SPEECH BY KAREN FRIEDMAN TO THE
NEW YORK NURSES ASSOCIATION
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Hello NY nurses – it's great to be here, and I'm so excited that hundreds of you have come today at 7:00 a.m. to talk pensions and retirement – I hope you've had lots of cups of coffee so we can all get psyched, at this early morning hour, for a movement for change!

I want to point out the significance of where this meeting is happening. We're here today at the Javits Center, and what you may not know is that Senator Jacob Javits was the key sponsor of the Employee Retirement Income Security Act (ERISA), the landmark pension reform law that was signed into law in 1974, making sweeping and significant reforms to the private pension system, to make it fairer for workers and retirees and their families. So it is a real honor to be speaking at this site on this issue.

Also, I want to introduce you to Gary Stone, who is the managing attorney of the Mid-Atlantic Pension Rights Project. Gary and his staff help people in New York and New Jersey with their individual pension and other retirement income problems. Gary is an expert on both the federal law and on the state and city pension plans and can help answer questions later today.

To begin, I want to say I love nurses, professionally and personally. We at the PRC have a long relationship with nurses across the country on multiemployer issues and on church plans issues that I'll tell you about a little bit later. My brother Bruce is a nurse. He lives in Middletown, New York and works for the NY State Office of People with Developmental Disabilities and has had other jobs in NY State. My dad and mom are 94 and 90 respectively and they have been in and out of the hospital over the past year and I have to say it's the nurses at Hartford Hospital in Connecticut that kept them alive – and were such a great support to me and my family.

It's no wonder that nurses outrank other professions in the Gallup's Honesty and Ethics Survey.

And it's why we think you all should be leaders on pension reform and lead the education campaign on why pensions are important and on needed reforms for the future!

OK, let me tell you a little bit about me. I'm Karen Friedman, the Executive Vice President and Policy Director of the Pension Rights Center. We are a national consumer organization that has been around since 1976, working to promote and improve retirement security for American workers and their families. We work to close gaps in the law which have prevented folks from getting pensions; we provide hands-on legal assistance to individuals to help them enforce their rights; and we work toward visionary polices for the future.

We are in our 41st year – and are having an anniversary "Retirement Security Superhero" celebration on November 7th – and I have to say that the Center's work is needed now more than ever as the attacks on private and public pensions and Social Security and other social programs grow across the country.

I'm going to talk today about how we're going to fight back to protect pensions for today's and tomorrow's retirees, especially fighting for collective, pooled arrangements that have built a solid middle-class in this country – something that seems to be eroding faster and faster every day.

To that end, I'll be discussing the retirement income crisis facing this country, the need to protect the good pension plans that people have, and the need to work for a new movement for retirement security for all.

Let's start with the big picture:

- Only 50 percent of the private workforce has pensions or retirement savings to supplement Social Security, and this has been a stubborn fact for about three decades.
- More and more private sector companies have abandoned or cut back good guaranteed defined benefit plans in favor of 401(k)s.
- 401(k)s just aren't cutting it for most Americans. Half of all households have only $59,000 accumulated in their accounts. And those closest to retirement have only about $103,000, which is not enough to make it through retirement.
  - A study by the National Institute for Retirement Security found that the "average working household has virtually no retirement savings."
  - When all households are included – not just those with retirement accounts – the median account balance is $2,500 for all working-age households and $14,500 for near-retirement households.
- Recently, in a *Wall Street Journal* article, the founders of the 401(k) said publicly that they regretted the trend of 401(k)s and never intended for them to replace DB plans.
- And, it's no surprise to all of you, increasingly there are attacks on public sector plans.

Because of all these factors, we now have a huge and growing Retirement Income Deficit in this country of $7.7 trillion…according to the Center for Retirement Research at Boston College. That's the gap between what people have saved as of today and what they would need to have saved today to meet their basic retirement needs. Stated another way, 53% of households between the ages of 32 and 64 are at risk of not having retirement enough money to maintain their standard of living. This Retirement Income Deficit would be a lot higher if private, state and local pensions are cut and if Social Security is decreased.

National opinion polls reflect America's anxiety. A Gallup poll shows that Americans are more worried about not having enough money for retirement than any other economic issue – including paying for health care, their mortgage, or their kids' education. Another poll by an insurance company shows that people fear outliving their money more than death.

So given all this, policymakers should be making the protection of pensions and retirement security a national priority, right?

But sadly, we at the Pension Rights Center are seeing an assault on retirement security in ways that we have never seen in our 41years of existence.

Assault #1: Social Security

Social Security is the most successful social insurance program in the country. It is the bedrock of security for American families. Nearly two-thirds of retired Americans receive half of their income from Social Security, and it's the only source of income for one in five older Americans (Social Security now averages just over $16,000 annually for the typical retiree. It is much less for women and lower-wage workers).

Yet, despite the importance of this program, some ideologues in Congress have tried to undercut the program for years. But now we see that this threat is all too real. Social Security, Medicare and Medicaid are in greater danger than any other time in their histories.

Many in Congress have their sights on Medicaid and Medicare, but definitely they are out to get SS too. Policymakers just seem to be more aware of political dangers around this program.

What most people don't hear is that, despite the reports of doom and gloom, Social Security can pay 100 percent of benefits for the next 18 years – without a single change. There are many practical ways of fixing Social Security. We need to fight back and save Social Security for all generations.

Assault #2: State and Municipal Plans.

As you know, while state and city workers have given up wages to get good pensions – and generally make lower wages than their counterparts in the private sector – we keep hearing that public pensions of all kinds are bankrupting the states. You've heard it in Hawaii, you've heard in New Jersey, you've heard it in Illinois and recently in Dallas.

These fights continue in state capitols and municipalities across the country, despite the fact that most state pension plans are well funded and, when they're not, it's usually because the legislators didn't fund the plans in the first place. For example, in Illinois, the legislators haven't been funding the plan for generations (although the municipal plan in that state is one of the best funded in the nation), and because the Great Recession hammered all pension plans.

But the fortunes of most public plans are rising. According to the Center for Retirement Research at Boston College, the average pension was funded at 74 percent in 2014 and will achieve sustainable funding levels by 2018. Some of this is by improving contributions; some by changing actuarial assumptions; and some by making reforms, which generally are negotiated with unions. What has been starkly clear is that changing to a defined contribution plan or 401(k) plan is not the way to save money. According to the National Institute on Retirement Security, switching to a DC plan can in fact make funding shortfalls worse and lessen retirement security. Similar to Illinois, West Virginia had underfunded its teacher pension plan for years and then they decided to shut it down completely. They replaced the pension plan with a 401(k) plan for new hires. But guess what? They found out that they couldn't fill the overall shortfall in the plan and that older teachers couldn't retire with even close to adequate income. Cutting its losses, West Virginia reopened its defined benefit plan after a study found that providing equivalent benefits in the defined benefit plan saved money.

According to the National Public Pension Coalition:

> In 1997, the Michigan State Employees' Retirement System (MSERS) pension plan was closed and new hires were placed in a 401(k)-style plan. At the time of the plan's closure, the funded status was 109%. With no new employees paying into the pension fund and an aging demographic, plan costs soared and the funding level dropped; by 2012, the plan was severely underfunded at 60.3%. After 20 years under the 401(k) plan, the state's Office of Retirement Services found that the median balance in these accounts is just $37,260.

This is an important story that needs to be told again and again. Pension plans – defined benefit plans – have created a middle-class in this country. And as you know, you gave up wages to be in these plans. They are not giveaways. They are about stability and ensuring that people after a lifetime of work have income they can rely on.

Also, public pensions are an important and ongoing source of economic stimulus to every state, city, and town across America. According to one study by the National Institute on Retirement Security, the system of traditional defined benefit pension plans distributes $140 billion annually and adds $260 billion in direct economic stimulus to the nation each year. And while some states and cities have enacted cuts, most states have protections against cutting retirees' benefits, and when such cuts occur – as in Detroit's bankruptcy a few years back – these were challenged in the courts. And in Detroit's case as you may remember, the cuts because of strong push-back were minimal.

We need to fight back against these cuts in state and city plans.

Assault #4: Attacks on Private Plans

And finally, attacks are also happening in private plans.

As I said earlier, over the past decade, more and more companies have found ways of breaking promises to workers and retirees, by dropping good guaranteed pension plans, cutting benefits, freezing plans, and replacing them with 401(k)s. As bad as these trends have been, at least retirees and workers in company and union pension plans could depend on one thing: while companies could change the plan for the future, benefits earned could not be taken away.

Until now.

We were appalled when, at the tail-end of 2014, Congress passed a law called the Multiemployer Pension Reform Act (MPRA) that allows for the already-earned pensions of retirees to be cut in certain severely underfunded multiemployer plans. These provisions were stuck into an end-year spending bill – that had to pass or the government would have shut down. MPRA guts the fundamental provisions of ERISA, the federal private pension law.

For 40 years, ERISA had the strongest protections for retirees by preventing their pensions from being cut in a multiemployer plan unless a plan totally ran out of money. However, MPRA reversed ERISA's protections and allows trustees of certain severely underfunded multiemployer plans to slash retiree benefits 10-20 years before a plan runs out of money. The idea was to allow trustees to balance the books of these plans on the backs of retirees. And this was dreadfully unfair.

The Central States Pension Fund, which covers truck drivers, warehouse workers, bakery workers and others, was the first plan to try to take advantage of MPRA and applied to the Treasury Department to get approval for a plan to cut retirees' benefits from 40-60%. Can you imagine?

The Pension Rights Center organized with thousands of retirees across the country as well as with AARP, the Teamsters Union, the Machinists and others to try to stop these cuts. We and retirees across the country lobbied and organized rallies and submitted comments to the Treasury arguing that the Central States application didn't meet the requirements of the law. We shocked the Central States fund and the lobbyists who wrote the bill – because the Treasury agreed with us and the retirees and they shot down the application.

That was great news but it's only temporary.

There are eight other plans, other than Central States that have applied to Treasury to cut their retirees benefits. Three others have been rejected and there are three others pending. But in mid-December, the Treasury Department for the first time approved an application for Iron Workers Local 17 which led to 320 retirees' pensions being cut 30-60%. What the Ironworkers plan did was pit the retirees against the workers by structuring its cuts by giving only small or no cuts to workers and steep cuts to certain retirees. So when there was a vote on the cuts, many of the folks voted in favor. But even if they didn't, the vote is rigged. And under MPRA, people who don't vote are counted as "yes" votes – and this tips the scale for the plan in most instances.

We were afraid that the Ironworkers Local would be a model for other plans to move forward, and sure enough the same thing just happened at the New York State Teamsters Pension Fund. The Treasury approved the plan's application to cut benefits this summer, and in September the participants were required to vote on the cuts. If you just looked at the publicized results, you would have been led to believe that the participants voted "in favor" of the cuts. But the results were tainted. In fact, 71% of votes cast were AGAINST the cuts and 29% voted in favor of the cuts. But because so many people didn't cast a ballot at all, those counted as "yes votes."

We heard from musicians from the American Federation of Musicians and they received a notice that their plan is expected to apply for benefit cuts next year. And they are fighting the cuts.

These activists – retired and active truck drivers, warehouse workers, musicians and others -- have become among the most successful and effective lobbyists we know. We have provided them with strategic and legal advice and the analysis of the law and then they have taken it from there. They learned the law, pored through their plan's financial documents, took our messaging (and perfected it) and they have banged on hundreds of doors of members of Congress. Because of them there is now a growing awareness on this issue and legislation has been introduced, and other bills are in development to address the issue.

LEGISLATION:

Senator Bernie Sanders and Congresswoman Marcy Kaptur introduced the Keep Our Pension Promises Act (KOPPA) that eliminates the cutback provisions of MPRA and creates a fund within the Pension Benefit Guaranty Corporation, the agency that insures pension plans, to infuse underfunded plans with enough money to pay full benefits. The plan is paid for by rolling back tax breaks for wealthy art and real estate speculators.

Senator Rob Portman introduced the Pension Accountability Act to address the unfair voting process.

Also, we understand that Senator Sherrod Brown and Congressman Richie Neal will be introducing a bill soon that would provide loans to plans so that retiree benefits would not be cut.

We hope that the New York Nurses Association will join us in this fight. We need to support a "no cuts" message. And while your multiemployer fund is very well funded, we need to stick together to keep the system strong! Also, if more cuts are allowed to go forward in multiemployer plans then those legislators who want to slash state plans, city plans, federal plans (or even Social Security) will be able to point to these cuts as a rationale for cutting these other programs.

Another pension promise issue is that of church plan conversions.

As many of you may know, back when ERISA was passed, church plans were given an exemption from the law. The idea was that churches would take care of their own and didn't want the government meddling in their books. But what we've seen recently is a complete perversion of the intent of the law.

Thousands of nonprofit organizations such as hospitals, schools and community centers that are lay organizations affiliated with, but not financially backed by, churches or synagogues have been advised by consulting firms that they can get out of their funding obligations if they apply to the IRS to convert to "church plan" status. And these hospitals with names like St. Mary's or St. James, that have always had had ERISA plans, have gotten rulings from the IRS to switch to church plans – and we have contended that this is unlawful and must STOP.

When plans do this, they are able to get out of all federal requirements including funding their plans properly and, most egregiously, the workers and retirees lose the insurance protections provided by the Pension Benefit Guaranty Corporation – meaning if the plan goes bust, they can lose their pensions.

Here are three cases I wanted to share and then want to hear about hospital pension plans that you are in that may have converted or about to convert to church plan status.

We got involved in the church plan issue when two nurses from the Hospital Center of Orange New Jersey, Mary Rich and Mary Petti, came to us and told us that when their 100-year-old non-religious hospital had gotten into financial trouble, to save money, it affiliated with a church in order to get out of complying with federal protections. It was absolutely outrageous to us that the IRS granted the hospital "church plan status," when clearly the pension plan had always been an ERISA plan and they affiliated with a church solely to get out of following the law! By the time Mary and Mary came to us, the HCO plan was almost bust. We became detectives and determined that the IRS should never have granted HCO church plan status. With Mary and Mary as amazing advocates, we were able to convince government agencies that the decision to grant church plan status was wrong – and the IRS reversed itself and the PBGC restored insurance protection. This never would have happened without the nurses' advocacy and we gave them Retirement Security Superhero awards last year. They are WONDER WOMEN!

But the IRS has taken the position that HCO was an anomaly and they have stood behind other decisions.

Right now, the Center is working with workers and retirees from other hospitals. For instance, we're working with workers and retirees in what was once the St. James Hospital, affiliated with Cathedral Health System in Newark, New Jersey, and since then has gone through many other mergers.

The plan was terminated by Cathedral Health Systems in 1996 and participants were told, "don't worry the plan was overfunded." But just recently they got letters from the financial institution that had been sending out checks saying, "oops sorry, the plan went bust and now your pensions are wiped out." They are cutting one more check and then 100% gone! No one is taking responsibility. Not the church, not the hospital, no one. Pretty outrageous!

And PRC was quoted in a terrific story on Rhode Island NPR where they quote Mary Grivers, an RN with St. Joseph's Hospital, who always trusted the hospital because of its mission and Catholic sponsorship. Now taking care of her husband with Parkinson's disease, she just found out that her pension, and others will be cut by 40%. When the hospital was sold, the plan went from 90% funded to now going bankrupt. Again the church is saying they are not responsible, and so is the hospital.

We take the position that these conversions are unlawful. The Center's research is the basis for more than two dozen lawsuits. We have filed friend-of-the-court briefs in five of these cases and one in the Supreme Court. While the Supreme Court recently ruled in favor of the hospitals, the ruling was on a narrow issue and they left open other issues that are now being decided by lower courts. We are hopeful that federal pension insurance and other protections will be restored for the nurses and orderlies in these so-called "church plans."

<u>Multis and church plans are PENSION PROMISE ISSUES.</u>

We are a country that historically valued promises made to people, especially our elderly and our most vulnerable. Now are we becoming a country that obliterates promises and has no regard for workers and retirees? We must fight together to uphold promises to retirees – and to working Americans. We are all in this together.

I want to stress here we cannot let this become a fight between the young and the old, which these battles in pensions are increasingly becoming. Pensions should not be cut to pay for education. And retirees and workers should not be penalized because plans become underfunded. We live in a civilized society where we need to take care of the young and the old. We need to fund education and we need to keep pension plans that are working. It shouldn't be us or them. Ultimately, we need to have a larger movement for Retirement Security for All – for today's and future retirees.

Our first mission is keeping the defined benefit plans that do exist and work to preserve them and keep promises to those covered by them. To do that, we need to point out why they work and who they work for – not why they don't work.

We also need to acknowledge that one of the biggest reasons why people attack plans – as most of you know is because of what has been called "pension envy." People say, "You shouldn't have a good pension because we don't." This especially applies to state and local plans where taxpayers support the system. We always say this is completely cockamamie backwards logic. What we need to say is "Wow, look at the good pensions of nurses and others and how do we get there?"

The Center has long been involved in trying to promote the idea of Retirement Security for All. Back in 2011, we had a conference (Retirement USA) on pushing for a secure, adequate and universal pension system on top of Social Security and came up with principles for a new system. For those without plans, we have pushed the idea of coming up with the best features of DB plans with 401(k) plans. We should create new plans – for uncovered workers – that have employer and employee contributions; where investments are pooled and professionally managed; where money is locked in till retirement and paid out as lifetime income.

We have studied plans in other countries – the Netherlands and Australia – to see what they're doing. And we've supported ideas for new systems for uncovered workers where employers pay into independent pension plans for workers. The PRC has also supported some incremental measures to increase pension coverage.

On that note, I wanted to spend only a minute or two talking about new state-facilitated plans that are being considered by 25 states offering private sector workers without a plan the ability to be auto-enrolled in a state-sponsored Automatic IRA. These plans, called "Secure Choice" savings accounts are being piloted in California, Connecticut, Oregon and Illinois, among other states. They are very basic and not co-mingled with state plans and much less adequate. The Department of Labor gave its blessing on these plans in a regulation last year. Congress voted to kill the regulation this year but many states are moving forward. These are incremental and are not going to "solve the problem" but they are a step forward and focusing attention on the problem.

So, in closing we need an action plan for pension reform and here are beginning steps and I'd like you to give me your ideas:

- Protect and strengthen Social Security
- Support us as we work to repeal the Multiemployer Pension Reform Act of 2014 and support legislation that should be introduced soon to repeal the law and come up with better ways of saving plans.
- Work with us to stop church plan conversions
- For those who are not covered by a pension plan, create a new system of universal, secure, and adequate pension plans on top of Social Security so that everyone has secure income.

The world is changing a lot – with new workforces and automation and we don't know what this will mean for the future. But we do know – keep promises to those who have them, and let's work together for a future that works – don't just abandon pension plans.

Thanks for giving me the opportunity to speak today.

Nurses rock and we love working with you!