacy companies in the airline, steel, auto, telecom, media and textile industries fell into bankruptcy, terminating plans and shedding pension liabilities, or adopted risk-transfer strategies to reduce liabilities.

For retirees and older workers, the stakes are incredibly high when an under-funded pension plan is terminated or even when retirees are selectively removed from the plan and transferred to an insurance company. In the former case, despite the partial guarantees provided by PBGC insurance, when an under-funded plan undergoes a distress termination it imposes a substantial and permanent loss of income on many retirees and older workers (an average 30% cut for those affected). In the latter case, the involuntary transfer of retirees already receiving monthly income to an insurance company strips them of PBGC insurance as well as other ERISA protections.

A similar trend has played out concerning retiree health care benefits, only faster. Promised retiree health care coverage has traditionally included coverage for early retirees, who are not yet eligible for Medicare, as well as supplemental coverage for those 65 and older. The share of large firms (200 or more employees) that offer *any* retiree health coverage has dropped dramatically over the past two decades – from 66 percent in 1988, to 40 percent in 1999, to 29 percent in 2009. Only 5 percent of employers with fewer than 200 workers offer retiree coverage. Even among the large firms still offering coverage, while nearly all offer benefits to early retirees, since 2003 the share maintaining supplemental coverage for Medicare-eligible retirees has tumbled from 81 to 68 percent.

This ongoing cancellation or reduction of employer-sponsored retiree health coverage has had a negative and sometimes devastating impact on the financial security of millions of America's retirees.

During the decades when today's retirees earned these benefits, they were a promise that more than two-thirds of the workforce counted on when calculating what it would take to retire. With repeated assurances that after 20 or 30 or 40 years of service their health, disability and death benefits would be there when needed, few workers ever suspected or prepared for the possibility that courts would agree that a "reservation of rights" clause buried in the fine print of plan documents that had never been disclosed would trump years of promises. In addition, as explained further below, individuals 65 and older remain the only Americans unprotected by the Affordable Care Act from catastrophic health care costs and coverage exclusions based on pre-existing medical conditions.

The American Retirees Education Foundation is dedicated to reversing this negative trend and ensuring that the promised benefits that more than 15 million retirees and older workers rely on are kept. AREF's policy research, reform proposals and efforts to inform and build a consensus among retiree advocacy organizations and policymakers is critical to progress on retirement income security. In addition to policy research and coalition building, AREF also engages and educates retirees themselves, providing them with the information they need to navigate the unexpected changes and challenges to their reliance on pension and health care benefits for life, while encouraging them to become actively engaged in the policy debates about needed reforms.

Perhaps even more important is the need to educate policymakers, both in Congress and also in the federal agencies too often cloak their decisions in the halo of special interest studies requested to justify both the means and ends of those who request them. AREF evaluates all sides of an issue, but also validates its proposals by revealing the real-world consequences on retired Americans as well as on their families, communities and the U.S. economy more broadly.

AREF Policy and Programmatic Goals

AREF operates at the intersection between policy research and advocacy, providing in-depth analysis and practical reform proposals for an ad hoc coalition of national retiree advocacy groups, as well as simplified educational material for retirees, older workers, Congress, federal agencies, the press and public concerned about these issues. We focus on a series of challenges facing retirees and older workers that we believe are both most critical to retirement security *and* are not receiving sufficient attention from policymakers and other retiree advocacy organizations. The following policy and programmatic goals guide both the issues that AREF prioritizes and the activities undertaken as a means to preserve and enhance retirement security.

Policy Goals:

1. **Stop Pension and Health Care Cutbacks**

AREF's top priority is to promote understanding and policy reforms to stop the steady erosion of the earned and vested benefits on which many millions of our oldest citizens rely on to make ends meet in retirement. This harms families, undermines communities and worsens inequality. As described above, although 11 million aged households (couples and individuals 55 and over) still depend on traditional defined-benefit pensions and retiree health care coverage, the rate at which these benefits are eroding is actually accelerating. Despite federal pension insurance, an increasing share of retirees are losing a substantial portion of their vested benefits due to distress terminations and, soon, government-approved benefit cutbacks. Making matters worse, the share of large firms (200 or more employees) that offer *any* retiree health coverage has dropped dramatically over the past two decades. In addition, the AREF is well aware of and focused on the need to find better ways to promote individual retirement savings.

2. **Increase Pension Funding and Reduce the Risk of Plan Defaults**

AREF is committed to promoting pension policy changes that minimize the pension plan under-funding that is the root cause of benefits lost due to distress plan terminations. As noted above, two decades ago most plans were well-funded, distress terminations rare, and the government's pension insurance agency (PBGC) had an actuarial surplus. Today these three conditions are reversed *despite* a 2006 Pension Protection Act that was intended to ensure full funding of pension promises. Several outdated and shortsighted policies contribute to this problem, including PBGC rules, bankruptcy laws and Congress using funding rule waivers as a budget offset. AREF will address each of the problems contributing to pension under-funding.

3. **Mitigate the Loss of Pension Benefits from Plan Terminations**

AREF believes that the government's pension insurance agency (PBGC) can and should fulfill its original promise to ensure retirees and older workers lose no earned and vested benefits due to bankruptcies or plan under-funding. Retirees and older workers are not at fault when the pension trust investing their future monthly benefit payments fails and is taken over by PBGC. They are also being misled by Annual Funding Notices that are not required to disclose the true level of funding in case of plan termination. AREF will educate older Americans, policymakers and retiree advocates about a few specific disclosure and accounting changes that could end or at least mitigate this threat to retiree income security.

4. **Extend Catastrophic Health Care Cost Protections to Seniors**

AREF believes the unfinished business of the Affordable Care Act includes extending the law's protections against catastrophic health care costs and discrimination based on pre-existing conditions to Medicare beneficiaries. The Affordable Care Act prohibits health insurance companies from imposing annual or lifetime limits on covered benefits, it caps the amount individuals and families must pay out-of-pocket each year, and it prohibits exclusions based on pre-existing medical conditions. AREF will make it known that these protections apply to all Americans *except senior citizens* and propose revenue-neutral options for changes that can end catastrophic medical costs for those most vulnerable to them.

5. **Make Health Coverage and Drug Costs More Affordable**

AREF is committed to advancing several common sense policy reforms that together can dramatically reduce the overall cost of prescription drugs, which are rapidly becoming unaffordable to more and more seniors who rely on them the most. AREF will research and educate retirees, advocates and policymakers on a range options for controlling costs based primarily on enhanced competition and competitive bidding, rather than on crude price controls. AREF also proposes to develop a Medicare buy-in option for older Americans aged 55-65.

Programmatic Goals

6. **Inform and Facilitate Consensus on Needed Policy Changes**

AREF will inform policymakers, organizations representing older Americans, the press and public through a series of in-depth policy research papers, while also facilitating consensus and effective advocacy on needed reforms by convening policy roundtables and briefings. AREF's proposed white papers each fill a gap in the existing policy literature on very specific problems undermining retirement security. The research will also provide both the legal analysis and the specific policy reforms that will advance AREF's efforts to educate retirees, policymakers and other advocacy groups – as well as to inform a process to facilitate consensus and coalition activity on these problems among potential supporters.

7. **Educate and Engage Retirees and Older Workers**

AREF is well-positioned to create educational materials and outreach to tens of thousands of retirees and older workers, helping them to understand, avoid and survive adverse changes to their promised pension and retiree health benefits. Based on in-depth research into the various trends, policies and company practices that undermine retirement income security – as well as ongoing dialogs with regulators and other leading advocates for older Americans – AREF proposes to engage, educate and ideally activate thousands of retirees concerned about their benefits. In partnership with large membership organizations such as the retiree associations and local chapters of the National Retirees Legislative Network (NRLN), AREF will organize Retiree Town Hall meetings and also widely disseminate very accessible how-to material (in print and online) on the pension and health care issues noted in this proposal, from PBGC insurance to drug costs and beyond.

PROPOSED ACTIVITIES AND DELIVERABLES

1. **Research Agenda: Policy White Papers and Issue Briefs**

With a new president and Congress taking office in 2017, the next year is an opportune moment to put new issues and ideas into the hands and minds of those who will shape the future agenda for regulatory and legislative reforms. Over the next 12 months, AREF plans to publish a series of at least eight substantial policy research papers, as well as two-page issue briefs summarizing the findings and recommendations of those more detailed reports. Each white paper and issue brief will be widely distributed within the relevant policy communities. They will also provide the basis for corresponding educational material for retirees, for background material that support the retirement security roundtable convenings described below, and/or for social media outreach and articles published in the popular press.

The pension and health care topics proposed below each fill a gap in the existing policy literature. Although there is academic writing and general background available on most of these topics, there is no in-depth analysis currently available to policymakers or to retiree income security advocates that both identifies the nature of these salient problems and provides specific reform proposals. Each white paper will advance the understanding and visibility of pension and health care policy challenges facing retirees and older workers, while also laying out a detailed blueprint for needed reforms. The 12 salient issues summarized below are among those that AREF proposes to prioritize over the next 12 to 24 months, resources permitting.

POLICY RESEARCH PAPERS: PENSIONS AND RETIREMENT INCOME SECURITY

- ***Pension Plan 'De-Risking': Protecting Retirees from Losing PBGC Insurance* –** Since 2010 more than a million retirees in defined-benefit plans have been impacted by corporate strategies to "de-risk" their pension liabilities. At the urging of AREF and other retiree advocacy groups (including testimony on May 28, 2014 by AREF President Bill Kadereit to the Department of Labor's ERISA Advisory Council), the Treasury Department last year prohibited the practice of offering lump sum buy-outs to retirees already receiving monthly benefit payments. However, neither Treasury nor DOL has addressed the more insidious de-risking strategy a growing number of companies are using to transfer the risk of paying monthly benefits for life to insurance companies – thereby removing selected groups of retirees from their plans. These forced annuity buy-outs strip retirees of ERISA protections including, most critically, the insurance provided by the Pension Benefits Guaranty Corporation (PBGC). For example, Verizon in 2012 involuntarily transferred the liability for paying annuities to 41,000 of 91,000 plan participants to Prudential, severing retirees' connection to the plan – and to all ERISA and PBGC protections.

This paper will document the trend, explain the adverse impact on retirees, and propose the modest regulatory reform that Treasury and DOL should take – and Congress if necessary – to protect retirees by clarifying that participants must at least consent to the risk transfer. AREF believes that the same coalition that pushed Treasury's ban on lump sum buy-outs (including AARP, the NRLN and Pension Rights Center) could do so again with well-supported research and legal.

- ***Pension Guarantees that Work for Retirees: Commonsense PBGC Reforms*** **–** The Great Recession revealed just how vulnerable America's workers and retirees are to corporate bankruptcies that dump company pension liabilities onto the government's pension guarantee system (PBGC). The PBGC guarantees the pension benefits of 40 million retirees and workers in 24,000 defined-benefit plans. Despite many years of being told PBGC guarantees their monthly benefit, older workers and retirees learn only after their plan terminates that a number of PBGC practices will leave about one-fifth of them with vested benefits reduced by 30% on average.

  The largest permanent loss of earned benefits suffered by most retirees is due to PBGC's decision to value the projected future cost of benefits using an unrealistically low interest rate assumption. Although plan participants might receive year after year a required Annual Funding Notice stating their plan is well-funded, the PBGC uses an insurance industry discount rate that results in the permanent loss of benefits for 15 to 20 percent of participants. The agency also imposes several arbitrary reductions in covered benefits that further undermine retiree income security. This paper will describe these practices, their impact on retirees, and recommend several reforms to ensure that the largest possible share of all participants' earned and vested benefits are actually protected.

- ***Pension Spin-Offs: Protecting Retirees in Mergers & Acquisitions*** **–** Retirees and older workers are very vulnerable when a defined-benefit pension plan is transferred, terminated or abandoned. Despite benefit guarantees promised by the federal Pension Benefit Guaranty Corp. (PBGC), when an under-funded plan terminates it imposes a permanent loss of retirement income on many plan participants, which can be devastating to those in or close to retirement. Certain corporate transactions – particularly the spin-off of under-performing subsidiaries – include financial engineering that increase the risk of a distress termination that results in losses for both retirees and the PBGC. While the PBGC has negotiated additional pension contributions in the wake of certain spin-off transactions (e.g., the sale of Motorola Mobility to Google and the spin-off of A.H. Bello's unprofitable newspaper business), the PBGC lacks the tools needed to demand increased funding for a plan, or other equitable remedies under ERISA (e.g., liens).

  This paper will document the trend and its adverse impact on retirees, explain the limits of the PBGC's ability to protect retirees, and propose several incremental reforms which, separately or together, could give PBGC both the tools and mandate to protect retirees and older workers from harmful pension engineering in the context of corporate M&A.

- ***Truth in Funding: Pension Plan Funding Disclosure Reforms*** **–** The Pension Protection Act of 2006 (PPA) requires pension plan sponsors to send retirees and other plan participants an Annual Funding Notice (AFN) with disclosures about plan assets, liabilities and how fully or not the plan is funded. Unfortunately the required AFN disclosures have gaps and flaws that confuse and mislead the nation's 44 million plan participants concerning the true health of their pension plan. The most critical disclosure problem is that each year the AFN reports a plan funding level (e.g., 90%) that is substantially rosier than what the PBGC later calculates as the plan's "termination liability." In other words, after a plan terminates the PBGC chooses to use a different – and far more conservative – interest rate assumption to value benefit obligations than a plan sponsor is required to use under ERISA's minimum funding rules. The PPA also does not require disclosure of liability discount interest rates, minimum funding requirements, company funding contributions, asset allocation disaggregation, asset appreciation and rates of return on invested assets.

If participants in under-funded plans had more complete and accurate disclosures, they could better anticipate the impact of a plan termination. Many would ask questions and organize to pressure the company to more fully fund the plan. This paper will explain what's missing and misleading in current Funding Notices. It will propose a few modest reforms that could give participants a more complete and accurate picture – and provide a model AFN that would also be far easier for the average retiree or worker to comprehend.

***Protecting Retiree Benefits in Case of Bankruptcy* –** Retirees rely for retirement security on the continuation of promised benefits earned over two, three or more decades of work. Unfortunately, a growing number of retirees are finding that their pension, health, disability and other benefits are the first things lost when their former employer files for bankruptcy. Bankruptcy courts too often treat benefit liabilities as expendable as they prioritize what the company and its creditors claim is needed to emerge again from bankruptcy as an ongoing entity. Although the PBGC typically fights to avoid the termination of pension plans in bankruptcy – and although bankruptcy laws ensure a place at the table for unions – retirees typically lack representation in the process. Because of current gaps in (and misinterpretations of) existing statutes, retirees often receive little or limited protection of their benefits.

This paper will describe how retirees and older workers are harmed under the current bankruptcy process, provide an analysis of relevant bankruptcy code provisions, and propose how Congress should revise Section 1114 of the Bankruptcy Code to protect retiree health and welfare benefits, to ensure retiree advocates are represented in the process, and to authorize the PBGC and/or Department of Labor to make a priority claim on behalf of plan participants and beneficiaries to recover the vested but unfunded benefits that will *not* be guaranteed by the PGGC.

- ***Back Door Reversions: Stemming the Drain on Pension Assets*** – In the late 1980s, pension assets were used to finance hostile takeovers and the mass lay-offs that typically followed in their wake. Congress ended the abuse by imposing a 50% excise tax on pension "reversions" – defined to include, with a few exceptions, the use of pension assets for purposes other than paying benefits. Although Congress in 2006 tightened funding rules somewhat, the average defined-benefit plan remains dangerously under-funded (about 80% on average). Worse, a number of financially-weak companies spiraling toward bankruptcy have exploited a loophole that allows them to use pension assets to offer lump sum severance payments equal to a year's salary or more as part of a corporate restructuring. United Airlines, AT&T and Lucent are among the blue chip companies that have drained pension assets to pay operating costs related to restructuring. If these plans end up with the PBGC in a distress termination, they are even more under-funded and older workers and retirees can suffer the permanent loss of an even larger portion of their earned and vested benefits as a result.

Congress could close this loophole by requiring companies to fund these payouts currently or by limiting payouts to plans that are more than 100% funded, as required if plan sponsors tap pension assets for retiree health benefits. This paper will document the problem, including case studies, and recommend in detail a straightforward legislative reform.

- ***The Multiemployer Pension Reform Act of 2014: A Dangerous Precedent for Retirees* –** During its post-election lame duck session in 2014, Congress quietly passed the Multiemployer Pension Reform Act of 2014 (MPRA), which for the first time in history makes an exception to one of ERISA's most fundamental protections: MPRA allows the under-funded multiemployer pension plans, jointly trusteed by employers and unions, to cut the monthly fixed income of up to 10 million retirees and survivors. MPRA thereby undermined 40 years of established ERISA (Employee Retirement Income Security Act of 1974) law. The law may soon lead to reductions on the order of 40 percent to more to the earned monthly annuity payments to retirees, even to those who are now far beyond working age (70 or older) and who depend on these modest but guaranteed income to supplement Social Security and make ends meet.

  AREF believes MPRA is a dangerous precedent with implications that are not sufficiently understood. Although MPRA applies only to very under-funded multiemployer plans, the bill's language and precedent creates a moral hazard for the far larger number (40 million) retirees and workers relying on single-employer pension funds that are similarly insured by the PBGC. MPRA makes it far easier for companies that grossly under-fund their single-employer pension plans to lobby Congress to extend the exception enact the exact language affecting troubled (underfunded) single-employer plans. This white paper will explain why ERISA's anti-cutback provisions are fundamental to retirement security, the moral hazards of the MPRA precedent and, most importantly, how Congress and the federal agencies can take steps now to avoid the sort of under-funding that led Congress to resort to authorizing plans to cut vested benefits.

POLICY RESEARCH PAPERS: HEALTH CARE COVERAGE AND AFFORDABILITY

- ***Unfinished Business: Extending the Protections of the Affordable Care Act to Seniors* –** True to its official title, the Patient Protection and Affordable Care Act's most far-reaching reforms protect Americans under 65 from health-related bankruptcy and limits on coverage due to pre-existing conditions. The PPACA prohibits health insurance companies from imposing annual or lifetime limits on covered benefits, it caps the amount individuals and families must pay out-of-pocket each year (currently $6,850 for an individual in 2016), it prohibits exclusions based on pre-existing medical conditions, it limits variations in premiums based on age, and requires insurance companies to spend at least 85% of premium revenue on health care.

  What's not well known is that these patient protections generally do not apply to Medicare or to the Medigap insurance plans that seniors purchase to supplement – and close gaps in – traditional Medicare. In other words, the protections against ruinous health costs that PPACA guarantees as a right to Americans under the age of 65 are denied categorically to those who are most vulnerable: senior citizens. This paper will explain these gaps in senior citizen health security – with an emphasis on the lack of protection from catastrophic costs that throw so many seniors into bankruptcy and/or dependence on Medicaid. AREF will propose *revenue-neutral* reforms that Congress could pass to cure these gaps in health care security for seniors.

- ***Affordable Health Care for Older Adults: A Medicare Buy-In Option* –** Aside from children and the disabled, adults over 55 who are not yet eligible for Medicare comprise the population most vulnerable to a lack of affordable health insurance. Millions of older Americans have lost their health care coverage because they have been laid off, forced into early retirement, or because their employer has canceled coverage. While the Affordable Care Act guarantees coverage, it allows insurance companies to charge age-based premiums up to *three times* the community-rated premiums set for younger people. The risk of unaffordable coverage is acute for those aged 55 to 65; for example, one in five has two or more chronic health conditions.

The most promising option is to allow adults age 55 and older to buy Medicare coverage. Adding Medicare as an option for older adults offers many social and economic benefits including continuity of coverage, better outcomes and lower Medicare costs down the road. The paper will describe the problem, the advantages of offering a Medicare buy-in option to those over 55 without employer-based coverage, and how it can be designed and implemented without increasing the overall cost of either the PPACA or Medicare.

Another fertile field for research and proposal diligence is in the area of health care coverage payment policies. For example, the Affordable Care Act mandates that Medicare Advantage Plan insurers must pay out 85% of premium income in the form of health care benefits paid whereas supplemental plans, namely Medigap plans need only pay out 65% of premium income to benefit claimants. This inconsistency has not been rationalized or justified to Medigap policy holders.

- ***Runaway Prescription Drug Costs: Options for Incremental Reform* –** It's well-known that the cost of prescription drugs in the U.S. are the highest in the world, a rising share of overall health care costs, and increasingly unaffordable, particularly for low-volume specialty medicines such as biologic treatments (which already account for over one-third of drug spending). The cost of just five specialty drugs has surged over the past few years to exceed 10% of total Medicare Part D expenditures. A November 2015 Harris poll found that more than two-thirds of Americans now support price controls and reforms to allow Medicare to negotiate drug prices, while a majority want restrictions lifted on importing drugs from Canada and other countries with lower prices. This paper will describe the trend and impact of rising drug prices on retirees and other senior citizens. It will lay out a wide range options for controlling costs based primarily on enhanced competition and competitive bidding, rather than on crude price controls, including the pros and cons. Finally, the paper will detail a few incremental changes that could substantially mitigate the problem and potentially draw bipartisan support.

- ***Decoupling Medicare Coverage of Skilled Nursing Care and Hospitalization* –** For an increasing number of Medicare patients, affordable coverage of rehab and other skilled nursing care is critical. Medicare covers skilled nursing facility (SNF) care only after an "inpatient" hospital stay of 3 days or longer. More and more hospitals, however, are admitting Medicare recipients for "observation" rather than "inpatient" – and seniors are often surprised to find out much later that they are responsible for the full cost. This paper will explain this gap in Medicare coverage, examine the impact on seniors, the policy pros and cons of a mandatory 3-day hospital stay and, finally, design a policy recommendation that will be both more cost-effective and protective of retiree health.

- ***Eroding Retiree Health Coverage: A Maintenance of Cost Proposal* –** The ongoing cancellation or reduction of employer-sponsored retiree health care benefits has had a devastating impact on the lives and financial security of millions of America's retirees. During the decades when today's retirees earned these benefits, they were a bargained-for promise they counted on when calculating what it would take to retire. Few suspected or prepared for the possibility that courts would agree that a "reservation of rights" clause buried in the fine print of plan documents would trump years of promises. The Affordable Care Act initially passed by the House contained a provision (Section 110) prohibiting employers from reducing an individual retiree's health care benefits after he or she retires – but it was dropped in the final version negotiated with the Senate and replaced by a temporary Retiree Reinsurance Trust Fund for early retirees (now expired).

This paper will describe the problem and detail a retiree health Maintenance of Cost Protection (MCP) reform that offers companies a tax credit to partially offset the cost of voluntarily maintaining current retiree health coverage in return for an obligation that plan sponsors will not reduce their contribution to the cost. The MCP credit is analogous to the 28 percent subsidy paid under Medicare's Part D to companies that agree to maintain prescription drug coverage for retirees. Although it only reimburses firms for 28 percent of their drug benefit costs, the Part D subsidy has proven effective in maintaining superior employer plans, with no 'doughnut hole,' for roughly 30 percent of Medicare-eligible retirees.

2. Retirement Security Education Material and Trainings

Retirees and other older Americans often do not understand the workings of the pension plans and health care benefits that have become so critical to their income security. Despite a flood of superficial media articles and self-interested pitches from financial advisors and investment firms, there is truly a lack of "plain English" explanations of many of the most complicated but important issues related to retirement income security. One of AREF's central purposes is to educate not only policymakers about needed reforms, but also to educate retirees themselves so that they can make the best decisions and also engage in advocacy for change.

AREF proposes to create and broadly distribute a series of short pamphlets aimed at explaining some of the most consequential issues impacting retiree income security. These will be available free on AREF's website and printed for distribution to retirees through a variety of channels, including the local chapters of retiree associations including AARP and the National Retirees Legislative Network (NRLN). In addition, AREF proposes to create a 5-minute video on each topic that will make the information more accessible for many – and highlight this as a series available both on AREF's website and on a Retirement Income Security YouTube channel.

We propose to begin with a half-dozen topics that will tentatively include the following:

- ***How Well Insured is Your Pension? Understanding Federal Pension Insurance and the Pension Benefit Guaranty Corp (PBGC)***
  The federal Pension Benefits Guaranty Corporation (PBGC) insures the pension benefits of 40 million retirees and workers in 24,000 defined-benefit plans. Very few retirees and older workers understand the scope of this protection and its substantial gaps, or the implications of reports the PBGC has a huge deficit, or that workers in multiemployer pension plans can now lose benefits despite PBGC coverage. For example, older workers and retirees typically learn only after their plan terminates that a number of PBGC practices will leave about one-fifth of them with vested benefits reduced by 30% on average. This briefing will simplify and explain the very complex coverage and recent changes that impact how fully (or not) pensions are actually insured.

- ***Can My Pension Plan Go Bankrupt? What to Expect if the Company Behind Your Pension is Failing or Splitting Up***
  Many retirees and older workers fear – or worse, don't understand – that the bankruptcy of their plan sponsor, or spin-off of their pension plan in a corporate M&A transaction, could put their vested pension benefits at extreme risk. Most don't know how to interpret the Annual Funding Notice they receive each year, or what to expect if their plan terminates. This brief will explain these different scenarios, their implications, provide examples and point participants to additional resources.

- ***Your Pension Plan's Report Card: How to Read and Interpret the Annual Funding Notice***

Pension plan sponsors are required to send retirees and other plan participants an Annual Funding Notice (AFN) with disclosures about plan assets, liabilities and how fully or not the plan is funded. Unfortunately AFN disclosures have gaps and flaws that confuse and mislead the nation's 44 million plan participants concerning the true health of their pension plan. The most fundamental thing defined-benefit plan participants need to understand is that the plan's reported funding level is typically 20 percent higher than what the PBGC will assume if the plan terminates – resulting in the permanent loss of vested benefits for many. This brief will explain how to decode AFNs, their significance and what they are *not* disclosing.

- ***Understanding Prescription Drug Costs: Why are Prices so High and How to Lower Them?*** Prescription drug costs are by far the fastest rising component of retiree health care costs. Recent changes in Medicare Part D – and the differences between traditional Medicare and Medicare Advantage plans – leave many seniors confused, as do the many different categories and sources of medications. Stories are rampant about seniors unable to afford prescribed but expensive medicines. This brief will explain these differences and give seniors simple 'how-to' information needed both to navigate the system and minimize the cost of needed drugs.

- ***Pension Lump Sums Versus Lifetime Income: How Do I Choose?*** An increasing number of workers reaching retirement age – or leaving a longtime job – are faced with choosing between a lifetime income annuity (a monthly benefit for life) or taking and reinvesting a one-time lump sum payment. More commonly, retiring workers are offered no choice at all to take their 401(k) balance in the form of a lifetime annuity. This brief will offer education and advice on how to decide on the balance between lifetime income and lump sums.

- ***Retiree Health Care: How to Navigate the Loss or Lack of Retiree Health Benefits*** Each year an increasing share of the millions of older workers and retirees promised retiree health benefits either lose them or find they are now very limited (e.g., a capped contribution). These early retirees and seniors need both to understand what is happening and their options for replacing lost benefits.

3. A Series of Retirement Security Coalition Roundtables

Unlike many other policy areas, the relatively small number of nonprofits that advocate for retiree pension and health care protections have historically not coordinated closely on policy proposals or acted together in a coalition. This is very different than the collective action that has emerge in other issue areas involving groups engaged in advocacy on environmentalism, consumer protection, media reform, immigration, civil rights and civil liberties. By sharing information and developing a consensus on needed reforms, groups form a policy community that can convince policymakers more readily that a particular problem needs to be addressed and that there is both expertise and large constituencies behind particular and well-founded reform proposals.

Over just the past two years this has begun to change. An ad hoc coalition of retiree advocates from AARP, the National Retiree Legislative Network (NRLN), Pension Rights Center, organized labor and a few other groups have begun meeting regularly to exchange views on both regulatory and legislative developments and positions. These groups are beginning to coordinate on positions and advocacy related to certain salient issues, including the threat of pension plan risk transfers ("de-risking") and reductions in earned benefits in under-funded plans, much as they did years ago when Social Security privatization was an immediate threat. However, despite these nascent efforts, policymakers are not receiving either the benefit or the nudge of a carefully considered and consensus position on how certain problems facing retirement security should be addressed. At a minimum, the expertise and engagement of these groups need to be harnessed to both inform the debate on various issues and determine if a consensus is feasible.

AREF proposes to convene a series of retirement security policy roundtables to inform and ultimately forge, if feasible, a consensus proposal to address certain salient problems facing retirees and older workers. On each issue, several would be sequenced to first inform and later to forge, if possible, a consensus (or at a minimum options) on needed policy changes:

- An initial full-day or half-day roundtable discussion (depending on the complexity of the issue) would bring together a diverse group of retiree advocates, issue experts from industry and academia, and policymaking staff (from Congress and regulatory agencies). This initial session would inform participants about the problem, its impact on older Americans, and the pros and cons of various reform options. The purpose would be to brainstorm ideas, fully air differing perspectives, and lay the groundwork for subsequent sessions aimed at reaching a consensus position and strategy.

- One or (more likely) several subsequent convenings would include the nonprofit groups and selected experts interested in seeking a consensus and investing in advocacy around policy reforms. The purpose of these follow-on meetings would be to reach a consensus position and decide how groups can work together to promote the recommended policy changes both short-term and long-term.

In each case AREF would play a convening role and strive to facilitate a consensus that is grounded in sound policy research and that reflects a wide range of retirement security advocates. AREF would assemble background materials for the meetings, summarize results and organize briefings for policymakers and other interested parties if consensus is attained. Four current issues that could greatly benefit from this consensus-building activity include:

- ***Pension Risk Transfers that Revoke ERISA Protections:*** At the urging of retiree advocates, the Treasury Department last year enacted a prohibition on companies offering a lump-sum buy-out to retirees already receiving monthly benefit payments. However, a growing number of companies are “de-risking” their pension plans by transferring the liability to pay monthly benefits for life to insurance companies – thereby removing selected groups of retirees from their plans. These forced annuity buy-outs strip retirees of ERISA protections including, most critically, the insurance provided by the Pension Benefits Guaranty Corporation (PBGC). Unlike lump sums, retiree advocacy groups lack a coherent or consensus position on what the Administration and/or Congress should do to mitigate the harmful impacts of this practice.

- ***Fully Protecting Retirees’ Vested Benefits if a Pension Plan Terminates:*** Currently a number of policies cause older workers and retirees to permanently forfeit a substantial portion of their earned and vested benefits, which can be devastating to those impacted by plan terminations due to corporate bankruptcy or plan spin-offs. Despite many years of being told PBGC insurance guarantees their monthly benefit, older workers and retirees learn only after their plan terminates that a number of PBGC practices will leave about one-fifth of them with vested benefits reduced by 30% on average. There is currently no common understanding of the facts underlying this problem and no consensus about the regulatory and/or legislative reform needed to address it.

- ***Giving PBGC the Tools to Protect Older Workers and Retirees:*** One reason that the PBGC has adopted policies to limit its guarantees of earned benefits is that both ERISA and bankruptcy provisions restrict the agency's ability to avoid distress terminations of pension plans and mitigate losses when plans do terminate. The PBGC lacks the tools needed to demand increased funding for a plan, or other equitable remedies under ERISA (e.g., liens). And in the case of bankruptcy, neither the PBGC nor the Department of Labor are able to make a priority claim on behalf of plan participants and beneficiaries to recover vested but unfunded benefits that will *not* be guaranteed if the court allows the plan sponsor to terminate an under-funded plan.

- **Extending ERISA type protections for pension plan participants in the quasi-governmental units that include entities such as the Tennessee Valley Authority (TVA).** There is a decided lack of consistency in these organizational situations as regards fiduciary guidelines and hard rules affecting pension plan funding and vesting of protected benefits. For example, TVA retirees are facing a cut in earned benefits due to chronic under-funding and the historical accident of lacking both ERISA and regular federal employee pension protections. The AREF has made a preliminary review of such situations and found that there is a need for collection and analysis of data surrounding these large pockets of retirement income.

- ***Extending the Protections of the Affordable Care Act to Seniors:*** The Affordable Care Act's most far-reaching reforms protect Americans under 65 from catastrophic costs and limits on coverage due to pre-existing conditions. For example, the PPACA prohibits health insurance companies from imposing annual or lifetime limits on covered benefits; and it caps the amount individuals and families must pay out-of-pocket each year. What's not well known is that these patient protections generally do not apply to Medicare or to the Medigap insurance plans that seniors purchase to supplement – and close gaps in – traditional Medicare. Protections against ruinous health costs now guaranteed as a right to Americans under the age of 65 are denied categorically to those who are most vulnerable: senior citizens. A consensus on how to extend these protections to America's seniors is long overdue.

4. Retiree Voices: Bringing the Experiences of Older Americans to Washington

Hearing directly from older Americans about how federal pension and health care policies impact the daily lives of retirees and their families can help policymakers gain a better understanding and motivate action. Although Congressional and federal agency staff meet regularly with advocates for retirees, they generally operate in a D.C. bubble far removed from the realities of how policy affects the real people they believe they are working to serve. And unlike a wide range of special interests – from car dealers to trial lawyers to truckers – it is far too rare for groups of retirees to meet with the members of Congress, federal agency staff and others who most need to hear their stories.

AREF proposes to organize a series of "fly-ins" focused on at least four of the salient pension and health policy issues described in the policy research section above. We propose to bring in 8-to-12 retirees, selected primarily because of the personal stories they can share, but also because they come from states or districts that will resonate with policymakers with great potential influence on that issue. For example, concerning the issue of extending the catastrophic health care cost protections of the ACA (Obamacare) to senior citizens, AREF would bring in senior citizens whose lives and families have been devastated by unaffordable medical costs and the debt and stress that it often brings in its wake. Tentatively the four "fly-in" issues would include:

- Catastrophic medical costs, including coverage limitations on skilled nursing care

- Prescription drug costs, including the consequences of unaffordable specialty drugs
- The loss of vested pension benefits due to corporate bankruptcies and the way both bankruptcy law and the PBGC fails to protect earned benefits after a distress plan termination
- Pension plan de-risking, particularly the consequences of losing federal pension insurance and other ERISA protections

If sufficient resources are available, AREF will leverage each of the fly-ins by recording video interviews that capture the stories of these retirees and edit them into approximately 20-minute online videos on each topic. These will be highlighted on AREF's website, as well as on a special Retirement Income Security YouTube channel that AREF will curate with this and other content. These documented stories – along with a narrative explaining the policy issue and potential solution – will then be useful to a far broader audience, including other retirees, policymakers, reporters and the interested public.

5. A Series of Regional Retirement Security Town Hall Meetings

Increasingly, retirees are organizing through company-related associations and local chapters in cities across the country. AREF believes that one of the most effective ways to educate and engage *both* retirees *and* local policymakers concerning the policy issues of greatest concern to older Americans is to stand up a series of Retiree Town Hall Meetings open to the public, press and local public officials. Since 2016 is an election year, it is also an ideal time to organize public meetings – and invite local public officials (including local members of Congress) to attend and answer questions.

AREF will seek to partner with other established retiree advocacy organizations (e.g., local NRLN and AARP chapters) to publicize and expand participation by retirees and policymakers alike. AREF's research and retiree education materials on needed pension and health policy (outlined above) will help to both set the agenda and inform the participants. For example, the NRLN and its chapters have agreed to partner on this initial series of Retiree Town Halls by publicizing them, recruiting attendees, and disseminating the results. Where feasible the Retiree Town Halls will be webcast and/or videotaped for posting and future viewing online.

The initial five Retiree Town Halls will tentatively be held in the following locations, selected because they have concentrations of retirees and active retiree advocacy groups that can assist with outreach to seniors:

- Phoenix, AZ
- San Diego, CA
- The Villages, FL
- Detroit/Dearborn, MI
- Dallas, TX
- Seattle, WA

6. **Social Media Outreach and Articles in the Mainstream Press**

AREF will disseminate the substance of the policy research papers, retirement security policy roundtables and other activities described above to a broader audience using social media outreach and articles published in mainstream newspapers and magazines. Over the next 12 to 24 months AREF will write and publish at least one op-ed corresponding to each of its policy research papers in a popular mass media outlet – and distribute this widely within the retirement security policy community with links to the underlying research papers. In parallel, AREF will generate a steady stream of tweets on its own and related Twitter streams, as well as via Facebook and other social media. AREF will also seek to inform and influence pundits, as well as newspaper and magazine editorial boards, about the issues, the stakes for the public, and its proposals for needed reforms.

CONCLUSION

Retiree pension and health care benefits earned through decades of hard work are being steadily cut back and put at risk due to a variety of corporate financial maneuvers, as well as by outdated or shortsighted federal government policies. More than 11 million retired couples and individuals continue to rely on traditional pension income and millions more on retiree health benefits. It can be devastating to elderly individuals, to their families and to their communities when these promises are broken.

AREF operates at the intersection between policy research and advocacy, providing in-depth analysis and practical reform proposals for a growing coalition of retiree advocacy groups, as well as simplified educational material for retirees, older workers, the press and public concerned about these issues. We focus on a series of challenges facing retirees and older workers that we believe are both most critical to retirement security *and* are not receiving sufficient attention from policymakers and other retiree advocacy organizations. The timing is critical: With a new president and Congress taking office and shaping new agendas in early 2017, additional financial support now will allow AREF to produce the in-depth policy research, pragmatic policy reform proposals, retiree education materials and trainings, and to pursue a consensus and greater coalition activity among leading organizations advocating for retirement income security.

ATTACHMENTS

- Staff Biographies
- Board of Directors
- AREF 501(c)(3) IRS Determination
- AREF Exempt Organization EIN #

AMERICAN RETIREES EDUCATION FOUNDATION
STAFF BIOGRAPHIES

Bill Kadereit – President

As founding President of AREF, Bill Kadereit is responsible for guiding the organization's overall mission, strategies and programs. Mr. Kadereit, a retiree himself, has many years of experience as an advocate for the pension and health care security of retirees. During his active working years his career included pension and other employee benefit responsibilities in Humans Resources and Labor Relations leadership roles and has served as an executive at two S & P 500 corporations then, after retiring, as Senior VP and CEO of three different smaller companies. He has served since 2008 as President of the National Retirees Legislative Network (NRLN), a coalition of 18 retiree associations, chapters and individual members totaling over 2.3 million retirees from 135 U.S. companies. The NRLN has worked to protect employer-sponsored pensions, health care benefits and keep Social Security and Medicare strong in a non-partisan way, supported by facts and proposals. In that capacity Mr. Kadereit has represented retirees to effect sound policy by testifying before Congressional committees and before the Department of Labor's ERISA Advisory Counsel. He frequently speaks to retiree associations and at retiree advocacy meetings and conferences across the country. He is a graduate of the University of Nebraska, the Stanford University Sloan Fellowship Program and a Brooking Institute Fellow for Government and International Business.

Alyson Parker – Executive Director

As Executive Director, Alyson Parker is responsible for leading and managing the implementation of all aspects of AREF's activities associated with development and presentation of education and training packages for groups, educators, policymakers, and coalitions. Alyson Parker also organizes forums designed to educate national and local organizations of the necessity for planning for retirement and protecting income and health care benefits. Before joining AREF, she served as a legislative counsel on Capitol Hill, as a lobbyist in the telecommunications industry and practiced law in civil litigation

Michael Calabrese – Legal Counsel

As a legal analyst and advisor to AREF, Michael Calabrese carries out legal and policy research for AREF and participates in meetings with regulators and other policymakers. Mr. Calabrese is a longtime thought leader on pension and health care issues. He has served as a Senior Fellow at New America for the past 15 years, working with that think tank's Asset Building Program, Health Policy Program and Next Social Contract Initiative on proposals to expand retirement saving and health care coverage. He has written numerous pension and health policy papers and reports for New America and for the National Retirees Legislative Network (NRLN). He has testified several times before House and Senate committees on pension policy and related issues. Mr. Calabrese formerly served as General Counsel to the Congressional Joint Economic Committee and as a pension and benefits counsel at the national AFL-CIO. He has published opinion articles in many of the nation's leading outlets, including *The New York Times*, *The Wall Street Journal*, *The Atlantic*, *Slate* and *The Washington Post*.

Edward Beltram – Communications Director

As the AREF's Communications Director, Ed Beltram brings five decades of diverse communications experience to his position. He has served as a metropolitan newspaper reporter, a public information officer for a state education agency, a public relations manager for a major food processing company and the communications and human resources manager at large telecommunications equipment manufacturing plant. He is experienced in media relations and has often served as a spokesperson with national publications and television networks and is adept in the use of social media. He has had many years of community service on boards of directors including Junior Achievement, Boy Scouts of America Council and Food Bank. Since 2008, he has served as the Vice President – Communications for the National Retiree Legislative Network. He is a graduate of the University of Oklahoma with a degree in journalism and holds a master's degree in mass communications from Oklahoma State University.

Judy Seikel – Development Director

Has a wealth of experience in private business, a nonprofit organization and a state government agency. She worked as a public relations specialist for a telecommunications manufacturing firm and later as a senior human resources professional at that firm which closed in 2001. Afterward, she became the executive director of Camp Fire USA Heart of Oklahoma Council, a nonprofit, tax-exempt youth development organization. She has also served as the human resources supervisor for Oklahoma Department of Corrections. She is a graduate of the University of Oklahoma with an undergraduate degree in journalism and a graduate degree in human resources.

American Retirees Education Foundation

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DEPARTMENT OF THE TREASURY

Date: NOV 25 2014

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Employer Identification Number:
47-2146998
DLN:
26053721001624
Contact Person:
CUSTOMER SERVICE ID# 31954
Contact Telephone Number:
(877) 829-5500
Accounting Period Ending:
December 31
Public Charity Status:
170(b)(1)(A)(vi)
Form 990/990-EZ/990-N Required:
Yes
Effective Date of Exemption:
October 18, 2014
Contribution Deductibility:
Yes
Addendum Applies:
No

Dear Applicant:

We're pleased to tell you we determined you're exempt from federal income tax under Internal Revenue Code (IRC) Section 501(c)(3). Donors can deduct contributions they make to you under IRC Section 170. You're also qualified to receive tax deductible bequests, devises, transfers or gifts under Section 2055, 2106, or 2522. This letter could help resolve questions on your exempt status. Please keep it for your records.

Organizations exempt under IRC Section 501(c)(3) are further classified as either public charities or private foundations. We determined you're a public charity under the IRC Section listed at the top of this letter.

If we indicated at the top of this letter that you're required to file Form 990/990-EZ/990-N, our records show you're required to file an annual information return (Form 990 or Form 990-EZ) or electronic notice (Form 990-N, the e-Postcard). If you don't file a required return or notice for three consecutive years, your exempt status will be automatically revoked.

If we indicated at the top of this letter that an addendum applies, the enclosed addendum is an integral part of this letter.

For important information about your responsibilities as a tax-exempt organization, go to www.irs.gov/charities. Enter "4221-PC" in the search bar to view Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, which describes your recordkeeping, reporting, and disclosure requirements.

Sincerely,

Tamera Ripperda

Director, Exempt Organizations

AREF Exempt Organization EIN

https://apps.irs.gov/app/eos/pub78Search.do;jsessionid=IdtUoKjb+Y+ihx6zSLOksA__?ein1=47-2146998&names=American+Retirees+Education+Foundation&city=Washington&state=DC&country=US&deductibility=all&dispatchMethod=searchCharities&submitName=Search

IRS

Exempt Organizations Select Check

Exempt Organizations Select Check Home

Organizations Eligible to Receive Tax-Deductible Charitable Contributions (Pub. 78 data) - Search Results

The following list includes tax-exempt organizations that are eligible to receive tax-deductible charitable contributions. Click on the "Deductibility Status" column for an explanation of limitations on the deductibility of contributions made to different types of tax-exempt organizations.

Results are sorted by EIN. To sort results by another category, click on the icon next to the column heading for that category. Clicking on that icon a second time will reverse the sort order. Click on a column heading for an explanation of information in that column.

1-1 of 1 results Results Per Page 25 OK « Prev | 1-1 | Next »

EIN	Legal Name **(Doing Business As)**	City	State	Country	Deductibility Status
47-2146998	American Retirees Education Foundation	Washington	DC	United States	EO