**TESTIMONY OF**

**BILL KADEREIT, PRESIDENT**
**NATIONAL RETIREE LEGISLATIVE NETWORK**

**BEFORE**

**THE COMMITTEE ON EDUCATION AND LABOR**
**U.S. HOUSE OF REPRESENTATIVES**

**On**

**"Safeguarding Retiree Health Benefits"**
**Thursday, September 25, 2008**
**10:00 a.m.**
**2175 Rayburn HOB**

Good morning, Chairman Miller and Members of the Committee. My name is Bill Kadereit and I am from Heath, Texas. I appear before you this morning as President of the National Retiree Legislative Network or NLRN, an organization that represents more than 2 million retirees across America. I commend you, Mr. Chairman, and the Committee for focusing on this vitally important topic and appreciate this opportunity to spend a few minutes with you this morning.

Our retiree organizations serves a cross section of the top Fortune 500 companies such as Boeing, IBM, Johns Manville, Alcatel Lucent, Prudential, Raytheon, Detroit Edison, Pacific Bell, GM, Ford, Chrysler, AT&T, and a dozen more.

Our members live in all 50 states and over 300 Congressional Districts. Although the majority of our membership is retired management employees, over 15% are retired union workers. Most of them feel betrayed by their former employers.

At the heart of this betrayal is that so many employees, even retired managers, were unaware that their former companies could break their promises to their retirees. For example, many retired managers say they were not aware that the lump sum pension payments offered as inducements to older workers to retire often came from workers' own pension plan assets. Nor did they realize that health care benefit plans contained statements that reserved to the company the right to reduce or cancel health care benefits. Retiree exit interviews ended with a handshake and the passing of an envelope stuffed with benefit promises.

Sandy …… a retired IBM Manager who saw his own insurance bill triple in 2004 put it this way: "I feel I misled a lot of people, that I've lied to people;" then he said, "It does not sit well with me at all."

Capping and cancelling health care liabilities in the 90's was the beginning of a disturbing trend that continues to this day. International Paper used FASB 106 to book health care liabilities and then introduced caps. The effect was $18.7 million in earnings gains each year through 2000. In 2000, 2001 and 2002 they capped benefits of newly acquired companies and through 2004 benefited by another $65 million. Sears implemented caps during the 90's and fed $383 million to earnings since 1997.

IBM implemented caps in 1999 that affected 190,000 retirees. It took three years for retiree health care costs to reach the $625 cap but in 2002 retiree premiums increased nearly 67% and another 29% in 2003.

Adding the greatest insult to this injury is the heinous Equal Employment Opportunity Commission, or EEOC rule of 2007 which permits companies to discriminate against over-age-65 retirees who can have their health care benefits eliminated completely with companies claiming necessity in order to maintain benefits for younger workers. There are over 10,000,000 retirees over age 65.

Over-age-65 GM retirees will be forced onto Medicare without the catastrophic, dental, vision, or hearing insurance they now have, effective January 1, 2009. A GM retiree, who must purchase supplemental insurance, plus the four elements just cited, will be in the hole over $400 a month starting in January 2009. A retiree on a fixed income pension of $36,000 is going to lose between 18-20% of his or her after tax income if they replace all lost coverage. Ford, Chrysler and GM are casting a big shadow over the retirement landscape. Singling out over age 65 retirees sets an example that will lead to more companies targeting them. It is ironic that retirees under age 65 are no better protected now than before the EEOC rule became effective.

I am not blaming the Big Three. The trend is universal. The EEOC rule and the fact that ERISA does not vest retiree benefits are the real culprits. **For this reason, maintenance of health care benefits in effect on the day of retirement is a top NRLN priority.**

Congress must address the problem of catastrophic insurance for all retirees and Medicare eligible Americans. It is not just uninsured people who are vulnerable.

R<u>obert ……, a 66-year-old Dallas retiree, has brain cancer. He gets free supplies of a tumor-fighting drug through a program for low-income families. His premiums have jumped by $365 a month, his deductible and co-pays and other out of pocket expenses are on top of that; "it eats up all the pension" which is $850 a month his wife, LaRue, says. They have cashed in his 401(k) account and taken out a second mortgage on their home.</u> **Two other NRLN priorities are the inclusion of catastrophic coverage in Medicare and the creation of a Medicare buy-in option, at cost, for all under age 65 retirees**

Elizabeth Warren, a Harvard Law School professor and one of the authors of <u>Consumer Bankruptcy Project</u>, examined a sampling of noncommercial bankruptcies from 1991 to 2007, and people 65 and up were more than twice as likely to file and the filing rate for those 75 and older more than quadrupled. This is very real and frightening!

So given all of this, what can Congress do to provide greater safeguards for retiree health benefits? The NLRN has three main recommendations:

> **First**, prevent broken promises to retirees and mitigate the harm from the EEOC ruling by offering incentives to companies but requiring them to maintain their existing level of health care contributions for retirees. This incentive could take the form of tax credits that would offset part of the cost. The NRLN calls this Maintenance of Cost Protection (MCP).
>
> **Second**, amend ERISA to prohibit the use of defined benefit pension plan assets to make lump-sum severance payments—an operating expense that should be paid from a restructuring reserve or from operating revenues. This will ensure that any pension fund surplus can be applied to retiree health care costs through use of IRS Sec 420 transfers to 401(h) trusts, as long as a cushion of 120% of current assets is maintained in the pension fund.
>
> **Third**, in 1986, Congress passed the "Medicare Catastrophic Act of 1988" that provided catastrophic insurance that would protect fixed income seniors from devastating health care bills. But it was attacked by seniors who declared it prohibitively expensive at the time. The law was repealed in 1989. Now is the right time to work out a new bill that solves the catastrophic dilemma.

Thank you, Mr. Chairman and members of the Committee. We stand ready to work with you and your staffs on these and other legislative proposals that you may consider. I'd be happy to answer any questions you or the Committee members may have.