

November 12, 2003

Hon. Richard Shelby, Chairman
Subcommittee on Transportation, Treasury and General Government
Committee on Appropriations
United States Senate
133 Dirksen Senate Office Building
Washington, D.C. 20510
FAX: (202)224-4401 (Attn: Paul Doerrer)

Hon. Ernest Istook, Chairman
Subcommittee on Transportation, Treasury and Independent Agencies
Committee on Appropriations
U.S. House of Representatives
2358 Rayburn House Office Building
Washington, D.C. 20515
FAX: (202)226-1463 (Attn: Kurt Conrad)

RE: AARP Letter

Dear Chairman Shelby and Chairman Istook:

A letter dated November 11, 2003, from the AARP regarding the Harkin amendment confuses several issues. If Congress followed AARP's advice, Congress would endanger rather than protect critical retirement security benefits not only for older workers but for workers of all ages.

The AARP letter urges the appropriators to include language "that would give Congress and the Administration the opportunity to review cash balance plans and enact pension reforms that protect older workers." The Congress and the Administration already possess ample opportunity and full authority to do just that. Neither needs an amendment to an appropriations bill to accomplish this result. Indeed, the IRS received extensive input both prior and subsequent to publishing proposed age discrimination regulations and has held lengthy public hearings on the proposed regulations.

The AARP letter – notwithstanding two other decisions to the contrary -- endorses the decision of the district court for the southern district of Illinois in *Cooper v. IBM*, which, would invalidate the basic structure of hybrid plans (and many other types of plans) by, in effect, declaring the time value of money to be age discriminatory. If the *Cooper* decision were to stand, it would not result in better benefits for older workers. Instead it would result in no benefits for older and younger workers alike because the plans will be illegal and will have to be disbanded. There are seven

million participants in hybrid plans. The vast majority of hybrid plan participants appreciate and support their plans, which provide a secure retirement benefit where the employer bears all the investment risk. These individuals will not be pleased, nor should they be punished, with the destruction of their retirement security due to ill-thought-out amendments to appropriations bills that deny them the protections of the normal judicial, regulatory and legislative procedures.

The AARP says it wants Congress to “send a...signal.” Regardless of one’s views of issues involved in converting a traditional pension plan to a hybrid plan, holding hostage the retirement security of all seven million participants in these plans just to “send a signal” is a dangerous and irresponsible approach.

We urge you to set aside the confused and spurious arguments in the AARP letter and instead protect the retirement security of the millions of workers whose hybrid plan benefits are on the line by rejecting both the Sanders and Harkin amendments and any proposed substitute for those amendments.

Sincerely,

Janice M. Gregory
Senior Vice President
jgregory@eric.org

via facsimile

November 12, 2003

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