THE COST OF INACTION: WHY CONGRESS MUST ADDRESS THE MULTIEmployER PENSION CRISIS

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS

COMMITTEE ON EDUCATION AND LABOR

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THE COST OF INACTION: WHY CONGRESS MUST ADDRESS THE MULTIEmployER PENSION CRISIS

Thursday, March 7, 2019
House of Representatives
Committee on Education and Labor
Subcommittee on Health, Employment, Labor, and Pensions
Washington, DC.


Also present: Representatives Scott and Foxx.

Staff present: Tylease Alli, Chief Clerk; Nekea Brown, Deputy Clerk; Ilana Brunner, General Counsel Health and Labor; Emma Eatman, Press Aide; Daniel Foster, Health and Labor Policy Counsel; Eli Hovland, Staff Assistant; Stephanie Lalle, Deputy Communications Director; Kevin McDermott, Senior Labor Policy Advisor; Richard Miller, Director of Labor Policy; Max Moore, Office Aid; Veronique Pluviose, Staff Director; Banyon Vassar, Deputy Director of Information Technology; Katelyn Walker, Professional Staff; Cyrus Artz, Minority Parliamentarian, Marty Boughton, Minority Press Secretary; Courtney Butcher, Minority Coalitions and Members Services Coordinator; Rob Green, Minority Director of Workforce Policy; Amy Raaf Jones, Minority Director of Education and Human Resources Policy; Sarah Martin, Minority Professional Staff Member; Hannah Matesic, Minority Director of Operations; Kelley McNabb, Minority Communications Director; Alexis Murray, Minority Professional Staff Member; Brandon Renz, Minority Staff Director; Ben Ridder, Minority Legislative Assistant; Meredith Schellin, Minority Deputy Press Secretary and Digital Advisor; and Heather Wadyka, Minority Staff Assistant.

Chairwoman WILSON. The Subcommittee on Health, Employment, Labor and Pensions will come to order. Welcome, everyone. I note that a quorum is present. The Subcommittee is meeting today in a legislative hearing to hear testimony on “The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis.

(1)
Pursuant to Committee Rule 7C, opening statements are limited to the Chair and the Ranking Member. This allows us to hear from our witnesses sooner and provide all members with adequate time to ask questions. I recognize myself now for the purpose of making an opening statement.

Today we are here to discuss the multiemployer pension crisis and what will happen to retirees, workers, businesses, and our economy if Congress does not address it. This crisis is one of the most important and urgent issues within our Committee’s jurisdiction and that is why Chairman Scott and I wanted this to be the focus of the first HELP Subcommittee hearing of the 116th Congress.

More than 100 multiemployer pension plans are projected to run out of money in the next 20 years, if not sooner. More than a million people and thousands of employers participate in these plans. These plans over workers and retirees in every State and most congressional districts. For instance, more than 900 workers and retirees in the Central States Teamsters Plan, which is a hugely important plan that is projected to fail in the next few years, are in my district.

The plan that is at the most immediate risk is the one covering our mine workers. It is projected to be insolvent in the 2022 timeframe. Our miners put their health and safety on the line every day. We need to protect their pensions before it is too late.

Making matters worse, the Pension Benefit Guarantee Corporation, the PBGC, which insures private sector pension plans is rapidly running out of money to backstop failed multiemployer plans. And if plans fail and the PBGC becomes insolvent, retirees will see their pensions cut by 90 percent or more. Essentially, they would receive pennies on the dollar.

But retirees are not the only ones facing catastrophic consequences if Congress does not act. Active workers are in jeopardy of losing their jobs. According to one conservative economist, the failure of the Central States Plan would result in the loss of 50,000 jobs in 2025 and that is just one plan in 1 year. Think about what could happen if scores of other plans fail as is currently projected.

Participating employers are at real risk too. Employers tell us that their pension liabilities are hurting their ability to hire personnel or expand operations. They also tell us that some of their banks and lenders are already starting to question their creditworthiness. For these employers, the multiemployer pension crisis is not years away, it is hurting their businesses right now.

Chairman Scott and I invited the U.S. Chamber of Commerce to be one of our witnesses here today to highlight the urgency of this crisis to America’s businesses and their workers. The Chamber and others have correctly noted that if retirees see their pensions cut to essentially zero they will become reliant on social safety net programs that will have to be funded by taxpayers. At the same time, there also will be a loss of tax revenue.

So we should be mindful of the cost to the taxpayers if Congress does not act to address the multiemployer pension crisis. According to one estimate, congressional inaction would cost as much as $103 billion in lost Federal tax revenue and $138.3 billion in increased social safety net spending over the next decade.
To date, there has been just one bipartisan legislative solution introduced to address the multiemployer pension crisis. H.R. 397, The Rehabilitation for Multiemployer Pension Act, upholds the pension promise made to these retirees who are at risk of losing everything for which they worked and sacrificed over a lifetime. I am proud to be one of the leading supporters of this bill, and I believe that Congress should act on it.

Today’s hearing is an important opportunity to learn more about the multiemployer pension system, the urgency of the crisis confronting it and the bipartisan solution to fix it. It also is a reminder that the fundamental question for Congress to consider is not how much it costs to fix the multiemployer pension crisis, but how much it will cost retirees, employers, and tax payers if we do not act.

I want to thank all of our witnesses for being with us today and I look forward to your testimony.

I now recognize the distinguished ranking member for the purpose of making an opening statement. Ranking Member Walberg.

[The statement of Chairwoman Wilson follows:]


Today we are here to discuss the multiemployer pension crisis and what will happen to retirees, workers, businesses, and our economy if Congress does not address it.

This crisis is one of the most important and urgent issues within our Committee’s jurisdiction, and that’s why Chairman Scott and I wanted it to be the focus of the first HELP Subcommittee hearing of the 116th Congress.

More than 100 multiemployer pension plans are projected to run out of money in the next 20 years, if not sooner.

More than a million people and thousands of employers participate in these plans. These plans cover workers and retirees in every State and most congressional districts.

For instance, more than 900 workers and retirees in the Central States Teamsters Plan—which is a hugely important plan that is projected to fail in the next few years—are in my district.

The plan that’s at the most immediate risk is the one covering our mine workers. It is projected to be insolvent in the 2022 timeframe. Our miners put their health and safety on the line every day. We need to protect their pensions before it’s too late.

Making matters worse, the Pension Benefit Guaranty Corporation the PBGC which insures private sector pension plans, is rapidly running out of money to backstop failed multiemployer plans.

If plans fail and the PBGC becomes insolvent, retirees would see their pensions cut by 90 percent or more. Essentially, they would receive pennies on the dollar.

But retirees are not the only ones facing catastrophic consequences if Congress does not act.

Active workers are in jeopardy of losing their jobs.

According to one conservative economist, the failure of the Central States plan would result in the loss of 50,000 jobs in 2025. And that’s just one plan in 1 year. Think about what could happen if scores of other plans fail as is currently projected!

Participating employers are at real risk, too.

Employers tell us that their pension liabilities are hurting their ability to hire personnel or expand operations. They also tell us that some of their banks and lenders are already starting to question their creditworthiness.

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It’s also a reminder that the fundamental question for Congress to consider is NOT how much it costs to fix the multiemployer pension crisis, but how much it will cost retirees, employers, and taxpayers if we do not act.

I want to thank all of our witnesses for being with us today and I look forward to your testimony.

I now recognize the distinguished Ranking Member for the purpose of making an opening statement.

Mr. WALBERG. Madame Chair Wilson, thank you. And may I quickly congratulate you on your chairmanship and I look forward to working with you in the coming years. Together we have done this in the past on Workforce Protections Subcommittee in the same mode, just kind of reversed.

Chairwoman WILSON. Yes.

Mr. WALBERG. And I know that we can work together. And I appreciate the fact that you have made this your first hearing. This is a topic of great concern and it ought to be a topic of bipartisan concern.

The looming insolvency of the Pension Benefit Guarantee Corporation’s, PBGC, multiemployer insurance program is one of the greatest challenges facing American workers who participate in multiemployer pension plans. Collectively, 95 percent of multiemployer plan participants are in plans that are less than 60 percent funded. This large-scale breakdown of the multiemployer pension plan system is putting immense strains on the PBGC which serves as the back stop for defined benefit plans and provides financial assistance to underfunded plans.

The PBGC is currently facing a $54 billion deficit. The agency is on track to completely be wiped out in just six short years. Extreme levels of plan underfunding are an urgent concern.

Workers and retirees must have peace of mind when it comes to their hard-earned retirement benefits and employers must have certainty when it comes to their obligations under these plans. It is essential that we work together to stop the hemorrhaging of underfunded plans and minimize losses for plan participants as much as humanly possible.

The real-life implications of this problem are real and vast. I have met with countless retirees in my district and I hear the fear, and the anger, and the concern in their voices as they talk about the prospect of having to live on a fraction of the income that they were promised.
There is nothing fair or excusable about a 75-year-old retiree with health care concerns and medical issues standing in front of me finding out that the pension he was promised just isn’t funded.

And like most issues we talk about in this committee, the effects of one serious problem are felt in many quarters. I have had many conversations with business owners in Michigan as well who tell me that the unfunded pension liabilities they carry make it impossible to innovate or do anything other than maintain the business models they have with a frustration of no alternative for the outcome in the end.

Republicans and Democrats have a history of bipartisan cooperation on this issue. In 2014, the Republican chairman of this committee, John Kline and Democrat Ranking Member George Miller put aside political differences and brought stakeholders to the table to craft the Multiemployer Pension Reform Act, which was later signed into law.

While a decision by President Obama’s Treasury Department limited the effectiveness of the legislation, it crossed the aisle of corporation that went into the legislation, acted as a harbinger for a future I trust bipartisan efforts on this issue.

Part of the way we need to approach these solutions is to adopt reforms that address the structural flaws within the plans. When the multiemployer pension system was constructed decades ago, fundamental flaws were unfortunately built into the systems foundation. If you build a house on a weak foundation, no quick fixes will present that houses collapse in the future.

If Congress does not reform the architecture of the multiemployer pension system, then it won’t matter how much money we throw at this problem, these problems will persist and put future generations of workers at risk of the very same chronic underfunding that plagues pensioners today.

We must also pursue every possible avenue to protect taxpayers from proposals that are fiscally irresponsible and don’t work in the end. Multiemployer pension plans were always privately negotiated by companies and labor unions. Taxpayer dollars have never been sued to support or subsidize these commitments and it would be inappropriate for the Federal Government to underwrite compensation costs for a select group of private employers.

I can’t state emphatically enough that far-reaching reform, fiscal responsibility and bipartisanship must be the principles that guide us as we work to solve this problem. It is a human problem.

I am hopeful about this committee’s ability to work together on this issue. We are on the same side and want to protect workers, taxpayers, retirees, and their families. The way forward won’t be easy but millions of Americans are counting on us. We owe it to them to set aside our political differences and come to the table to find a bipartisan solution to secure their future and, Madame Chairperson, I commit myself to that alongside of you. And I yield back.

[The statement of Mr. Walberg follows:]

Prepared Statement of Hon. Tim Walberg, Ranking Member, Subcommittee on Health, Employment, Labor, and Pensions

Thank you for yielding.
The looming insolvency of the Pension Benefit Guaranty Corporation’s (PBGC) multiemployer insurance program is one of the greatest challenges facing American workers who participate in multiemployer pension plans. Collectively, 95 percent of multiemployer plan participants are in plans that are less than 60 percent funded. This large-scale breakdown of the multiemployer plan system is putting immense strain on the PBGC, which serves as the backstop for defined benefit plans and provides financial assistance to underfunded plans.

The PBGC is currently facing a $54 billion deficit. The agency is on track to be completely wiped in just six short years.

Extreme levels of plan underfunding are an urgent concern. Workers and retirees must have peace of mind when it comes to their hard-earned retirement benefits and employers must have certainty when it comes to their obligations under these plans. It’s essential that we work together to stop the hemorrhaging of underfunded plans and minimize losses to plan participants as much as possible.

The real-life implications of this problem are real and vast. I have met with countless retirees in my district, and I hear the fear and anger in their voices as they talk about the prospect of having to live on a fraction of the income they were promised. There is nothing fair or excusable about a 75-year-old retiree with healthcare concerns and medical issues finding out that the pension he was promised isn’t funded. And like most issues we talk about at this committee, the effects of one serious problem are felt in many quarters. I’ve had many conversations with business owners in Michigan who tell me that the unfunded pension liabilities they carry make it impossible to innovate or do anything other than maintain the business models they have.

Republicans and Democrats have a history of bipartisan cooperation on this issue. In 2014, the Republican Chairman of this Committee John Kline and Democrat Ranking Member George Miller put aside political differences and brought stakeholders to the table to craft the Multiemployer Pension Reform Act, which was later signed into law. While a decision by President Obama’s Treasury Department limited the effectiveness of the legislation, the across-the-aisle cooperation that went into the legislation acted as a harbinger for future bipartisan efforts on this issue.

Part of the way we need to approach these solutions is to adopt reforms that address the structural flaws within the plans. When the multiemployer pension system was constructed decades ago, fundamental flaws were unfortunately built into the system’s foundation. If you build a house on a weak foundation, no quick fixes will prevent that house’s collapse in the future. If Congress does not reform the architecture of the multiemployer pension system, then it won’t matter how much money we throw at this problem. These problems will persist and put future generations of workers at risk of the very same chronic underfunding that plagues pensioners today.

We must also pursue every possible avenue to protect taxpayers from proposals that are fiscally irresponsible. Multiemployer pension plans were always privately negotiated by companies and labor unions. Taxpayer dollars have never been used to support or subsidize these commitments, and it would be inappropriate for the Federal Government to underwrite compensation costs for a select group of private employers.

I cannot state emphatically enough that far-reaching reform, fiscal responsibility, and bipartisanship must be the principles that guide us as we work to solve this problem.

I am hopeful about this committee’s ability to work together on this issue. We are on the same side and want to protect workers, taxpayers, retirees, and their families. The way forward won’t be easy, but millions of Americans are counting on us. We owe it to them to set aside our political differences and come to the table to find a bipartisan solution that secures their future.

Chairwoman WILSON. Thank you. Thank you. Without objection all other members who wish to insert written statements into the record may do so by submitting them to the committee clerk electronically in Microsoft Word format by 5 o’clock p.m. on March 21, 2019.

I will now introduce our distinguished witnesses. First we have Mr. Josh Shapiro who serves on the board of directors of the American Academy of Actuaries and chairs its pension practice counsel. Welcome.
Ms. Mary Moorkamp is the Chief Legal and External Affairs Officer at Schnuck Markets which is family owned grocery chain in St. Louis, Missouri. Welcome.

Mr. James Morgan is a Bakery and Confectionery Union and Industrial International Pension Fund retiree. Welcome.

Dr. James Naughton is an assistant professor at the Kellogg School of Management at Northwestern University. Welcome.

Mr. Glenn Spencer is a Senior Vice President at the U.S. Chamber of Commerce.

And Dr. Charles Blahous holds the J. Fish and Lillian F. Smith Chair at the Mercatus Center at George Mason University. Welcome.

Ms. Mariah Becker, is the Director of Research and Education for the National Coordinating Committee for Multiemployer Plans. Welcome.

We appreciate all of the witnesses for being here today and look forward to your testimony. Let me remind the witnesses that we have read your written statements and they will appear in full in the hearing record. Pursuant to committee rule 7D and committee practice, each of you is asked to limit your oral presentation to a 5-minute summary of your written statement.

We will let the entire panel make their presentations before we move to member questions. When answering a question, please remember to once again turn your microphone on. I will first recognize Mr. Shapiro.

**STATEMENT OF JOSHUA SHAPIRO, VICE PRESIDENT, PENSIONS AMERICAN ACADEMY OF ACTUARIES**

Mr. Shapiro. Thank you. Chairwoman Wilson, Ranking Member Walberg, and distinguished subcommittee members. On behalf of the Pension Practice Council of the American Academy of Actuaries, I am Josh Shapiro, Vice President of Pension at the Academy. I am honored to have this opportunity to provide testimony to the Health, Employment, Labor, and Pensions Subcommittee of the House Education and Labor Committee.

The Academy is a strictly nonpartisan professional association representing U.S. actuaries before public policymakers. As a member of the Academy, I am also bound by its qualification standards, its Code of conduct, and the actuarial standards of practice.

I am here to provide a summary of how multiemployer pensions operate and their current funding outlook. More than 10 million active and retired workers participate in approximately 1,250 active,
multiemployer pension plans. These plans are common among collectively bargained work forces in industries that are characterized by small business, employee mobility between employers and lower wage levels. Through economies of scale and the pooling of risks, multiemployer plans have succeed in providing lifetime retirement income to millions of workers who would otherwise not have heard access to effective and affordable retirement benefits.

While the vast majority of multiemployer plans are faring well, unfortunately there are roughly 130 plans, covering more than a million participants, that are expected to fully exhaust their assets in the coming 20 years.

The first decade of the 21st Century was the worst period on the financial markets since the great depression. The S&P 500 Index lost 37 percent of its value in 2008 alone. And nearly all retirement plans including multiemployer plans experienced significant declines in their assets during this decade.

Most multiemployer plans have been able to recover from these losses using the same tools they have already used throughout their history. Specifically they have relied upon a combination of higher bargained contribution rates and reductions to future benefit accruals. The plans that are expected to run out of money have generally also experienced significant declines in their populations of contributing employers and employees.

While each situation is different, employer bankruptcies, technology improvements, regulatory changes and declines in certain industries have all contributed to these trends. For plans that have significantly diminished bases of active employees and employers, the measures available to trustees have been ineffective and the plans are unable to recover. After a multiemployer plan exhausts its assets, it receives financial assistance from the Pension Benefit Guarantee Corporation. This assistance allows a plan to continue to pay participant benefits but only at the level that is guaranteed by the PBGC.

The maximum amount that the PBGC will guarantee for a participant with 30 years of service is approximately $1,100 per month. In plans that cover middle income workers, this guarantee could represent a benefit cut of 50 percent or more. The PBGC’s multiemployer insurance program is expected to run out of money by 2026. Because the PBGC receives all of its funding by premiums paid plans and is not supported by general revenues, if the multiemployer insurance program runs out of resources, a guarantee would decline to what it could afford on a pay as you go basis out of annual premium receipts.

In this situation, participants in insolvent multiemployer plans could see their benefits cut by 90 percent or more. Participants affected by benefit reductions of this magnitude might need to rely on social safety net programs.

The multiemployer pensions system stands at a crossroads. These plans have allowed millions of American workers to retire with reliable lifetime income that most would have been unable to achieve had these plans not been there. However, for a significant minority of plans, the system has proved not to be resilient enough to withstand the combination of demographic trends, industrial shifts and economic declines that have occurred in recent years.
As a result, more than a million participants face the possibility of losing their retirement benefits and thousands of businesses are in jeopardy.

Congress faces a dual challenge. Action is needed to address the looming crisis that will occur when both plans and the PBGC exhaust their resources and reach the point of insolvency. The multi-employer system also needs to be reformed so it can continue its invaluable mission of providing retirement income to people who need it while also ensuring that the system does not fall into crisis again.

The Pension Practice Counsel of the American Academy of Actuaries looks forward to continuing to provide objective and unbiased actuarial analysis to lawmakers and their staffs as the work to address these difficult challenges.

[The statement of Mr. Shapiro follows:]
Testimony of Josh Shapiro, MAAA, FSA, EA
Vice President, Pension
American Academy of Actuaries

Submitted for the Record

United States House Committee on Education and Labor, Subcommittee on Health, Employment, Labor and Pensions, Hearing:
“The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis”

March 7, 2019

The American Academy of Actuaries is a 19,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. For more than 50 years, the Academy has assisted public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States.
Distinguished Members of the Subcommittee:

On behalf of the Pension Practice Council of the American Academy of Actuaries, I am Josh Shapiro, vice president, pension at the Academy. I appreciate this opportunity to provide testimony to the United States House Committee on Education and Labor, Subcommittee on Health, Employment Labor, and Pensions. The Academy is a strictly nonpartisan, objective and independent professional association representing U.S. actuaries before public policymakers. As a member of the Academy, I am also bound by its qualification standards, its Code of Professional Conduct, and the actuarial standards of practice.

The Academy’s Pension Practice Council and Multiemployer Plans Committee have spent a considerable amount of time in recent years studying the general financial condition of multiemployer plans. In the past year, we have participated in numerous meetings and discussions with congressional staff as they have sought to find potential ways to address the challenges facing the multiemployer pension system. My testimony will provide information regarding how multiemployer plans operate and their current funding outlook.

Introduction

The multiemployer pension system covers more than 10 million participants from a wide range of collectively bargained employers. Of these participants, roughly 4 million are currently employed by the companies that sponsor the plans, and 6 million are either retired and are receiving benefits or are no longer working for the plan sponsors.

The industries in which multiemployer plans are common tend to have certain characteristics. Many of these industries include a large number of small businesses that could not readily sponsor retirement plans on their own. They are often characterized by a high degree of employee mobility from one employer to another. If each of these employers sponsored a separate retirement plan, workers might never have enough service in any plan to earn a meaningful retirement benefit. These industries also often include many lower-wage workers with correspondingly small benefit levels, where the economies of scale created by multiemployer plans help make the benefits cost-efficient.

While the majority of multiemployer plans are not currently in financial distress, a significant minority of plans are severely underfunded and are unable to recover. In its 2017 Projections Report, the Pension Benefit Guaranty Corporation (PBGC) reported that approximately 130 multiemployer plans covering over 1.3 million participants have determined that they expect to be insolvent within the coming 20 years.

The PBGC is a government-sponsored organization that backstops private-sector pension plans in the event that they are unable to pay the benefits that participants have earned. PBGC guarantees benefits through its insurance program for single-employer plans and its program for multiemployer plans, each of which has separate premium amounts, benefit guarantees, and procedures for insolvent plans. PBGC’s Multiemployer Program typically does not cover participants’ entire benefit amounts, and the maximum amount that is guaranteed for a participant with 30 years of service is approximately $1,100 per month. Participants in insolvent plans that receive financial assistance often lose a large portion of their benefits due to the limitations on the PBGC guarantee.
The 2017 PBGC Projections Report also concluded that the PBGC’s Multiemployer Program has a 99 percent likelihood of being insolvent itself by the end of 2026. Because the PBGC receives all of its funding from premiums paid by plans and is not supported by general revenues, if the multiemployer insurance programs runs out of resources, the guarantee would decline to what it could afford on a pay-as-you-go basis out of annual premium receipts. In this situation, participants in insolvent multiemployer plans could see their benefits cut by 90 percent or more. Participants affected by benefit reductions of this magnitude might need to rely on social safety net programs.

Multiemployer Plan Basics

Within U.S. retirement systems, the universe of employer-sponsored plans is generally divided into defined benefit plans and defined contribution plans. A defined benefit plan spells out the retirement benefits that participants have earned, and it is up to the plan sponsor to fund those benefits. A defined contribution plan spells out the contributions that the plan sponsor must pay, and it is up to the participants to figure out how to convert their account balances into retirement income.

In a defined contribution plan, participants must choose how fast to draw down their account balances after they retire. If they draw the money too quickly, they may outlive their savings and face financial challenges in old age. On the other hand, some retirees could be so concerned about exhausting their savings that they are unwilling to spend any of their retirement account funds. These decisions are difficult because nobody is able to predict how long their time in retirements will last. Defined benefit plans address this problem through what is known as “longevity risk pooling.” Because the plans pay benefits to a large group of retirees out of a single asset base, they can budget over the average retirement period among all retirees, which is far more predictable than the retirement period for an individual retiree. Research\(^1\) in 2017 concluded that a pooled approach to providing retirement income costs between 15 percent and 25 percent less than an individual approach.

A multiemployer plan is sponsored by two or more employers that are obligated to contribute to the plan pursuant to collective bargaining agreements. These plans can be local, regional, or national in scope. A multiemployer retirement plan can be a defined benefit or defined contribution plan. In contrast with single-employer plans, in the multiemployer plan system defined benefit plans provide the majority of the benefits, with defined contribution plans typically providing smaller supplemental benefits. This testimony exclusively addresses multiemployer defined benefit plans.

Defined benefit pension plans typically provide employees with annuities that begin when they retire and continue for the remainder of their lifetimes. Some defined benefit plans offer participants the option of receiving their benefits as lump sum payments instead of annuities, although this option is rare among multiemployer plans. Multiemployer plans most commonly calculate benefits by multiplying the number of years of service a participant has worked by a fixed dollar amount. For example, if a plan has a $50 per month benefit level, and a participant works for 30 years, he or she would be entitled to a pension benefit of $1,500 per month.

The PBGC’s 2016 Pension Insurance Data Book shows that the construction industry has the largest number of multiemployer plans, with over 35 percent of the participants in the multiemployer system

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\(^1\) *Longevity Risk Pooling: Opportunities to Increase Retirement Security* published by the Society of Actuaries
working in that industry. Roughly 20 percent of multiemployer plan participants work in the service industry, which consists of the administrative support, health care and social assistance, and accommodation and food service sectors. Other significant industries include transportation (about 15 percent of all participants), manufacturing (about 10 percent), and retail trade (about 15 percent).

Contribution rates to multiemployer pension plans are established by the collective bargaining process. Rates are most commonly expressed as a dollar amount per hour worked, but in some cases could be based on days or weeks worked, or as a percentage of employee wages. A plan is obligated to pay premiums to the PBGC to support its insurance guarantee. For 2019, the PBGC premium rate for multiemployer plans is $29 per participant. Multiemployer plan assets are held in qualified trusts, and the plan trustees retain investment professionals to assist with the management of the assets. The plan assets are typically invested in highly diversified portfolios that include both traditional equities and bonds, with many plans also investing in real estate, private equities, hedge funds, and international securities.

Multiemployer pension plans are governed by joint boards of trustees, consisting of equal numbers of employer and employee representatives. The trustees are held to a fiduciary standard of care, which means that they must make decisions for the sole and exclusive benefit of the participants and beneficiaries in the plan. In most cases, the board of trustees has sole authority to determine the plan design and the level of benefits, but in some cases collective bargaining agreements can describe the plan design and benefits.

Multiemployer Funding Rules

Multiemployer plans are subject to minimum funding rules under the Employee Retirement Income Security Act of 1974 (ERISA). In general, the contributions that employers pay into a multiemployer plan each year must be sufficient (a) to pay for the new benefits that active participants will earn in that year, and (b) to fund any unfunded past liabilities over a period of 15 years.

The amounts that employers contribute to a plan each year is equal to the contribution rate that was negotiated during the collective bargaining process, multiplied by the level of employment. For example, if the negotiated pension contribution rate is $5.00 per hour and an employer has ten employees who each work 2,000 hours of covered employment in a year, that company would contribute $100,000 to the plan for that year ($10,000 for each of the ten employees).

If the contributions into a defined benefit plan fall short of the ERISA minimum funding amount, the employer or employers sponsoring the plan are obligated to make up the shortfall, and they could be subject to excise tax penalties. In the multiemployer context, the ERISA minimum contribution can have a significant impact on collective bargaining, as the employers need to be sure that the contributions are sufficient to satisfy the minimum funding amount in order to ensure that they are not subject to excise taxes. When underfunding develops in a multiemployer pension plan, it can necessitate an increase the negotiated pension contribution rate. This increase could increase the employer’s labor costs, it might reduce employee wages by causing a larger portion of the wage package to be devoted to the pension plan, or a combination of the two.
In some instances, the contribution rate necessary to satisfy the ERISA minimum funding requirement can increase dramatically over a short period of time. Sudden and extraordinary increases in the contribution rates might drive the contributing employers into bankruptcy, or the employers might choose to withdraw from the plans to avoid paying the higher rates. The employees might also support a withdrawal from the plan if they become concerned that an unreasonably large portion of their total wage packages are being diverted to support the pension plan, or because they realize that the bankruptcy of the company would cause them to be unemployed. Withdrawing from an underfunded multiemployer plan typically results in a withdrawal liability assessment for the employer. An employer that is concerned that the cost of contributing to a plan will continue to increase in the future might decide to withdraw now and pay the withdrawal liability bill, rather than be subject to the ongoing risk of higher contribution requirements.

The Pension Protection Act of 2006 (PPA) introduced several new features to ERISA’s multiemployer funding rules. It created the designation of an “endangered” plan, which is essentially an early warning program for plans that may have difficulty satisfying their funding requirements in future years. Such plans are subject to additional funding standards and are required to adopt a “funding improvement plan” that describes how they intend to improve their funding levels through employer contribution rate increases, reductions in future benefit accruals, or a combination of both.

PPA also introduced the designation of “critical status” plans, which are generally plans that have failed to satisfy their minimum funding requirements or are in imminent danger of doing so. These plans are required to adopt a “rehabilitation plan” that describes how they intend to emerge from critical status over time. While the rehabilitation plan is being developed, a contribution rate surcharge is imposed on employers, which is removed once the plan is finalized and they agree to a contribution rate that complies with the terms of the rehabilitation plan. Importantly, as long as these plans adopt and follow a valid rehabilitation plan, the employers are exempt from excise taxes, even if the ERISA minimum funding requirement is not satisfied.

In addition to increasing employer contribution rates and reducing future benefit accruals, critical status plans also have the ability to reduce or eliminate certain ancillary benefits. These “adjustable benefits” would otherwise be subject to ERISA’s anti-cutback protections. Most significantly, these plans can reduce or eliminate any subsidized early retirement benefits that have been earned by participants who are not yet in payment status. These plans are unable to make any cuts to participants’ accrued benefits payable at their normal retirement ages, and they are generally unable to make any cuts to benefits for participants who are in payment status.

As discussed previously, dramatic increases in contribution rates could cause employers to go out of business or to withdraw from the plans. As a result, very large increases in the required contribution rates can become counterproductive to the health of a plan when few if any employers would actually be willing and able to pay those rates. PPA contains a provision that recognizes this reality. If the trustees of a plan conclude that a rehabilitation plan has exhausted all reasonable measures for improving the funding strength of a plan, and any further measures would not improve the funding level of the plan, then the contributing employers are protected from the excise tax penalties as long as they continue to follow the rehabilitation plan. This excise tax protection remains in effect even when
it is clear that the contributions will remain below the minimum levels otherwise required by ERISA and that the funding level of the plan is not expected to improve.

The Multiemployer Pension Reform Act of 2014 (MPRA) added an additional status category called “critical and declining” status. In order to be classified as critical and declining, a multiemployer plan generally must be projected to fully exhaust its assets within 20 years. Subject to a variety of constraints, a plan in this status has the ability to reduce benefits that participants have already earned, including participants who are retired and receiving their benefits. No benefit can be reduced below 110 percent of the amount guaranteed by the PBGC, and disabled participants and participants over age 80 must be excluded from the reductions (with phased-in protection for participants age 75 and older). The reductions must be projected to be sufficient to prevent the insolvency of the plan, while not materially exceeding the level that is needed to prevent insolvency. Plans seeking to use this provision must apply to the Treasury Department for approval, and there must be a participant vote in which a majority of the plan participants can override the decision to reduce benefits.

Withdrawal Liability

There are a variety of circumstances that can cause an employer to cease contributing to a multiemployer pension plan. Once an employer ceases contributing, its employees will no longer earn any new benefits in the plan, but the plan will remain obligated to pay employees the benefits that they earned prior to the withdrawal.

Employers contribute to these plans pursuant to collective bargaining agreements, and at any time the company and the union could amend the agreements to permanently cease the obligation to contribute. This situation is commonly referred to employers “bargaining out” of the plans. Companies can also decide to no longer employ unionized workers, which would result in no further contributions being paid into a plan. Companies might stop contributing because they become insolvent and go through a liquidation process, or in the case of small businesses, because the owners simply decide to retire. In some circumstances a withdrawal could also occur because all or part of a company was purchased by a new owner, or because one or more lines of business were either terminated or sold.

If a multiemployer pension plan is less than fully funded when an employer withdraws, in accordance with the requirements of ERISA, the plan will typically assess the company withdrawal liability. While the calculations can be complex, withdrawal liability represents the withdrawing employer’s share of the unfunded liabilities in the plan. As a simple example, consider a plan that has $5 million dollars of unfunded liability, and ten contributing employers, each of which has an equal number of covered employees in the plan. If one of those employers were to withdraw, it would be assessed one-tenth of the unfunded liabilities of the plan, or $500,000. Note that the withdrawal liability calculation is generally the same regardless of the reason the employer withdrew from the plan.

The ERISA withdrawal liability rules do not require that companies satisfy their withdrawal liability assessments with a single payment immediately after withdrawing. Instead, companies may pay their withdrawal liability assessments according to a payment schedule that can last for many years. The calculation of the amount that must be paid each year is prescribed by law, and the annual payment is typically comparable to the amount that the employer was contributing to the plan prior to the
withdrawal. The payment schedule continues until the employer has fully paid off the withdrawal liability assessment, subject to a 20-year limit. Withdrawal liability payments generally cease after 20 years even if the employer has not fully paid off the assessment.

The 20-year cap can have a very significant impact on the amount that a withdrawn employer owes to a plan, and correspondingly on the amount that the plan is able to collect. In the previous example, an employer would have a withdrawal liability assessment of $500,000. If the withdrawal liability payment amount is $10,000 per year, and the effects of interest are ignored, then ERISA would only allow the plan to collect $200,000 from the employer, even though its share of the unfunded liabilities is $500,000.

Any withdrawal liability amounts not paid by a withdrawn employer are reallocated to the remaining employers. These unpaid amounts could be due to the impact of the 20-year payment cap, bankruptcies, or other factors. In many plans these uncollectible amounts can be significant, and some plans report only being able to collect a small portion of the liabilities that are allocated to withdrawing employers.

### Insolvent Multiemployer Plans

Historically, multiemployer plan funding has required periodic rebalancing. During periods of economic strength, plan assets produce investment gains. Plan trustees tend to increase benefit levels during these periods, while contribution rates stay relatively flat or increase only modestly. In more difficult economic times, contribution rates increase by larger amounts and the rate at which participants earn new benefits increases very little, or in some cases experience declines. These down periods occasionally place some stress on the contributing employers and participating employees, but only in very rare circumstances have those stresses been so great as to jeopardize the long-term survival of plans.

This situation began to change rapidly around the year 2000. The 1990s produced very large investment gains in the financial markets, which put many multiemployer plans into an overfunded position. Tax laws that made contributions to overfunded plans non-deductible to the employers, combined with a broad desire to share the investment gains with participants, caused many plans to significantly raise benefit levels over a short period of time. Subsequently, the first decade of the new century produced significant losses in the financial markets, which erased much of the investment gains that plans experienced in the prior decade. While a large portion of the investment gains ended up being temporary, the higher benefit levels that accompanied those investment gains were permanent, and plans quickly found themselves with very large funding deficits.

Nearly all multiemployer plans had to take some level of corrective action following the economic downturn that occurred between 2000 and 2010. Due to reductions in benefit accruals and increases in contribution rates, a large majority of plans have been able to weather the storm. But as discussed previously, there are currently around 130 multiemployer plans covering well over 1 million participants that are projected to fully exhaust their assets in the coming 20 years. The trustees of these plans have concluded that they have taken all reasonable measures to improve their funding levels and that there are no further actions they can take to prevent these insolvencies. Raising the contribution rates to the levels that are required to restore funding levels would drive the remaining contributing
employers into bankruptcy or into withdrawing from the plans. These plans are unable to recover from the effects of the recession.

The primary tools that multiemployer plans are able to use to improve their funding levels are increases in the contribution rates and decreases in the rate at which active participants accrue new benefits. These tools are most effective when a plan has a strong base of active participants and contributing employers, and become less effective as these populations become smaller. For example, consider a hypothetical plan that historically had 100 contributing employers, but due to economic and industrial shifts only five of those employers remain in the plan. If that plan experiences losses on its investments, it is possible that a modest increase in the contribution rate would have been sufficient to offset the losses if the cost had been spread across 100 employers. However, with only five employers remaining, a much larger increase in the contribution rate is necessary and it might be impossible for those companies to bear that burden.

The plans that are projected to be insolvent are highly correlated with plans that have experienced significant reductions in their employer and active employee populations. In most cases these plans did not experience greater losses on their investments than healthier plans, nor did they adopt larger benefit increases during the years of strong performance. Rather, the erosion of their contribution bases has made them incapable of implementing measures that are sufficient to recover. The trustees generally have no ability to influence the number of employers that contribute to a plan, so they could not have prevented the workforce declines and are unable to bring more employers into a plan.

It is important to understand that a declining population of contributing employers and active employees does not mean that a multiemployer plan is destined to fail. It means that the plan has less ability to withstand adverse experience than plans with more favorable demographics, which could be a consideration when the trustees are developing their investment and funding policies.

Factors Contributing to Funding Shortfalls

While each multiemployer plan has a unique set of circumstances, there are certain factors that have generally contributed to the current funding shortfalls.

- Significant losses that were experienced on plan assets in the first decade of the twenty-first century
- Benefit improvements that were adopted in response to the investment gains of the 1990s
- Maturing of pension plans as retiree populations become a larger component of liabilities
- Shifts in the industries supporting multiemployer pension plans

Investment Losses

Plan trustees typically invest assets in diversified portfolios that are intended to produce strong investment returns over a long-term time horizon. However, these portfolios have the potential to produce gains or losses, particularly over short time periods. For example, nearly all plans invest in equity securities issued by large corporations. The standard benchmark for the performance of these investments is the Standard and Poor’s (S&P) 500 Index, which experienced a return of approximately
negative 37 percent in 2008. Measured on this basis, 2008 was the single worst year for stock market returns since 1931. Since plans invest in many assets classes in addition to corporate stocks, they were partially insulated from this collapse, but the average multiemployer plan still lost 23% of its assets in 2008. For the decade from 2000 to 2010, the average annual return on the S&P 500 index was negative one percent, which is roughly the same as the return experienced during the Great Depression. This highly adverse investment experience substantially reduced the funding levels of multiemployer plans, and was a major source of the financial distress that threatens the survival of many plans.

It is also important to understand that the average return on the S&P 500 Index for the 30-year period that ends with (and includes) 2008 was 10.9 percent. While the short-term returns at the end of this period were negative, over a longer period the experience was positive. To a large extent, the benefits that have been jeopardized by poor asset performance were only available in the first place due to past investment gains. While the investment in diversified asset portfolios has done more to raise benefit levels than it has to lower them, it has also caused benefits that were previously viewed as secure to now be exposed to the possibility of reduction.

**Benefit Improvements**

The funding requirements for multiemployer plans are based in part on the expected rate of return on plan assets. The rates of return earned on diversified asset portfolios can vary considerably from year to year, and the expected rate of return is intended to represent the average return over a period of many years. In order for this approach to produce stable funding costs, investment gains need to be available to offset investment losses.

When multiemployer plans experienced exceptionally large investment gains, as occurred during the late 1990s, many plans became overfunded. Due to both regulatory constraints that made contributions to overfunded plans non-deductible to employers, and a belief that it was appropriate to spend the overfunding on higher benefit levels, a large portion of these investment gains were converted into benefit increases and therefore were not available to offset the significant investment losses that occurred in the subsequent decade.

Tax deductibility is a particularly important issue in the multiemployer system, since contributions that are negotiated in collective bargaining agreements (which often extend for three or more years), must be paid to the plan regardless of whether the plan has a funding shortfall. This situation differs from single-employer plans, where plan sponsors could simply take a contribution holiday in response to overfunding. Contribution holidays are generally not practical for multiemployer plan sponsors, so it was necessary for plans to take steps to take steps to preserve the deductibility of the contributions. Note that the tax deduction limits for multiemployer plans were raised in 2003 so that in the future, if plans become overfunded there will not be the same pressure to raise benefit levels that occurred in the 1990s.

**Maturing of Pension Plans**

A pension plan is considered to be “mature” when a large portion of its liabilities are attributable to participants in payment status, and a smaller portion is attributable to active participants who are working and earning new benefits. Pension plans tend to become more mature gradually over time as
workers transition from active status to retired status. Plan maturity has a significant impact on cash flows. Plans with relatively large populations of active participants tend to receive large amounts of employer contributions, while paying smaller amounts of participant benefits and experiencing smaller investment returns. However, in more mature plans this situation is reversed, with small amounts of employer contributions in comparison to the investment returns and benefit payments.

As a plan matures, investment earnings become a larger component of its cash flows, which makes the financial position of the plan more sensitive to investment experience. Further, when participant benefit payments exceed the employer contributions it becomes more difficult for plans to recover from investment losses, as subsequent investment gains are earned on a smaller base of assets. Lastly, the measures available to trustees to improve funding levels (i.e. contribution rate increases and decreases in the accrual of future benefits) are generally only effective with respect to active participants. For these reasons, significant investment losses, such as those that occurred between 2000 and 2010, have a greater impact on more mature pension plans than on less mature plans.

**Shifts in Industries Supporting Plans**

While the gradual maturing of multiemployer plans occurs naturally, in some cases this process has been accelerated by specific circumstances. One example is the trucking industry, where deregulation combined with low barriers to entry caused a shift away from unionized employee populations. Technology improvements can also play a role, as in the graphic printing industry where workforces have shrunk due to the increased role of automation and computers. Some construction industry plans have matured significantly due to decreased economic activity in certain regions of the country. In industries that are characterized by a relatively small number of large employers, such as the retail food and bakery and confectionary industries, the bankruptcy of one or more employers has contributed to the maturing of multiemployer pension plans.

Because of these factors, some multiemployer plans have become substantially more mature than others have in recent years. The plans that are expected to become insolvent are highly correlated with the plans where special circumstances have contributed to unusually high degree of maturity. While most multiemployer plans have been able to absorb the asset losses that have occurred, the minority of plans that have exceptionally small populations of active employees lack the economic resources necessary to recover.

**Summary of Current System Challenges**

The multiemployer pension system consists of roughly 1,250 active plans that cover between 10 million and 11 million people. Data available from the Department of Labor shows that approximately 65 percent of multiemployer plans are not in any zone status (often referred to as the “green zone”), 10 percent are in endangered status, 15 percent are in critical status, and 10 percent are in critical and declining status. The plans in critical and declining status are eligible to apply for benefit reductions under MPRA, though not all plans are able to meet the criteria for approval. MPRA contains limits on the benefits that may be reduced, and for many plans the maximum reductions allowed under MPRA would be insufficient to eliminate the projected insololvency. Among the 15 percent of plans that are in critical status, some are projected to recover and emerge from critical status, while others have
exhausted all reasonable measures and do not expect to recover. Some in the latter category of these plans are likely to be certified in critical and declining status in the future.

Analysis prepared by the Society of Actuaries in 2016 found that between 2009 and 2013, the average contribution paid into multiemployer plans per active participant increased by an average of 11.4 percent per year. During this same period of time, the average normal cost per active participant, which is a measure of the benefits that participants are earning, remained essentially flat. The data suggest that employers and employees agreed to increase the average negotiated contribution rate by more than 50 percent over that four-year period, while the benefits that participants earned remained unchanged. These figures are for all multiemployer plans, and it is likely that among highly distressed plans, the average contribution rate increases were even greater and that the benefits earned by participants in those plans tended to decrease.

The trustees of the plans that are projected to be insolvent face a very difficult situation. Because, generally, their populations of active participants and employers have shrunk, the contribution rate increases and benefit accrual decreases that they have adopted have not been sufficient for recovery. The contribution rate increases needed to achieve recovery are so great that if they were imposed, the employers would be unable to remain in business or would choose to withdraw from the plans. For the plans that are unable to meet the criteria for benefit reductions under MPRA, they have no alternative other than to spend down their assets and wait for insolvency to occur.

Unlike a single-employer plan, a multiemployer plan that is projected to become insolvent continues to pay full benefits until the insolvent occurs. Then, when a multiemployer plan finally exhausts its assets and begins to receive PBGC assistance, all participant benefits are reduced to the PBGC guarantee level. A middle-income participant who participated in a multiemployer plan over his or her full career might have earned a pension of $25,000 per year from the plan. The PBGC guarantee would cover approximately half of this pension (about $12,800), meaning that the retiree would have a 50 percent benefit cut when the plan runs out of assets. Further, the PBGC Multiemployer Program lacks the resources needed to support even this guarantee level. When that program runs out of money—which is projected to occur in less than ten years—benefits for affected retirees will be reduced to only pennies on the dollar.

Summary

The multiemployer pension system stands at a crossroads. These plans have allowed millions of American workers to retire with reliable lifetime income that most would have been unable to achieve had these plans not been there. But the system has proved to not be strong enough to withstand the combination of demographic trends, industrial shifts, and economic declines that have occurred in recent years. As a result, more than a million participants face the possibility of losing their retirement benefits, and thousands of businesses are in jeopardy.

Congress faces a dual challenge. Action is needed to address the looming crisis that will occur when both plans and the PBGC exhaust their resources and reach the point of insolvency. The multiemployer system also needs to be reformed so it can continue its invaluable mission of providing retirement income to people who need it, while also ensuring that the system does not fall into crisis again.
I hope this background information on the operation of the multiemployer system and its current challenges proves useful as Congress considers potential legislative action. The Pension Practice Council of the American Academy of Actuaries looks forward to continuing to provide objective and unbiased actuarial analysis to lawmakers and their staffs as they work to address these difficult challenges.
Chairwoman WILSON. Thank you, Mr. Shapiro. We will now recognize Ms. Moorkamp.

STATEMENT OF MARY MOORKAMP, CHIEF LEGAL OFFICER
SCHNUCK MARKETS, INC.

Ms. MOORKAMP. Madame Chair Wilson, Ranking Member Walberg and members of the committee, I'm Mary Moorkamp, Chief Legal Officer at Schnuck Markets based in St. Louis, Missouri. Thank you for the opportunity to testify today.

I am here to describe how the multiemployer crisis already affects business today. You may hear similar testimony from other witnesses but this is personal for me and my thousands of Schnucks teammates. Schnucks is a third generation family owned retail grocery chain. We were founded by Anna Donovan Schnuck in 1939 as a way to feed her family and neighbors during the Depression.

Nearly 80 years later we have almost 15,000 teammates in 119 stores in five mid-western states. We are proud of our local heritage and our mission of nourishing people's lives goes well beyond selling groceries.

There are roughly 5400 businesses that contribute to approximately 130 multiemployer funds that are going insolvent. For many of these businesses, a funds insolvency and more immediately the potential threat of insolvency is already affecting their business operations. For example, lenders, rating agencies, and auditors are increasingly concerned with the impact of a Central States insolvency.

As a company's withdrawal liability becomes estimable and probable, and these are accounting terms, there could be greater pressure to record the liability on financial statements. Recording the liability will affect each business differently.

For many small businesses their withdrawal liability could exceed the value of their business. So booking the liability will make them insolvent. Midsize employers are also at risk. Some lenders already have increased their borrowing changes and I have heard of situations in which lenders have refused to make business loans due to Central States pending insolvency.

Sadly, some business owners don't even know that their business has withdrawal liability. And we are seeing those situations right now. For Schnucks, the looming Central States insolvency makes us reluctant to grow our business. If we open a store in a new market, we have to hire a driver to transport product to the store. If the driver is covered by our CBA with the Teamsters, the driver must go in Central States. We estimate that each new driver increases our exposure by as much a $268,000 per teammate.

The current situation also limits expansion opportunities in our current markets. We face recruiting and retention issues as potential new hires are aware of the plight of Central States and don't want to participate in the plan.

Some argue that these concerns reflect a worst case scenario. They say that Central States insolvency won't trigger withdrawal liability. We cannot predict the future actions of lenders, the accounting profession, our supplies, the IRS, and the PBGC but we
do know that even if the insolvent fund doesn't trigger withdrawal liability, Schnucks and other business will have to continue making contributions to Central States.

Meanwhile, our teammates will accrue a benefit that at most equals the paltry PBGC minimum assuming the PBGC remains solvent. This is a best case scenario if Congress doesn’t act.

To some extent, we are already doing this. We provide a 401K plan to our teamster warehouse teammates in addition to the Central States pension. For these teammates, not only do we contribute $342 per teammate per week to a pension fund from which they may receive next to nothing, but we also contribute to a 401K Plan. This double retirement benefit is not sustainable in our penny margin business, nor is it fair to our other teammates.

Simply put, if the multiemployer system is not stabilized quickly, the effects on businesses, workers, retirees, local communities and the Federal Government will be significant and harmful. These problems are manifesting themselves today, not 2025.

In my written statement, I offer six guiding principles for the committee's consideration. First, a solution must restore these plans to solvency and stabilize the system. Second, a solution must be bipartisan and bicameral. Third, the solution must be implemented quickly. Fourth, it will necessarily require considerable Federal assistance. Fifth, the cost must be spread among stakeholders in a fair and equitable manner. And last, the solution must include safeguards to ensure this crisis never happens again.

The pension crisis transcends party lines. This is not a Republican or a Democrat issue nor is it a union or employer issue. We are grocers. Schnucks has been in business for 80 years and we hope to be around for another 80 years. But the pension crisis presents an existential threat to employers. It is Schnucks No. 1 threat as we look at our long term business plan and we stand ready to work with you and the committee in your efforts to solve this crisis.

Thank you again of allowing me to testify and I'll be happy to answer questions.

[The statement of Ms. Moorkamp follows:]
Testimony of
Mary Moorkamp
Chief Legal and External Affairs Officer
Schnuck Markets, Inc.
St. Louis, Missouri

United States House of Representatives
Committee on Education and Labor
Subcommittee on Health, Employment, Labor, and Pensions

Hearing on “The Cost of Inaction: Why Congress Must Address
The Multiemployer Pension Crisis”

March 7, 2019
Chairwoman Wilson, Ranking Member Walberg, and members of the House Education and Labor Subcommittee on Health, Employment, Labor, and Pensions ("Committee"). I am Mary Moorkamp, the Chief Legal and External Affairs Officer at Schnuck Markets, Inc., from St. Louis, Missouri. Thank you for the opportunity to appear today to discuss the looming crisis facing not only Schnuck Markets, but the more than 5,400 employers that contribute to multemployer pension plans that are projected to be insolvent in less than 20 years.¹

My message today is that the multiemployer crisis already affects businesses today. Therefore, Congress must solve the multiemployer funding crisis as quickly as possible. Employers understand and fully appreciate the enormous challenges facing this Congress, but further delay is not an option. Eventually, the Pension Benefit Guaranty Corporation’s multiemployer fund will have to be stabilized. Waiting for this inevitability accomplishes nothing and only adds to the cost—not only the economic cost, but the emotional cost of uncertainty on our employees, our retirees, and their families. As an employer, this uncertainty undermines our ability to grow our business, attract new workers, and plan for the future. The cost of inaction is too high to bear; Congress must act quickly.

I. WHO IS SCHNUCK MARKETS?

Schnuck Markets is a third-generation family-owned retail grocery chain. It was founded by Anna Donovan Schnuck in 1939 as a way to feed her family and neighbors during the Depression. She opened her first store in North St. Louis City to sell, among other things, the potato salad she made in her own kitchen. Back then, as today, she was seeking a way to nourish people’s lives. From those humble beginnings, the company has grown to its current size of almost 15,000 teammates serving 119 grocery stores in five states: Missouri, Iowa, Indiana, Illinois and Wisconsin. More than 75% of our workforce is unionized. Our CEO is Todd Schnuck—a proud grandson of Anna Schnuck.

The Schnuck family believes deeply not only in providing a quality and competitive grocery experience, but also in giving back to the community—both near and far. Three examples highlight this commitment. First, we are proud to say that in each community in our five-state region, we partner with local food banks and pantries to ensure that the hungry in our communities are fed. In St. Louis alone, one out of every three meals served by Operation Food Search comes from Schnuck Markets. That is annually over $13 million in food donations. Second, when Hurricane Michael devastated the Florida Panhandle last October, we collected over $345,000 for the hurricane victims. Just to be clear, the closest Schnuck store to the Florida

¹ NCCMP Multiemployer Pension Facts and the National Economic Impact, slide 3 (Jan. 5, 2018)
Panhandle is in Cape Girardeau, Missouri—over 650 miles and nearly 11 hours away by car. Finally, we are proud to partner with Folds of Honor to provide scholarships to the children and spouses of fallen and wounded service members. We launched the program for the first time last Memorial Day through 4th of July, 2018 and raised over $1.1 million dollars for Folds of Honor. We look forward to making an even bigger impact this year. From 1939 to present day, our mission to nourish people’s lives has been unwavering.

II. THE HISTORY OF SCHNUCK MARKETS AND CENTRAL STATES

A. Contribution History

Schnuck Markets entered the Central States Teamsters Pension Fund (“Central States”) in 1958. The date is important, because it was many years before Congress enacted ERISA or the withdrawal liability rules. There was no “last man standing” concept or tax deduction limitation when we entered Central States. And there was no PBGC multiemployer fund. We did not “make a bad deal.” These rules were forced upon us after-the-fact. We simply wanted to provide our drivers, mechanics and grocery warehousemen a retirement benefit for the work they did for Schnuck Markets.

Since 1958, we have made all of our required pension contributions. I want to emphasize this point, because Congress cannot get caught in the trap of trying to place blame for the crisis. Just like the participants who say—correctly so, I would add—that they are not to blame, nor are contributing employers to blame. Schnuck Markets has done everything we were supposed to do. No one is to blame, which is why everyone must share in the sacrifice to solve the crisis.

In 1958, our weekly contribution rate was $3 per week. At the time, this contribution was about 3% of our Teamster teammates’ total compensation package (salary, retirement, and health and welfare benefits). There was no such thing as “withdrawal liability,” and our liability was limited to funding our pension obligation for our teammates under our Collective Bargaining Agreement.

Fast forward to our situation today. Our contribution rate to Central States for 2019 is $342 per week. This contribution rate amounts to between 19% and 21% of our Teamster teammates’ total compensation package. This compares to a compensation percentage of around 4% to 6% for our non-Teamster teammates’ pensions. (In our industry, it is typical for a retirement contribution percentage to be in a 4 to 6% range or less. Anything above that puts a company at a significant competitive disadvantage.)

The $342 per week contribution level is 114 times the contribution rate in 1958. For some historical context, in 1958, a gallon of milk cost $1, a loaf of bread was 20 cents, and a gallon of gasoline was 25 cents. What would our customers and your constituents say today if they were paying $114 for a gallon of milk, $22.80 for a loaf of bread, and $28.50 for a gallon of gas? That is what has happened to our contribution rate in a “penny-margin” industry.
B. **Unfunded Liabilities – the “Last-Man Standing” Rule**

A major reason our contribution rate has increased so much is because of the unfunded liability rules. In effect, each employer in a multiemployer plan is jointly liable for a plan’s unfunded liabilities. When an employer leaves a plan without paying its portion of the plan’s unfunded liabilities (or if a plan suffers an investment loss following the employer’s withdrawal), the responsibility for the unfunded liabilities not paid by the exiting employer shifts to the remaining employers. This is referred to as the “last-man standing” rule. The shift in unfunded liabilities drives up our contribution rates, and employers such as Schnuck Markets are forced to fund the retirement benefits of workers who never worked for us – and in fact may have worked for our competitors or, more likely, completely outside our industry and region in which we operate. What this also means is that the employers remaining in the plan, and who have followed all of the rules and have already fully funded the benefits of their employees, are the ones left holding the proverbial “bag.”

This point is clearly illustrated by Central States. According to Central States, 59% of the retirees are orphans, meaning that their contributing employer is no longer paying into Central States. Moreover, most of our contribution dollars go to pay for the benefits of participants who never worked for Schnuck Markets.

It is not as though our Teamster teammates will enjoy a retirement benefit commensurate with our contribution rate. Given Central States’ projected insolvency, our teammates will be fortunate to receive the maximum PBGC guarantee of $429 per year of service (or $12,870 per year for a teammate with 30 years of service) – which is only about 1/3 of the benefit they otherwise would have received. And this is only if the PBGC multiemployer program remains in existence – which, without legislative action, is projected to go insolvent in 2025. If the PBGC program goes insolvent, Central States participants will receive next to nothing.

It is for this reason that in 2017, out of concern that our Teamster warehouse teammates would have nothing at retirement – despite years of our pension contributions to Central States – we established a 401(k) plan on their behalf. The 401(k) is a 100% company match up to 4% of the teammate’s salary. This is in addition to the weekly contributions we continue to make to Central States. We see this as a way for our Teamster warehouse teammates to accumulate some type of retirement income, in addition to their own personal savings – as there will be little to nothing for them if Central States goes insolvent. This is our only bargaining unit that has both a pension (albeit a potentially insolvent one) and a match feature to their 401(k). The Central States situation is unfair to our Teamster teammates and to all of our other teammates – and is untenable for Schnuck Markets in our highly-competitive, penny-margin business.

C. **Withdrawal Liability**

The unfunded liabilities not only affect our required contribution rate, but also create a staggering withdrawal liability.

Congress enacted the withdrawal liability rules in 1980. (As a reminder, we had been in Central States for 22 years at this point.) The withdrawal liability rules require employers that terminate their participation in a plan to make payments that cover their share of any unfunded
benefits. The payments are based on each employer’s proportional share of a plan’s underfunding.²

As I testified last year before the Joint Select Committee on the Solvency of Multiemployer Pension Plans ("Joint Select Committee"), our proportionate share of the plan’s unfunded vested benefits at the end of 2016 exceeded $200 million. While we don’t have an official estimate as of the end of 2018, we fully expect, based on a review of Central States’ actuarial reports, that it will be at least 33% greater than it was at the end of 2016. Bear in mind that out of our 15,000 Schnuck Markets teammates, only about 230 are covered by Central States. For some context, our total Teamster payroll in 2018 was $16.8 million. While we expect to pay less than the ultimate liability (the liability is limited to 20 annual payments based on a formula that takes into account contribution base units and contribution rates during the 10 preceding years – referred to as the “20-year payment cap”), we are in unchartered waters given the magnitude of a Central States insolvency. From a policy perspective, it makes no sense that an employer whose contributions have increased 114-fold and has made all of its required contributions could have a withdrawal liability that even approaches this amount.

III. THE COST OF INACTION

A. Implications of Inaction on Businesses

Should Congress fail to stabilize the multiemployer system, significant financial harm will fall on all stakeholders – businesses, workers, retirees, taxpayers, and the U.S. economy. While a legislative solution may be costly, taking no action will be more costly.

Plan insolvencies will devastate contributing employers, leading to job losses across the country. A Chamber of Commerce report issued last June³ provides a more complete explanation of the risks to businesses and jobs, but the bottom line is that plan insolvencies could severely harm employers. This is because for many employers (especially small employers), their withdrawal liability represents a significant portion of the business’s value. Should a pension fund go insolvent and an employer withdraw, the withdrawal liability assessment could force the employer out of business. Even if the employer remains in the insolvent fund, the ongoing contributions would impose an insurmountable financial burden on the contributing employers.

Even more concerning is that the impact on businesses is occurring far earlier than when a pension fund becomes insolvent. Auditors and financial lenders are becoming increasingly aware of the pension funding crisis. I have heard of lenders having pulled lines of credit for employers with substantial withdrawal liability, and as the withdrawal liability amounts become “estimable and probable,” auditors may require the withdrawal liability be reflected as a liability

² By way of example, in general, if an employer’s contributions to a plan comprise 10% of the plan’s contributions, the employer’s withdrawal liability is calculated as 10% of the plan’s unfunded benefits.
on an employer’s financial statements. This could devastate businesses (and harming other plans to which they contribute) years before the pension fund’s insolvency.

B. **Immediate Implications for Schnuck Markets**

The combination of burdensome contribution requirements, the withdrawal liability rules, and the projected insolvency of Central States, has immediate implications for Schnuck Markets. We are feeling the effects right now.

This is not a “year 2025 problem.” The Central States crisis already has an impact on our current operations and strategic long-term planning decisions. By our calculations, each new Central States participant increases our withdrawal liability amount by approximately $268,000—money the participant will never see at retirement. As a result:

1. **Reluctance to expand into new markets.** If we open a store in a new market, we would have to hire drivers to transport product to these stores. If the driver is covered by our Collective Bargaining Agreement with the Teamsters, that Teamster driver must become a participant in Central States. This adds to our Central States contribution base, which increases our withdrawal liability.

2. **Significant cost associated with growth in current markets.** In a recent transaction involving the acquisition of a number of retail grocery stores in our market, we immediately rejected an overture to purchase the seller’s logistic operations that had employees in Central States. As the seller could not find any buyer, the seller closed these logistic operations.

3. **Recruiting and retention problems.** The Central States crisis has created recruiting issues for Schnuck Markets. Oftentimes, when we inform a prospective Teamster driver that his or her pension will come from Central States, they lose interest in the position. They know what’s going on with Central States and don’t want to depend on a withering fund for their retirement savings. Central States’ uncertain future also hampers our ability to retain our employees. As previously mentioned, in 2017, we established a 401(k) plan on behalf of our Teamster warehouse teammates that includes a 100% company match up to 4% of the teammate’s salary. This is in addition to the weekly contributions we make to Central States. We did this so that our Teamster teammates could accumulate some type of retirement income, but this adds significant cost in highly-competitive grocery business that is increasingly dominated by non-union retailers.

4. **Impact on our capital structure and cost of capital.** The April 18, 2018 submission by the NCCMP (at p. 27) notes how: “the insolvency of Central States and the liabilities that would be imputed to employers will be a topic for the accounting profession, including the FASB. Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become more real when you actually have a plan insolvency.”
Schnuck Markets has been required to make additional disclosures on our financial statements. And the financial accounting concerns could impact our capital structure. We rely on private placement debt and bank lines of credit to augment our cash flow. As Central States positions itself for insolvency, our lenders are becoming increasingly concerned about the impact of the insolvency on our financial statements. When assessing a company’s financial strength, lenders and credit rating agencies factor potential pension withdrawal liabilities into their analysis, which affects our credit profile and our cost of capital. We do not know how our lenders and auditors will react when Central States becomes insolvent. But the uncertainty and the risks are too great.

In summary, Schnuck Markets is forced to continue making contributions to a plan that is projected to be insolvent within six years, from which our teammates will be fortunate if they receive any significant portion of their anticipated benefits. Already, the pending Central States insolvency is hampering our ability to expand our business, attract new drivers, and is causing us to assess our risk profile due to the overhang of the potential withdrawal liability. This is happening right now, not in year 2025.

IV. SCOPE OF THE LOOMING CRISIS

What I have described is the Schnuck Markets story. I am certain that employers in each of your Districts and States have similar compelling stories. The most recent PBGC Projections Report states that there are about 130 multiemployer plans that are projected to be insolvent in 20 years or less (“Critical and Declining Plans”); data collected by the NCCMP states that about 5,400 employers contribute to these plans. I have to think that the future of many of these employers is very uncertain if the 130 pension plans go insolvent.

In quantifying the insolvency impact of Central States and other similar plans, it is certainly reasonable to expect there will be a “contagion” effect. Economists and actuaries will have differing views as to the magnitude and extent of the effect; I can only speak for Schnuck Markets and the Association of Food and Dairy Retailers, Wholesalers, and Manufacturers (“Food Association”). Schnuck Markets contributes to a total of eight multiemployer plans. In three of these plans, we account for at least 25% of the contribution base. More broadly, the Food Association compiled plan information from its 15 member companies. The 15 Food Association companies contribute to a total of 102 multiemployer plans. Of the 102 plans, 39 plans (38%) are currently “Red Zone” (critical) plans. If Central States goes insolvent, no one, including the PBGC, can say with any certainty how this will impact other Red Zone plans. I certainly can’t. But it won’t be positive. And even “Green Zone” plans are not immune from this phenomenon.

In an August 2018 report by Matrix Global Advisors, Alex Brill estimates that the failure of Central States alone will “lead to the loss of more than 55,000 jobs across the United States in 2025.” Labor income would fall $3 billion, GDP by more than $5 billion, state and

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local tax revenue by almost $450 million, and federal revenue by $1.2 billion. While the impact would be most concentrated in the Midwest, especially in Ohio, Michigan, and Missouri, all 50 states are subject to harm. The report further acknowledges that it understates the magnitude of the economic impact as the analysis is limited to only a failure of Central States. Given the interconnected nature of MEPPs (where many employers contribute to more than one plan), there is a valid concern that the failure of one plan, especially one as large as Central States, could trigger the insolvency of many more plans through the devastating impact on businesses. Likewise, the analysis does not measure the exposure of federal safety net programs to the crisis.

The 2017 PBGC Projections Report begins its overview of the multiemployer program with the following statement: “The current multiemployer system, covering approximately 10 million participants in about 1,400 plans, remains under severe stress.” We agree. And the stress is bound to worsen with the insolvency of Critical and Declining Plans.

V. GUIDING PRINCIPLES

A comprehensive reform of the multiemployer system – addressing the shortcomings of the current system – offers the greatest opportunity to ensure the retirement benefits of participants, continued participation by employers, and the solvency of the PBGC. The American Action Forum (AAF) noted that “Congress has a clear history of committing federal funds to insolvent federal programs.” AAF Director Douglas Holtz-Eakin said that “It simply is not a choice of committing federal funds or not. For Congress, it is one of those ‘pay me now or pay me later’ moments, and the goal should be to minimize the necessary infusion.”

Congress must prioritize addressing the funding problems of those plans that are heading toward insolvency. Any realistic solution must necessarily involve Federal assistance, coupled with contributions and sacrifices by all other stakeholders. The Critical and Declining Plans face a math problem that can only be solved with more assets, fewer liabilities, or some combination thereof. On the asset side, the contribution rates to plans such as Central States are already straining the resources of employers such as Schnuck Markets. As to investment returns, Central States would have to earn in excess of 15.5% per year (every year) to avoid insolvency. No realistic, sustainable level of increased employer contributions, investment returns, and benefit reductions can solve the funding woes of a plan like Central States. The math just doesn’t work.

In addition, the fundamental rules governing multiemployer plans date back nearly 40 years and have not kept pace with the new economy, changing demographics, and today’s mobile workforce. The system needs to be overhauled so as to prevent a future funding crisis.

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1 At pg. 7.
The Joint Select Committee heard from many experts and stakeholders regarding possible solutions. Rather than providing specific solutions, I wish to offer some guiding principles for your consideration as you pursue a legislative solution:

1. The solution must restore the Critical and Declining Plans that can be saved to solvency and stabilize the multiemployer pension system.

2. The solution must be one that can pass both chambers and be acceptable to the Administration. Solving this crisis requires difficult political, fiscal and policy decisions, and political compromise will be paramount. Political differences must be set aside, and members must work across the aisle and across the Capitol to develop a solution. This Committee has a cherished history in that regard, dating back to the Pension Protection Act of 2006, and more recently Committee Chairman Jon Kline and Ranking Member George Miller with the 2014 MPRA legislation.

3. The solution must be structured so that it can be implemented quickly and timely (i.e., an expedited implementation process and timetable). Delaying the relief not only increases the cost of the solution, but exacerbates the uncertainty for employers, workers and retirees.

4. The solution must necessarily require considerable Federal assistance. There is no realistic, sustainable level of increased employer contributions and participant reductions (or any combination thereof) that can stabilize a fund such as Central States or the United Mine Workers Pension Fund.

5. The cost must be spread among all the stakeholders in a fair and equitable manner. No single group bears responsibility, and yet all stakeholders – including retirees and taxpayers – stand to suffer if the multiemployer system is not stabilized. As a contributing employer, we struggle with automatic annual increases in pension contributions, while our Central States teammates essentially accrue a pension benefit equal to the PBGC guarantee amount. We have satisfied all of our contribution obligations, and our retirees did everything they were supposed to do. Yet we all now face a future of economic uncertainty. The only fair approach is for everyone to share in the cost.

6. The solution must include structural changes and safeguards to the multiemployer system to ensure this crisis doesn’t happen again. Many of the economic decisions that led to this crisis are the result of well-intentioned but misguided federal law.

This is a very difficult issue. Developing a solution won’t be easy, and if structured fairly, all stakeholders should dislike parts of it. But keep in mind that failure is not an option.

Schnuck Markets and the Food Association stand ready to work with you and do whatever we can to assist the Committee in these efforts.

Thank you again for the opportunity to share my views with you today.
Chairwoman WILSON. Thank you, Ms. Moorkamp. We will now recognize Mr. Morgan.

STATEMENT OF JAMES MORGAN, RESIDENT, BLUE ISLAND, ILLINOIS

Mr. MORGAN. Good morning. Thank you, Madam Chairwoman. My name is James Morgan and I live in Blue Island, Illinois in suburban Chicago. I retired after working 33 years at Hostess Brands’ Wonder Bread Bakery. First in Chicago and then in Hodgkins, Illinois, a Chicago suburb. I worked at the bakery until the company went bankrupt and closed its doors in 2012.

I am currently collecting my pension from the Bakery and Confectionery Union and Industry International Pension Fund, known as the B&C Fund, and working part time to help make ends meet.

During my career at Wonder Bread, I was active in my union, the BCTGM Local Union Number 1, with nearly 3,000 members and several thousand retirees. I served as shop steward, chief shop steward and I was a member of the local union’s executive board.

During my 33 years in the bakery, I worked many different jobs including mixer and oven operator. Working in an industrial bakery is a very, extremely physically demanding job. You are on your feet at least 8 hours a day and usually we worked a lot of overtime.

In the summer, the temperatures in the bakery could get to 100 to 120 degrees. It was stifling.

For much of my career as a mixer, I had to lift hundred pound bags of ingredients and hundred pound and 50 pound bags and pour it into the mixer every day, all day. We worked weekends, holidays and we never had two consecutive days off in a row. That’s how the bakery industry is.

Thirty 3 years in the bakery took an enormous toll on your body. It’s very rough on your back, your neck, your feet, your arms, and your legs. It’s very grueling. Thanks to my union and strong contract that we negotiated, my co-workers and I earned a middle-class wage and good benefits for the hard work that we did.

No benefit was more important to us than our defined pension benefit. We negotiated and fought for our pension because we knew having that pension meant that we would be able to retire with dignity after a lifetime of very hard work.

In fact, having a good pension was so important to us that we would often negotiate less in pay raises in favor of increasing our negotiated pension benefit level. In some years, many of us took a portion of all or all of our negotiated pay increases and purchased additional pension benefits. This was money out of our own pockets. That’s how much we valued our pension.

As chief shop steward, I knew everyone working in that bakery. We were proud to be making the most famous bread in the country, Wonder Bread. We gave it our all every day. If the bakery would have not closed, I probably would still be working there today. We were working to provide for our families and we were working for a decent retirement.

It is very disturbing to me when I hear people saying that our pension was given to us by the company. Hostess did not give us
a pension. We bargained for it as a part of our compensation package. Those benefits were a part of our earnings.

In August 2011, the CEO of Hostess Brands sent a letter to every employee saying that the company was suspending the contributions it was obligated to make to the B&C Pension Fund according to our collective bargaining agreement. He said the suspension of the contributions were going to be temporary. That was not true. The company never resumed making payments to the Fund. They never intended to.

The executives were just sucking out whatever money they could from the company and the bakeries. In fact, during the bankruptcy, a number of executives actually took huge pay raises, some as much as 300 percent.

Fifteen months later, the company went out of business. Our bakery was closed and we were out of work. Not only were we out of work, we also had new fears about the future of our pension benefits.

We learned shortly after the bakery closed that the Federal bankruptcy courts allowed Hostess just to walk away from its pension fund contributions and obligations. That was nearly $1 billion dollars. The enormous financial damage done to the B&C Fund by Hostess Brands meant that we could lose everything we worked for and sacrificed for through no fault of our own. The Hostess executives and private equity owners who mismanaged the company, ran it into the ground and put it into bankruptcy walked away with millions of dollars.

They left the dedicated workers who helped build the company and created the profits with an uncertain future in our retirement years.

Would our guaranteed benefits always be there for us? Would our pension checks get cut as we got older? How would we pay our bills? Would we be able to afford our prescriptions? Would we be a burden on our children or other family members? These are the questions that have been hanging over our heads since the company closed its doors. We are fearful about what will happen to our pension. It is a very stressful time for all of us.

I know that the union leaders and the pension fund are working as hard as they can to protect the pension benefits for every retiree and every active worker in the fund. My union and the B&C Pension Fund strongly support H.R. 397. They believe long-term, low-interest loans will lead to long term solvency of our pension fund and help the retirees like me who depend on our pension checks to get by.

It is responsible, bipartisanship legislation that will effectively address the pension funding crisis in our country. My pension benefits have not made me rich. Not at all. But my pension check each month is the only way I know I am able to make ends meet.

If I lost those benefits or those benefits were cut, it would be devastating. I definitely would not be able to pay my bills each month, afford groceries or take care of necessary medical needs. I don’t know what I would do. I know almost all of my former co-workers are in the same position.

Madame Chairwoman, we are not asking for a handout. We earned our pension through hard and sacrifice. We did our part by
putting in an honest day’s work under difficult conditions. All we are asking for is fairness.

Madam Chairwoman, I would like to thank the Committee for the very important work you are doing for the retirement security of all American workers. Thank you for the opportunity to appear before you today. It has been an honor and a privilege.

[The statement of Mr. Morgan follows:]
Thank you Madam Chairwoman. I want to thank the Committee for the opportunity to provide this testimony.

My name is James Morgan and I live in Blue Island, Illinois in suburban Chicago. I retired after working for 33 years at Hostess Brands’ Wonder Bread bakery first in Chicago and then in Hodgkins, IL, a Chicago suburb. I worked at the bakery until the company went bankrupt and closed its doors in 2012.

I am currently collecting my pension from the Bakery and Confectionery Union and Industry International Pension Fund, known as the B&C Pension Fund, and working part time to help make ends meet.

During my career at Wonder Bread, I was active in my Union, BCTGM Local 1, a Local Union with nearly three thousand members and several thousand retirees. I served as a shop steward, Chief Steward and was a member of the Local Union Executive Board.

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least eight hours and usually longer because we worked a lot of overtime.

In the summer, the temperature in the bakery could get to 100-120 degrees. It was stifling.

For much of my career as a mixer, I had to lift hundreds of pounds of ingredients in 100 pound and 50 pound bags and pour it into the mixers every day, all day long.

We worked weekends and holidays and never had off two days in a row. That’s how the baking industry is.

Thirty three years in the bakery take an enormous toll on your body. It’s very rough on your back, your neck, your feet, your arms and your legs. It’s grueling.

Thanks to my Union and the strong contracts we negotiated, my co-workers and I earned a middle-class wage and good benefits for the hard work we did.

And no benefit was more important to us than our defined pension benefit. We negotiated and fought for our pension because we knew that having that pension meant that we would be able to retire with dignity after a lifetime of very hard work.

In fact, having a good pension was so important to us that we would often negotiate less in pay raises in favor of increasing our negotiated pension benefit level. In some years, many of us took all, or a portion, of our negotiated pay increases and purchased additional pension benefits. This was money out of our own pockets. That’s how much we valued our pension.

As the Chief Steward, I knew everyone working in that bakery. We were proud to be making the most famous bread in the country,
Wonder Bread. We gave it our all. If the bakery had not closed, I would probably still be working there. We were working to provide for our families and we were working for a decent retirement.

It is very disturbing to me when I hear people saying that our pension was “GIVEN” to us by the company. Hostess didn’t give us the pension. We bargained for it as part of a compensation package. As I said, we sacrificed wages and other benefits to secure, maintain and improve our pension benefits. Those benefits were part of our earnings.

In August 2011, the CEO of Hostess Brands sent a letter to every employee saying that the company was suspending the contributions it was obligated to make to the B&C Pension Fund according to our collective bargaining agreement. He said the suspension of contributions was going to be “temporary.”

That was not true. The company never resumed making payments to the Fund. They never intended to. The executives were just sucking whatever money they could out of the company and the bakeries. In fact, during the bankruptcy, a number of executives actually took huge pay raises, some as much as 300 percent.

Fifteen months later, the company went out of business. Our bakery was closed and we were out of work.

Not only were we out of work. We also had new fears about the future of our pension benefits. We learned shortly after the bakery closed that the federal bankruptcy court allowed Hostess just to walk away from all of its pension fund contribution obligations. That was nearly one billion dollars.

The enormous financial damage done to the B&C Fund by Hostess Brands, the very same company my co-workers and I dedicated our
careers to, means that we could lose everything we worked for and sacrificed for through no fault of our own.

The Hostess executives and private equity owners who mismanaged the company, ran it into the ground and put it in bankruptcy walked away with millions of dollars. They left the dedicated workers who helped build the company and create the profits with an uncertain future in our retirement years.

Would our guaranteed benefits always be there for us? Would our pension checks get cut as we got older? How would we pay the bills? Would we be able to afford our prescriptions? Would we be a burden on our children and other family members?

All of these questions have been hanging over our heads since the company closed the doors. I stay in close contact with many of my former co-workers. We are truly fearful about what will happen to our pension benefits. It is very stressful for all of us.

I know that our Union leaders and the Pension Fund are working as hard as they can to protect the pension benefits of every retiree, like myself, who depends on those benefits to get by and everyone still working who is counting on those benefits when they retire.

I am certainly not an expert on pension funding. But I do know that my Union and the B&C Pension Fund strongly support H.R. 397, the Rehabilitation for Multiemployer Pensions Act. They believe long-term, low-interest loans as called for in the legislation will lead to the long-term solvency of our pension fund and help the retirees like me who depend on our pension checks to get by.

It is responsible, bipartisan legislation that will effectively address the pension funding crisis in our country.
My pension benefits have not made me rich. Not at all. But my pension check each month is the only way I am able to make ends meet.

If I lost those benefits or they were cut, it would be devastating. I definitely would not be able to pay my bills each month, afford groceries and take care of necessary medical needs. I don't know what I would do. I know almost all of my former co-workers are in the same position.

Madam Chairwoman, we are counting on Congress to do whatever it takes to protect our pensions.

We are not asking for a handout. We earned our pension benefits. We worked hard for our pension benefits. We sacrificed for our pension benefits. We were guaranteed our pension benefits.

We did our part by putting in an honest day's work under difficult conditions.

All we are asking for is fairness.

Madam Chairwoman, I want to thank the Committee for the very important work you are doing for the retirement security of American workers and retirees.

Thank you for the opportunity to appear before you today. It has been an honor.
Chairwoman WILSON. Thank you. Thank you, Mr. Morgan. We will now recognize Dr. Naughton.

STATEMENT OF JAMES NAUGHTON, ASSISTANT PROFESSOR OF ACCOUNTING INFORMATION & MANAGEMENT, KELLOGG SCHOOL OF MANAGEMENT AT NORTHWESTERN UNIVERSITY

Mr. NAUGHTON. I'd like to thank Chairperson Frederica Wilson and Ranking Member Tim Walberg for the opportunity to present today.

To begin, I would like to outline the basic framework for multi-employer plan contributes as that is an important driver of the current crisis. At a high level there are two components. The cost associated with newly promised benefits and the cost associated with funding a portion of previously promised, but currently unfunded benefits.

The dramatic increase in employer costs over the past 15 years is primarily related to the second component. In fact, the dollar amount of underfunding has approximately tripled to more than $600 billion since 2005 when legislation was first drafted to address the issues of multiemployer plans.

To understand why this is happening, you need to understand the source of the current crisis. Consider the following simple thought experiments. You exchange part of your current wages for an annuity benefit so that you will have regular income during retirement.

If this transaction is with an insurance company, your forgoing wages will be invested primarily in low-risk bonds whose payouts are chosen to match the payouts of your annuity benefit. The insurance company will also require that you pay an amount that is equivalent to the cost of your annuity, i.e., you get what you pay for.

If this transaction is with your union as part of a multiemployer arrangement, your foregoing wages will be invested primarily in the stock market. In addition, the multiemployer plan may only collect a fraction of the value of your annuity benefit hoping that it can recoup the difference from future generations of union members or through extraordinary investment performance.

This deviation by multiemployer plans from how insurance companies mange annuities is the driver of this entire crisis. And if multiemployer plans collected actuarially sound contributions and purchased annuity contracts, there would be no crisis. Each participant would be receiving or be scheduled to receive his or her promised benefits.

Technology bubbles, industry deregulations, employer withdrawals, none of those would have any effect. For this reason, moving to an annuity type framework is a critical first step in addressing the current crisis because it will at least freeze the amount of the total underfunding.

Stock market investing generates higher expected returns but does so with significant additional risk. Those types of risks should only be taken if adverse events can be managed and that is clearly not the case with the multiemployer plan system.
In fact, that system is designed so that the volatility associated with stock market investing will inevitably lead to substantial underfunding. I am not aware of any convincing reason why multi-employer plans should invest primarily in the stock market. Multi-employer plans are essentially an organization that manages the contributions of its members to provide retirement income. Very similar to what an insurance company does.

One consequence of an annuity type framework is that contribution requirements will be higher because they will be based on the use of a lower discount rate. However, the increased costs that comes with using the actual value of what is promised is not a persuasive reason to avoid using it. Continuing to use unreasonably low estimates of the benefit promises will only lead to future crises.

In closing, I want to highlight that a well-run defined benefit pension plan should reflect the principle that you can rely on a set benefit in retirement. Moving to an annuity type framework is necessary for this principle to become a reality. A promise that is partially funded and invested in risky securities is a promise that is unlikely to be kept.

I also want to highlight the importance of urgent action. Delays will inevitably lead to larger deficits and more difficult decisions as we have seen over the past 10 years. Thank you again for this opportunity, and I look forward to answering any questions you may have.

[The statement of Mr. Naughton follows:]
Testimony on
“The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis”

James P. Naughton
Assistant Professor, Kellogg School of Management, Northwestern University, Chicago, IL

Before the
Education and Labor Committee’s Subcommittee on
Health, Employment, Labor, and Pensions Plans

I’d like to thank Chairperson Frederica Wilson, ranking member Tim Walberg, as well as the other members of the Health, Employment, Labor, and Pensions Subcommittee for the opportunity to testify today. I hope that my testimony contributes toward a workable solution to the crisis facing the multiemployer plan system.

A multiemployer plan is a pension plan maintained through a collective bargaining agreement between employers and a union. The typical plan has numerous contributing employers, and it is quite common for employers to participate in several different multiemployer plans. For a particular multiemployer plan, the employers are usually in the same or related industries. Today, there are approximately 1,400 multiemployer plans covering 10 million participants. From the participant’s perspective, multiemployer plans provide pension portability, allowing them to accumulate benefits earned for service with different employers throughout their careers. In addition, because these plans offer annuity benefits, they represent an efficient source of retirement income due to risk pooling advantages. From the employer’s perspective, the scale lessens the administrative and investment costs relative to the operation of numerous small single-employer plans.

Currently, the multiemployer system is chronically underfunded and the retirement benefits of many participants are at significant risk. Once a plan becomes insolvent, the payment of benefits is assumed by the Pension Benefit Guaranty Corporate (“PBGC”), subject to certain limits. However, the PBGC’s latest forecast is that its multiemployer pension insurance program will

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1 Jim Naughton is an Assistant Professor at the Kellogg School of Management at Northwestern University. Jim worked as an actuary for ten years after completing his undergraduate studies at Worcester Polytechnic Institute. For most of that time, he was a Fellow of the Society of Actuaries, an Enrolled Actuary and a member of the American Academy of Actuaries. He consulted with a variety of clients on all aspects of employee benefits, with a particular emphasis on defined benefit pension plans. He left the private sector to complete a concurrent degree program at Harvard University, whereby he earned a JD from Harvard Law School in 2010 and a doctorate in Business Administration from the Harvard Business School in 2011. He has been a member of the faculty at the Kellogg School of Management since 2011.
become insolvent in 2025, meaning that it will no longer have any resources on hand to pay the pension benefits of failed plans.\(^2\) At that point, the PBGC will become a de facto pay-as-you-go system with its premium collections used to pay only a tiny fraction of the pension benefits of failed plans. In essence, this outcome is equivalent to the complete loss of pension benefits for a very substantial number of participants.

Broadly, there are two main decisions to be made regarding the crisis, both of which highlight the need for immediate action.

The first decision relates to past underfunding, and entails figuring who will cover the shortfall that has arisen because of the difference between what the unions promised their members and what the unions collected from employers to cover these promises. This is not an easy decision, as many union members who relied on the promises made to them by their union leaders are facing severe financial consequences if their pensions are eliminated. In addition, employers vary in their ability to absorb the increased contributions that are currently required or may be required in the future to fund these plans. The PBGC recently reported that the system is $638 billion underfunded for 2015.

The second decision entails figuring out how to ensure that the current level of underfunding does not deteriorate further and how to put the system on a sustainable path going forward. The urgency of this step is evident in the events that have occurred since legislative action was first taken to address the multiemployer pension crisis in 2005—since that time, the level of underfunding has increased by approximately $400 billion on a PBGC basis.

These two decisions require different solutions, and trying to solve both at the same time creates unnecessary difficulty. In my opinion, the more pressing decision is the second one, as that decision offers the hope of limiting any further deterioration of the multiemployer system. For that reason, my testimony will focus on the most important aspects of this decision.

To understand how to set the multiemployer system on a sustainable path, it is necessary to provide some background on the cause of the current crisis. Let me illustrate the critical issue with a simple thought experiment: you exchange part of your current wages for an annuity benefit so that you will have retirement income when you turn age 65. If this transaction is with an insurance company, your forgone wages will be invested primarily in low risk bonds whose payouts are chosen to match the payouts of your annuity benefit, with less than five percent

invested in the stock market. If this transaction is with your union as part of a multiemployer arrangement, your forgone wages will be invested primarily in the stock market.

This is a striking difference, but it is not the only one.

The insurance company will ask that you contribute wages that are equivalent to the cost of your annuity (i.e., you “get what you pay for”). The multiemployer plan, on the other hand, may only collect a fraction of the value of your annuity benefit, hoping that it can recoup the difference from future generations of union members or through exemplary investment performance.

The contrasting approach taken by multiemployer plans initially generates far lower costs, which suggests that they believe they are able to provide annuity benefits for a fraction of what an insurance company would charge. Is this really possible? The answer, of course, is no. It is unreasonable to suggest that multiemployer plans can significantly outperform insurance companies at their core business. It is also unreasonable to expect anything other than a crisis when the approach taken by multiemployer plans is so different from standard business practices.

Multiemployer plans have not collected actuarially sound contributions and have invested the contributions they received aggressively. If these plans had chosen to collect actuarially sound contributions and purchase annuity contracts (or mimic the investing philosophy of life insurance companies), there would be no crisis. Participants would be receiving or would be scheduled to receive the annuity benefits purchased with the contributions made on their behalf. No industry deregulation or competitive events would change this outcome.

It is worth noting that the problem is not that the rules prohibit trustees from managing the plans in this manner—trustees are free to purchase annuities to fund the pension benefits that the plan promises. Even short of purchasing annuities, the rules do not prevent trustees from accurately measuring plan promises and investing in a more conservative manner, concentrating on bonds matching the duration of the liabilities. Trustees chose to take aggressive risks, and the current crisis is the inevitable outcome of these risky choices.

I believe it is critically important that any framework for addressing the multiemployer pension plan crisis incorporate the notion that insurance companies are experts at providing fixed annuity

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3 The assets for life and annuity products that provide predetermined benefit amounts are held in the general account of the insurance company. The Chicago Fed compiles reports of the aggregate general account holdings of US Life Insurance companies. These reports indicate that less than 5% of general account assets are invested in equity securities, with the vast majority invested in fixed income products. For example, see https://www.chicagofed.org/publications/chicago-fed-letter/2013/april-109.

4 During my career as a consulting actuary, which started in the mid-1990s, I personally observed instances where the proposed cost of the multiemployer plan was only one-third of the cost of a single employer plan that provided equivalent benefits.
benefits, and that their general approach should be adapted for the multiemployer pension plan system.

The movement away from the stock market may be viewed as a poor choice by some because equity investments generate higher expected returns than low risk bonds, and these higher returns could narrow the funding gap. However, it is important to recognize the equity investments can just as easily increase the funding gap, as higher expected returns come with higher volatility and risk. One cannot generate high returns that are low in risk.

I am not aware of any convincing reason why multiemployer plans should invest primarily in the stock market. They cannot be compared to single employer pension plans, where a single firm sponsors a pension plan that is generally viewed as an extension of its corporate structure. Multiemployer plans are essentially an organization that manages the contributions of its members to provide retirement income, which is similar to an insurance company. They do not have the ability to respond to large fluctuations in the value of the assets in the pension trust, both because contributions are typically set over multiple years and because contributing employers vary over time, either because of bankruptcy or because of selective exit through withdrawal. These plans also cannot carry a funding surplus, which is necessary to withstand the negative returns that are an inevitable component of risky investment choices. Given the structure of multiemployer plans, certain participants have even claimed that trustees’ use of risky investment choices, such as those in private equity and emerging markets, are potential violations of a plan’s fiduciary duty.

Moving to an annuity purchase framework is a critical first step in addressing the current crisis because it will at least freeze the amount of the total underfunding. Because it is a more conservative basis, the number of healthy multiemployer plans will be drastically reduced under an annuity purchase model. While approximately 60% of multiemployer plans are currently certified in the green zone in recent PBGC reports, that number would drop to around 7% if discount rates were based on current corporate bond yields. In other words, on an annuity purchase basis, only 7% of plans have 80% of the assets needed to purchase annuities for their participants. The movement to an annuity purchase model doesn’t generate this substantial level of underfunding, it simply makes it transparent.

Moving to an annuity purchase basis will also increase the annual cost to employers of providing retirement benefits through the multiemployer system. While the calculation of the required contributions for a multiemployer plan are complex in practice, the framework for these calculations is relatively straight-forward. In essence, there are two key components. First, there

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is the normal cost, which is the present value of the benefits accrued by active participants during the year. Second, there is an amortization of the plans unfunded benefits. In essence, this component captures the carrying cost of previously accrued benefits (e.g., the cost that arises because participants are one year closer to collecting their benefits), the investment returns on the pension plan assets, and the difference between the total obligation and the assets on hand to pay those obligations. Both components are higher under an annuity purchase model because of the use of much lower discount rates to determine the present value of the promised pension benefits. A lower discount rate will produce a higher normal cost and a higher pension liability.  

However, the increase in costs is not a persuasive argument against adopting an annuity purchase approach, because the increase in cost arises due to a movement from a gross underestimation of the participant’s pension benefits to the actual fair economic value of the participant’s benefits. In other words, the costs will be higher because the reported costs in the past were far lower than the economic value of the promised pension benefits.  

There are two basic components to the projected level of underfunding in the multiemployer pension system—the benefits that were promised in the past, and the benefits that will be promised going forward. Shifting the investment allocation toward low risk bonds will freeze the current level of underfunding associated with past benefits. In addition, to the extent that plans are required to fund new benefit promises with actuarially sound contributions based on annuity purchase costs, there will be no incremental pension underfunding associated with these new benefit promises. Collectively, an annuity purchase approach will set the parameters of the underfunding, and ensure that future issues are averted. 

There is an urgent need to take action along the lines I’ve suggested. If left as is, the risk mismatch between the promised pension benefits and the underlying equity investments could generate substantial additional costs. Furthermore, the ability of unions to provide for future 

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6 Currently, multiemployer plans are able to artificially lower their costs by valuing annuity-type benefits, which are low in risk, using the expected return on the assets held in the pension trust. Intuitively, the present value of the promised retirement benefits should not decrease just because the underlying assets are invested in high-risk equity investments rather than low-risk bonds, but that is an outcome of the current funding rules for these plans. The promised retirement benefits would be valued correctly if the assets were held in low risk bonds, similar to those held by an insurance company. 

7 Rather than shifting investments into low risk bond portfolios (similar to how an insurance company would fund an annuity), others might suggest that now is the time to increase the risk of the investment portfolio to boost returns. While this is clearly a poor choice, the suggestion is somewhat predictable based on the current condition of multiemployer plans. Suppose you are a trustee facing an almost insurmountable pension deficit. There are two possible outcomes that accompany a shift toward a high risk investment strategy. On the one hand, the high risk strategy could work, in which case the plan could be saved, and the trustee is viewed as a hero. On the other hand, the high risk strategy could fail, in which case the plan will be shifted to the PBGC—the same outcome that would occur if no risk were taken. This type of asymmetry in the internalization of gains and losses results in what financial economists refer to as “gambling for resurrection.”
benefit accruals without adequately funding these accruals may also substantially increase future costs.

In addition, once the decision is made to adopt some form of annuity purchase model, it will be far easier to address other issues related to the amount of aid to be provided to failing plans, the amount of the PBGC guarantee and how the PBGC should interact with failing plans, as well as any potential changes in the amount of PBGC premiums. To ensure that employers do not selectively withdraw from plans, it is worth amending the current withdrawal rules to prohibit withdrawals until a legislative solution to the current crisis is finalized.

In closing, I want to re-iterate the need for urgent action. The enormous risk in the system has the potential to make matters far more difficult to address in the future.

Thank you again for this opportunity, and I look forward to answering any questions you may have.
Chairwoman WILSON. Thank you, Dr. Naughton. We will now recognize Mr. Spencer.

STATEMENT OF GLENN SPENCER, SENIOR VICE PRESIDENT, U.S. CHAMBER OF COMMERCE

Mr. SPENCER. Madame Chair Wilson, Ranking Member Walberg, I'm Glenn Spencer, Senior Vice President for Employment Policy at the U.S. Chamber of Commerce and I want to thank you for holding this hearing today on the financial troubles facing the multiemployer pension system.

For many plans and plan participants, this has indeed become a crisis. But it's also a crisis for the employers who fund these plans and the broader economy as well.

Although many multiemployer plans were fully funded through the 1990’s, this came to an end in 2000 when the price of technology stocks dropped. Many investors suffered, but multiemployer plans were hit twice as hard because of demographic issues facing these plans, particularly the decline in the ratio of active workers to retirees.

The 2008 recession led to further declines in funding levels and only exacerbated the demographic challenges. For example, many multiemployer plans have ratios of 1 active worker for every 2, 3, or even 5 retirees. This is simply not the basis for a sustainable plan.

In fact, certain plans will enter, if they are not already in, what one could call a death spiral, where there is no realistic chance of recovery regardless of investment options or interest rate assumptions. And this has major implications not just for the people in the plans but the employers who are part of the multiemployer system.

Amongst the biggest problem facing employers is withdrawal liability. And while withdrawal liability is not booked until a plan actually terminates, the exposure to withdrawal liability is having impacts on employers now. When banks or other creditors know that a company is exposed to a multiemployer plan, a struggling multiemployer plan in particular, they begin to question the creditworthiness of that business which can lead to less than optimal lending rates or even denials of credit.

Further, employers may lose the opportunity to expand business operations through mergers, because companies that are not part of the multiemployer system may not wish to expose themselves to withdrawal liability.

And finally, small family businesses may decide not to pass that business down to their heirs to avoid passing down withdrawal liability. And even worse, some may find that selling their business to fund their own retirement has become impossible because withdrawal liability is higher than the value of the business.

The second challenge is high contribution rates. As unfunded liabilities have increased, employers have faced rates that have doubled or even tripled. Some employers are paying as much as $15 or more per hour to plans for every hour that an employee works.

Now while most employers would rather absorb that higher contribution rate than incur withdrawal liability that could bankrupt them, the ultimate effect is that employers become less competitive.
And it is questionable whether employers can sustain ever increasing rates over the long term.

A third significant problem is the potential contagion effect. Many employers contribute to more than one multiemployer plan. Should an employer with exposure to many plans face withdrawal liability from any one of those plans, it could go bankrupt. At that point, all the other plans in which it participates will face increased financial pressure, possibly causing them to become insolvent and triggering withdrawal liability for other employers in those plans, leading to a cascade of bankruptcies and failing plans.

Now, while no extremely large plan has gone insolvent just yet, several are projected to do so within the next 5 to 10 years. Now the Chamber recognizes there is no easy answers. Last year, we jointly issued principles to help guide Congress toward a solution.

First, Congress must recognize that rescue legislation is urgently needed. This problem is only going to get worse the longer we take to act.

Second, struggling plans will need financial assistance. Our recommendation is for long-term, low-interest loans that will protect taxpayers from financial liability.

Third, all parties will have to be part of the solution, including plan beneficiaries and participating employers. Fourth, while the PBGC may ultimately need more money in the form of increased premiums, these increases must be evaluated after tools to restore the solvency of these plans are put into place.

Finally, composite plans must be authorized so that healthy multiemployer plans can stay that way. We realize these principles are just a start and we look forward to working with Congress to find a bipartisan solution.

Again I want to thank you for holding this hearing today and in addition to my statement, we are submitting for the record a report we released on this issue last year that goes into these issues in much greater detail. So thank you.

[The statement of Mr. Spencer follows:]
Statement of the U.S. Chamber of Commerce

On: The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis

To: United States House of Representatives, Education and Labor Committee, Health, Employment, Labor and Pensions Subcommittee

By: Glenn Spencer, Senior Vice President, Employment Policy Division, U.S. Chamber of Commerce

Date: March 7, 2018
The U.S. Chamber of Commerce is the world’s largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations. The Chamber is dedicated to promoting, protecting, and defending America’s free enterprise system.

More than 96% of Chamber member companies have fewer than 100 employees, and many of the nation’s largest companies are also active members. We are therefore cognizant not only of the challenges facing smaller businesses, but also those facing the business community at large.

Besides representing a cross section of the American business community with respect to the number of employees, major classifications of American business—e.g., manufacturing, retailing, services, construction, wholesalers, and finance—are represented. The Chamber has membership in all 50 states.

The Chamber’s international reach is substantial as well. We believe that global interdependence provides opportunities, not threats. In addition to the American Chambers of Commerce abroad, an increasing number of our members engage in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.
Glenn Spencer on behalf of the U.S. Chamber of Commerce

Before the U.S. House of Representatives Education and Labor Committee, Health, Employment, Labor and Pensions Subcommittee

Testimony for the Hearing On: The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis

Thursday, March 7, 2019

Background

Thank you Madam Chair Wilson and Ranking Member Walberg for holding this hearing on the financial troubles facing the multiemployer pension system. For many plans and plan participants, this situation has indeed become a crisis. But it's also a crisis for the employers who fund these plans, and the broader economy as well.

Although many multiemployer plans were fully funded through the 1990s, this situation came to an end in 2000 when the price of technology stocks dropped. Many investors suffered, but multiemployer plans were hit twice as hard because of demographic issues facing these plans, particularly the decline in the ratio of active workers to retirees. The 2008 recession led to further declines in funding levels and only exacerbated the demographic challenges.

For example, many multiemployer plans have ratios of one active worker for every two, three, or even five retirees. This condition is simply not the basis for a sustainable plan. In fact, certain plans will soon enter, if they are not already in, what one could call a “death spiral,” where there is no realistic chance of recovery regardless of investment options or interest rate assumptions.

This has major implications for employers who are part of the multiemployer system.

Significant Employer Concerns

Among the biggest problems is withdrawal liability. While withdrawal liability is not booked until a plan actually terminates, the exposure to withdrawal liability is starting to impact employers now. When banks or other creditors know that an employer is part of a struggling multiemployer plan, they begin to question the creditworthiness of a business, which can lead to less than optimal lending rates or a denial of credit.

Furthermore, employers may lose the opportunity to expand business operations through mergers, because companies that are not part of the multiemployer system may not wish to expose themselves to withdrawal liability. And finally, small family businesses may decide not to pass the business down to heirs to avoid passing along withdrawal liability. Worse, some may find that selling their business to fund their own retirement has become impossible because withdrawal liability is higher than the value of the business.
The second challenge is high contribution rates. As unfunded liabilities have increased, employers have faced rates that have doubled or tripled. Some employers are paying as much as $15.00 or more per hour to plans for every hour an employee works.

While most employers would rather absorb the higher contribution rates than incur withdrawal liability that could bankrupt them, the ultimate effect is that employers become less competitive. It is questionable whether employers can sustain ever increasing rates over the long term.

A third significant problem is the potential contagion effect. Many employers contribute to more than one multiemployer plan. Should an employer with exposure to many plans face withdrawal liability from any one of those plans, it could go bankrupt. At that point, all the other plans in which it participates will face increased financial pressure, possibly causing them to become insolvent and triggering withdrawal liability for other employers in those plans, leading to a cascade of bankruptcies and failing plans. While no extremely large plan has yet gone insolvent, several are projected to do so within the next five to ten years.

**Principles for Reform**

The Chamber recognizes that there are no easy answers. Last year, the Chamber jointly issued principles to help guide Congress towards a solution.

- Congress must recognize that rescue legislation is urgently needed. The problem will only get worse if we wait to address it.
- Struggling plans will need financial assistance. Our recommendation is for long-term, low-interest loans that will protect taxpayers from financial liability.
- All parties will have to be part of the solution, including plan beneficiaries and participating employers.
- While the PBGC may ultimately need more money in the form of increased premiums, these increases must be evaluated after tools to restore the solvency of these plans are put in place.
- Composite plans must be authorized so that healthy multiemployer plans can stay that way.

We realize these principles are just a start and we look forward to working with Congress to find a bipartisan solution. I am submitting for the record a report the Chamber issued last year on the multiemployer crisis, which discusses employer concerns in greater detail.
Chairwoman WILSON. Thank you. Thank you, Mr. Spencer. We will now recognize Mr. Blahous.

STATEMENT OF CHARLES BLAHOUS, J. FISH AND LILLIAN F. SMITH CHAIR AND SENIOR RESEARCH STRATEGIST, MERCATUS CENTER AT GEORGE MASON UNIVERSITY

Mr. BLAHOUS. Thank you, Chairwoman Wilson, Ranking Member Walberg, and all of the members of the Subcommittee. I greatly appreciate this opportunity to discuss the challenges facing multiemployer pensions. I have submitted additional background material with my written testimony but in my spoken remarks, I would like to focus on three primary points.

The first point is simply multiemployer pensions do indeed face a very urgent problem. And the immediate manifestation of that problem of course is the $54 billion deficit in the multiemployer pension insurance program operated by the Pension Benefit Guarantee Corporation. And that is projected to be insolvent by 2025. And as you have noted, Chairwoman Wilson, if this insurance program goes bankrupt, workers in insolvent pension plans will not even get the benefits that were supposedly insured because PBGC will not have the funds available to pay them. And yet, that insurance shortfall represents only the tip of the iceberg.

The best available estimates are that there is more than $600 billion of underfunding in multiemployer pensions nationwide. So a failure to reform multiemployer pensions threatens potential costs to workers, to the insurance system, and under some proposals to taxpayers that are more than 10 times larger than currently visible on PBGC’s balance sheet.

Second point is that solving this problem requires recognizing and addressing its causes. The multiemployer insurance program is facing its worsening crisis at exactly the same time that the single employer system is stabilizing. Now both systems face similar demographics and both systems have been through the same financial market shocks. So why the difference? There are two main reasons.

One, is that the multiemployer system suffers from a number of specific problems including inaccurate valuations of plan liability and assets, lax funding rules, inadequate contribution and withdrawal liability requirements, and inadequate and poorly designed insurance premiums assessments. Second, the multiemployer system faces additional unfunded liabilities from benefits that are obligated to so called orphaned workers. And these are the workers whose employers have withdrawn from sponsoring a plan but whose benefits the continuing sponsors remain responsible for paying.

Now the main valuation problem is that the law permits multiemployer plans to greatly understand their liabilities by using inflated discount rates to translate future benefit obligations into present value terms.

There is a broad consensus among economists on how to discount pension liabilities and yet most plans actuarial practices and Federal funding rules simply disregard this consensus. The problem is very simple. If pension abilities are not properly recognized, they
won't be funded and that is what has happened throughout the multiemployer system.

Moreover, average insurance premiums per person paid by multiemployer plans are less than 1/6th what they are for single employer plans. And whereas underfunded single employer plans are subject to variable rate premiums, underfunded multiemployer plans are not. And it means that those plans’ premium payments do not reflect PBGC’s risks of insuring them.

Now the aforementioned orphaned worker problem is driven in large part by flawed withdrawal liability rules. The way it is supposed to work is that an employer who withdraws from plan sponsorship, now they’re supposed to make a withdrawal liability payment that is equal to their share of the plan’s unfunded, vested benefits. But there is various limitations and exceptions that often cause actual withdrawal payments to fall well short of that amount which leaves other sponsors remaining in the plan facing a larger inherited shortfall. And research does confirm that the most underfunded multiemployer plans indeed have a much greater population of orphaned workers that better funded plans on average.

So to effectively address the crisis, reforms must correct both problems. The flawed valuation premium and funding rules as well as the inadequate withdrawal liability design and the unfunded orphan worker obligations that have arisen from that. Final point, Chairwoman Wilson, is that resolving this crisis as I don’t need to tell you is extremely difficult. But one mistake I would say should be avoided and that is procrastinating. And procrastinating could take the form of propping up plans with Federal subsidies whether they are packaged as loans or otherwise without fixing the underlying problems.

This would cause plans’ underfunding to continue to mushroom. It would render their inevitable collapse as more expensive and it would actually be an escalation of the policy failures to date and would result in lawmakers facing an even worse version of this crisis in the future.

Accurate measurement of a plan’s funded status is the irreplaceable step in that no solution is going to work without it. Lawmakers can craft any contribution schedule they choose however lenient, however stringent once the shortfalls are accurately measured.

But while funding requirements are rightly a matter of policy discretion and legislative negotiation, pension liability measurements are not. Those simply reflect a reality that cannot be avoided and should not be obscured.

In closing, Chairwoman Wilson, in addition to repairing flawed measurement funding and premium rules, creative measures to address troubled plans, orphan liabilities are worth considering. But regardless of the policy approach taken, the goal of any reform should be a viable and secure multiemployer pension system. Viable because sponsors only promise benefits that they can fund and secure because they fully fund the benefits that they promise. Thank you.

[The statement of Mr. Blahous follows:]
Statement of Charles P. Blahous

Before the Subcommittee on Health, Employment, Labor and Pensions
of the U.S. House of Representatives Committee on Education and Labor
March 7, 2019

Thank you, Chairwoman Wilson, Ranking Member Walberg, and all of the members of the subcommittee. I appreciate this opportunity to appear before you to discuss the challenges facing the multiemployer pension system.

The Crisis

The title of this hearing, “The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis,” is apt. American workers who participate in multiemployer pensions are threatened by a mounting crisis, one that will almost certainly require federal legislation to avert. The crisis arises from multiemployer pension plan sponsors’ funding contributions being far inadequate to finance the benefits they have promised, and is manifested in the projected insolvency of the nation’s multiemployer pension insurance program operated by the Pension Benefit Guaranty Corporation (PBGC). The PBGC insurance program’s projected insolvency threatens millions of American workers with the near-total loss of their pension benefits. To allow the PBGC insurance system to become insolvent would represent a terrible public policy failure, not only because workers need and were promised these benefits by their employers and their labor representatives, but because they were led to believe that many of these benefits were secure and insured.

Multiemployer pensions are private sector defined-benefit pension plans. Like wages and health benefits, they represent compensation provided by private employers to workers for their labor. These pensions are typically sponsored together by multiple employers in a common industry or geographic area as part of a collective bargaining agreement with a labor union. A board of trustees, on which management and labor are equally represented, bears responsibility for operating the plan and for ensuring that its benefit structure aligns with its funding.

Multiemployer pension benefits are insured by PBGC, a federally-chartered corporation, which provides insurance coverage financed by premiums assessed on pension sponsors. This insurance system reflects a longstanding bipartisan consensus with respect to protecting private sector pension

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1 Charles P. Blahous holds the J. Fish and Lillian F. Smith Chair at the Mercatus Center at George Mason University, where he is also Senior Research Strategist. He is also a Visiting Fellow with the Hoover Institution at Stanford University.
benefits. PBGC insurance exists to protect workers against the possibility that their employers may ultimately prove unable to deliver on their pension promises, whether because they have gone out of business or for any other reason. Significantly, the insurance is financed by sponsors' premium contributions, because it is deemed inappropriate for other Americans who lack access to these employer-provided pension benefits to be made responsible for financing or insuring them. Beyond these basic descriptors, multiemployer pension insurance differs in significant ways from that covering single-employer pensions, which I will further discuss later in this testimony.

The immediate crisis is a $54 billion deficit in the PBGC's multiemployer insurance program and the resulting projection of its insolvency in FY2025. If the insurance program goes bankrupt, workers in insolvent plans will not receive even their ostensibly insured levels of benefits, and payments will be limited to those that can be financed from PBGC's incoming premium revenues. Some estimates are that in such dire circumstances, affected workers' losses could reach 90%.

Figure 1: PBGC's Multiemployer Insurance Program Deficit

Solving this problem requires a full and accurate understanding of its causes, and a commitment to addressing the phenomena that have brought it about.

Causes of the Crisis

Put simply, the main reasons that multiemployer pension insurance faces a solvency crisis are that US multiemployer pensions are badly underfunded, and also that the premiums that sponsors pay to PBGC are inadequate to insure against this underfunding. The most recent available data indicates that multiemployer pensions are less than 50% funded relative to their current liabilities, and also that there is more than $600 billion of underfunding in multiemployer pensions nationwide. This underfunding means that while the $54 billion deficit facing PBGC is an enormous projected cost in its own right, a failure to reform multiemployer pension funding and insurance threatens potential costs (to workers, PBGC and, under some proposals, taxpayers) of an order of magnitude larger.

Figure 2: Multiemployer Pension Underfunding
The multiemployer pension funding crisis is sometimes attributed to factors such as episodic financial market shocks, including the bursting of the dot-com stock bubble in 2000 and the Great Recession of 2007-09. Also frequently cited are adverse demographics and the intensified competitive environment in which many pension sponsors operate, resulting in a declining ratio of active workers to those already retired and collecting benefits. Though these phenomena are indeed stressors for multiemployer plans, prudent pension management would anticipate them and, in any case, they do not account for the weakness of the multiemployer pension system relative to the single-employer insurance system which, though facing those same stress factors, is in a much stronger financial position (see Figures 4 and 5).
Figure 4: Percentage of Active Workers in Multiemployer vs. Single-employer Plans

Percentage of Active Workers in Multiemployer/SE Plans

Figure 5: Comparison of PBGC Multiemployer and Single-Employer Insurance Program Deficits

Single-employer vs. Multiemployer Insurance Deficits
($Billions, As Reported in Annual PBGC Reports)
As Figure 5 shows, the PBGC single-employer pension insurance program has stabilized at the same time that its multiemployer pension program has drifted into a worsening crisis. A key reason for this is that the 2006 Pension Protection Act bolstered the funding and premium requirements for single-employer pension plans, but it did not apply similar reforms to the multiemployer pension system. The aforementioned financial market shocks hit the single-employer system every bit as hard as the multiemployer system; the difference is that the single-employer system was able to weather these storms and to stabilize its funding position during subsequent financial market recovery years, whereas multiemployer pension funding continued to deteriorate.

The salient features distinguishing the multiemployer pension system from its single-employer counterpart, and which have led to systemic underfunding in multiemployer pensions, are primarily two:

1) Relative to single-employer pensions, the multiemployer pension system suffers from a lax regime of funding rules, fostering inaccurate valuations of pension liabilities and assets, inadequate contribution requirements for continuing and withdrawing sponsors alike, and inadequate and poorly-designed premium assessments.

2) The multiemployer pension system is beset by additional unfunded liabilities arising from benefits obligated to the so-called “orphan worker” population – that is, workers whose employers have withdrawn from pension plan sponsorship.

No solution to the multiemployer pension crisis is likely to hold unless it successfully addresses both of these factors.

The multiemployer pension system’s comparatively weak system of insurance premium assessments, valuation measures and funding requirements were built upon the assumption that multiemployer plan benefits had an added layer of protection because these plans spread “the risk of fully funding plan benefits among numerous employers.” This foundational assumption, that such greater security would render a robust framework of federal funding requirements and insurance protections less necessary, has proved incorrect. Even though the insurance protection offered by PBGC’s multiemployer plan insurance is far weaker than it is for single-employer plans (for example, insuring only $12,870 in benefits for a 30-year worker in a multiemployer plan as opposed to $67,300 for a 65-year-old worker in a single-employer plan), multiemployer plan underfunding has grown so vast that it threatens to deplete even its less-generous insurance backstop. This implicit assumption underlying historical federal law, that multiemployer plans can be left free to promise benefits far exceeding what they can fund, must be corrected before the consequences of that policy choice overwhelm the nation’s multiemployer pension insurance system.

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Under current federal law, unlike single-employer plans, multiemployer plans are allowed to greatly understate their liabilities by using inflated discount rates to translate them into present-value terms. While some sources tactfully say that there are diverse views on how to correctly discount pension liabilities, a more accurate way to describe the situation is that there is a firm consensus among economists on how to do it, and that most multiemployer plans’ actuarial practices (as well as federal funding rules) simply disregard this consensus. Far from there being controversy on this point, economists broadly agree that payment obligations should be discounted according to their risk of nonpayment. Ergo, a payment that is fully guaranteed and risk-free should be discounted at a Treasury bond rate, whereas pension obligations generally should be discounted at rates not exceeding those reflected in a yield curve of corporate bond rates. These principles, however, are widely violated; multiemployer pension sponsors routinely discount their obligations at rates of 7% or more, causing plan funding percentages that average less than 50% in reality to be misreported as being nearly 80%. The problem is a simple one: if pension liabilities aren’t properly recognized, they won’t be funded, precisely what has happened throughout the multiemployer pension system.

Inaccurate discounting is a particular problem with multiemployer pensions because of the ways they are designed. A typical multiemployer plan is built around a sponsor contribution rate negotiated between participating employers and labor representatives. It is then incumbent on the plan’s trustees, with the assistance of the plan’s actuaries, to translate those contributions into a set of benefit promises they can safely fund. Thus, if the plan’s trustees employ inflated discount rates, this decision not only results in plan underfunding but also directly inflates the benefits promised to workers. Whenever trustees employ inflated rates to increase a plan’s promised benefits in this manner, it becomes especially inappropriate for the sponsors to then be allowed to transfer these benefit payment obligations to others, such as federal taxpayers or the PBGC.

Multiemployer pension plans are also governed by federal funding rules that are far more lax than those governing single-employer plans. Multiemployer plans are given much longer time frames to address their underfunding, and critically underfunded plans are exempted from otherwise applicable statutory penalties for inadequate contributions. Average insurance premiums paid by multiemployer plans are less than one-sixth of what they are for single-employer plans, despite the large multiemployer insurance program deficit. Underfunded multiemployer plans are also not subject to variable rate premiums as underfunded single-employer plans are, which means that PBGC cannot charge sponsors of underfunded plans for the additional risks they pose to the insurance system and that they implicitly pose to other participating employers and their workers.

In 2018, PBGC collected $295 million in flat-rate premiums from multiemployer plan sponsors, as opposed to $1.8 billion in single-employer flat rate premiums and $3.7 billion in single-employer variable rate premiums. This occurred in the context of a $54 billion projected deficit in the multiemployer program, as compared with a $2 billion projected surplus in the single-employer program. In a nutshell, multiemployer premiums are inadequate and fail to properly recognize the risks of plan underfunding.
Another phenomenon adversely affecting multiemployer pension funding in a distinctive way is that of orphan liabilities—that is, obligations of plans to pay benefits to former workers of employers that have since withdrawn from sponsorship. An employer withdrawing from sponsoring a multiemployer pension plan is theoretically obligated to make a withdrawal liability payment equal to that employer’s share of unfunded vested benefits, but various limitations and exceptions often cause actual withdrawal payments to fall well short of this amount. It is therefore often much less expensive for a sponsor to withdraw from a plan than to continue contributing to it, which has a predictable adverse impact on multiemployer plan funding. Research finds that the most underfunded multiemployer plans have a substantially greater share of “orphan workers” than better-funded plans, on average. One study found that orphan workers in critically underfunded “red zone” plans constituted 27% of their participants, compared with only 10% in comparatively healthy “green zone” plans.4

To effectively address the multiemployer pension solvency crisis, reforms must correct both sets of problems: on the one hand, the flawed valuation, premium and funding rules governing multiemployer pensions, and on the other, inadequate withdrawal liability requirements and the orphan worker benefit liabilities that have arisen from them.

Principles for Reform

The members of this committee, and Congress generally, face an unenviable task in addressing the multiemployer pension solvency crisis. Putting it bluntly, at this advanced stage of the crisis there are no easy answers. Any solution that successfully addresses the problem will certainly make one constituency or another extremely unhappy, and likely make most stakeholders unhappy. Crafting a solution that can pass both houses of Congress will require considerable creative thinking, flexibility, bipartisanship, and a willingness to consider a wide variety of measures, including ones that generate substantial political challenges. The following section of my testimony offers suggested principles for reform without intending to minimize the complexities facing lawmakers.

Resolving the multiemployer pension crisis requires maneuvering past a Scylla and a Charybdis, two potentially fatal dangers on opposite sides. On the one side, when correcting the system’s flawed valuation, premium, withdrawal and funding rules, one must avoid applying so much pressure on plan sponsors that terminations of pension plans are triggered that otherwise need not occur. But on the other side lies an even more dangerous potential mistake: procrastinating by propping up plans without arresting their continued movement along an unsustainable course, allowing their underfunding to mushroom further, and rendering their eventual collapses even more expensive. This latter course would be a continuation and escalation of policy failures to date.

Under current law, when a multiemployer plan can no longer meet its obligations, PBGC provides ongoing financial support rather than assuming the assets and obligations as it does with a terminated single-employer plan. This financial support is technically described as a “loan” but in effect it represents an ongoing subsidy, because such loans are rarely paid back. This current practice of propping up insolvent plans with loans that are never repaid will become more expensive the longer it is continued. If a plan is already in so much trouble that that there is simply no practical way to require its sponsors to properly measure its obligations, and to fully fund benefits over time without ongoing subsidy support from the federal government, then it is better that policy makers attempt to effectuate the least painful termination possible now rather than to allow the plan to dig its financial hole still deeper.

Accurate measurement of pension liabilities and assets is the essential, irreplaceable component of multiemployer pension reform. For pension liabilities, this means discounting at rates no greater than those reflected in a yield curve of high-quality corporate bond rates, simplified to roughly match the durations of benefit obligations. It’s highly unlikely that any solution will hold if this is not done. Without this core reform, actual pension obligations will continue to far exceed what they are measured as being for funding purposes, resulting in funding percentages declining further and leading inexorably to mounting pressure for more expensive future federal bailouts.

It is sometimes objected that the adoption of accurate liability discounting measures will result in contribution requirements that are too onerous for multiemployer plan sponsors to bear. This is incorrect for several reasons. First, measurement accuracy and funding requirements are two different things. Contribution requirements reflect a discretionary choice; measurement accuracy does not. Lawmakers can craft any funding requirements they choose, however lenient or stringent, irrespective of how liabilities are measured. What is to be avoided is the embrace of liability and asset measurement inaccuracy for the deliberate purpose of arriving at one’s desired contribution schedule. A pension plan’s liabilities are what they are; this reality is not changed by a policy desire to have a less onerous funding requirement. As such, contribution requirements are rightly a matter of policy discretion and legislative negotiation. Accurate liability measurements, however, are not.

It is significant in this context that inaccurate liability and asset measurements have played a leading role in precipitating the current crisis. It is certainly reasonable to believe that the crisis has become so acute that various novel interventions by PBGC should be authorized, many of which might be considered undesirable or unpalatable if the multiemployer pension system were in stable condition. It is not reasonable, however, for pension plan sponsors to request and receive federal assistance in meeting their compensation promises to their own workers, while also being allowed to continue with the mismeasurement of pension plan liabilities that created much of the problem in the first place. As federal lawmakers consider various forms of intervention to forestall the crisis, it is essential that they put an end to flawed actuarial valuations that, if continued, must inevitably precipitate future calls for more expensive federal bailouts.
In addition to establishing accurate pension asset and liability measurements, effective multiemployer pension reforms would also include safeguards against further deterioration of underfunded plans, improved incentives for plan trustees, stronger funding requirements, and risk-based premiums. Legislators may wish to consider authorizing the PBGC to relieve plans of so-called orphan liabilities, subject to strict requirements that any relief must reduce projected claims on pension insurance. If in the worst-case scenario PBGC’s solvency simply cannot be maintained even with a reformed premium revenue stream, then there should be a resolution of the unfunded obligations of insolvent multiemployer plans and of the PBGC’s current multiemployer insurance program that is as orderly as possible, followed by a successor program that remains durable because it is built on a foundation of sufficient pension funding.

The worst policy choice would be to exacerbate the current problem by requiring federal taxpayers to pay tens and potentially hundreds of billions of dollars to subsidize competitive advantage for those sponsors who fail to meet their benefit promises, over competitors who have responsibly funded their retirement plans. Doing so would almost certainly cause multiemployer pension underfunding to soar, as a clear incentive would have been established for plan sponsors to forego adequate pension funding.

In sum, while there are no easy answers to the multiemployer pension crisis, lawmakers would do well to understand the causes of the crisis and to craft solutions based on what history tells us. A lasting solution must rest on a foundation of accurate measurements, strong funding rules, and reformed premium assessments. Creative solutions should be considered, including PBGC interventions to partition plans to relieve them of their orphan liabilities, if and only if offsetting plan amendments and measurement reforms eliminate the remaining plan’s projected claims on the PBGC and reduce the insurance program’s total exposure. The goal of these and other reforms should be a viable private sector defined-benefit pension system; viable because sponsors only promise benefits that they can fund, and because they fully fund all benefits that they promise.
Chairwoman WILSON. Thank you. Thank you, Mr. Blahous. We will now recognize Ms. Becker.

STATEMENT OF MARIAH BECKER, DIRECTOR OF RESEARCH AND EDUCATION, NATIONAL COORDINATING COMMITTEE FOR MULTIEMPLOYER PLANS (NCCMP)

Ms. BECKER. Chairwoman Wilson, Ranking Member Walberg and members of the committee, my name is Mariah Becker. I am the Director of Research and Education for the National Coordinating Committee for Multiemployer Plans or the NCCMP. Thank you for the opportunity to appear before you today as you consider the crisis facing the multiemployer system, its plans, participants, employers, and the Nation as a whole. The multiemployer system plays a substantial role in supporting the finances of the U.S. Government, state and local governments, households, and the economy of the United States.

In 2015 alone, the multiemployer system provided 158 billion in taxes to the U.S. Government. We provided 41 billion in pension income to our retirees and paid more than 203 billion in wages to our 3.8 million active workers. Combined, that pension and wage income supported 13.6 million American jobs and generated 1 trillion in GDP.

The vast majority of multiemployer plans today are in good shape but there is a significant crisis looming without congressional action and it is critically important that Congress act this year.

If Congress does not act, around 10 percent to multiemployer pension plans covering 1.5 million participants will inevitably run out of money to pay benefits within the next 20 years.

As you work to decide how to avert this crisis, it is incredibly important to preserve and protect the majority of plans that are currently in solid final health. Multiemployer plans play a vital role in providing the modest but essential lifetime retirement income to around 10.4 million participants that allows these working class Americans to retire with dignity.

Mr. Morgan spoke earlier about the personal impact of this crisis for retirees. I would like some—I would like to add some numbers to that just to give you a sense of the scale that we are talking about.

Take an example participant who currently earns $27,300 a year in retirement. These aren't golden parachute benefits. When his plan becomes insolvent, this retiree would get $12,870 a year assuming he worked a full 30 year career. This is a life altering reduction.

But we know that the PBGC will be insolvent in 2025. At that point, this retiree who had planned his retirement in savings based on $27,300 a year from his plan will get around $1,365 a year or $114 a month. Life altering doesn't begin to describe it.

On the employer side, there will be further challenges for all employers in the system when a systemically important plan like the Central States Pension Fund fails. We have already seen the beginning of market based responses as there is a greater understanding
of the upcoming insolvency of Central States including higher costs for bank credit or restricted credit for the plans employers.

These market based responses will expand at the insolvency of Central States including the Financial Accounting Standards Board of FASB which is likely to revisit its multiemployer pension accounting standards. This will impact the availability of credit and capital for all contributing employers in every multiemployer plan.

But just as there are severe costs for plan participants and employers, tax payers at the Federal, state and local level will all bear an enormous burden if Congress does not intervene to prevent the multiemployer solvency crisis. NCCMP worked with the National Institute on Retirement Security or NIRS and the Segal Group to develop an economic impact model of the failure of the plans currently facing insolvency.

For only the plans that are currently in critical and declining status, we estimate that the U.S. Government will lose between 32 billion and 103 billion in tax revenue over the 10 year budget window from the lost pension and wage income and economic output depending on the level of employment losses that occur.

In addition to the lost tax revenue, we estimate that the U.S. Government will have new safety net spending over the 10 year budget window of 138 billion for a combined total 10 year cost to the U.S. Government of not finding a solution to the multiemployer pension crisis of somewhere between $170 billion and $240 billion.

It’s important to note that these costs will continue for decades after the first 10 year window and so may the cost of any solution. Because one proposal to address this crisis includes a 30 year Federal loan program. We estimated the net present value of the 30 year economic costs. The lost Federal tax revenue had a net present value between 68 billion and 215 billion. And the net present value of new safety net spending was 264 billion.

This brings the combined 30 years costs to somewhere between $332 billion and $479 billion. The actual costs are likely to be higher. Maybe significantly if there are more critical and declining status plans in the future, if the broader contagion of employers is substantial, and depending on the scale of the market based responses of FASB, the banks and the capital markets.

The costs of inaction are substantial and increase dramatically for all stakeholders—stakeholders in the system, the longer we wait.

Thank you for the opportunity to share these thoughts with you today and I look forward to your questions.

[The statement of Ms. Becker follows:]
Chairwoman Wilson, Ranking Member Walberg and Members of the Committee, my name is Mariah Becker. I am the Director of Research and Education for the National Coordinating Committee for Multiemployer Plans (NCCMP). I am also an Enrolled Actuary, and a member of the American Academy of Actuaries Multiemployer Plans Committee.

The NCCMP is a non-partisan, non-profit, tax-exempt social welfare organization created in 1974 with members, plans and contributing employers in every major segment of the multiemployer universe. The NCCMP is the only national organization devoted exclusively to representing the interests of multiemployer plans, organized labor and the job creating employers of America who jointly sponsor them, and the more than 20 million active and retired American workers and their families who rely on multiemployer retirement and welfare plans. The NCCMP’s purpose is to assure an environment in which multiemployer plans can continue their vital role in providing retirement, health, training, and other benefits to America’s working men and women.

Thank you for the opportunity to appear before you today as you consider the crisis facing the multiemployer system, its plans, participants, employers as well as the nation as a whole. I would like to commend this Committee for your focus on this urgent issue.
The Multiemployer System and the U.S. Economy

The multiemployer system is a significant financial contributor to the U.S. Government, state and local governments, and the U.S. economy. The charts below highlight the results from economic impact studies that NCCMP commissioned with the National Institute on Retirement Security and the Segal Group.

Figure 1. Multiemployer Pension Facts

<table>
<thead>
<tr>
<th>Metric ($ Billions)</th>
<th>2015</th>
<th>10-Year Federal Budget Window</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pension Benefits Paid to Retirees</td>
<td>$41.0</td>
<td>$438.6</td>
</tr>
<tr>
<td>Wages Paid to Active Workers</td>
<td>$203.1</td>
<td>$2,124.4</td>
</tr>
<tr>
<td>Gross Domestic Product (GDP) from the Multiemployer System</td>
<td>$1,015.7</td>
<td>$12,435.2</td>
</tr>
<tr>
<td>Total Employer Revenues</td>
<td>$1,228.3</td>
<td>$32,746.5</td>
</tr>
<tr>
<td>U.S. Jobs Related to the Multiemployer System</td>
<td>13.6 million</td>
<td></td>
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</table>

Figure 2. Federal Taxes Paid on Pension Payments, Wages, and Related Economic Output

<table>
<thead>
<tr>
<th>Federal Taxes ($ Billions)</th>
<th>2015</th>
<th>10-Year Federal Budget Window</th>
</tr>
</thead>
<tbody>
<tr>
<td>Paid on Pension Benefits to Retirees</td>
<td>$3.5</td>
<td>$37.2</td>
</tr>
<tr>
<td>Generated from Economic Output Related to Pension Spending</td>
<td>$6.6</td>
<td>$70.4</td>
</tr>
<tr>
<td>Paid on Wages to Active Employees and Economic Output on Wages</td>
<td>$148.4</td>
<td>$1,552.9</td>
</tr>
<tr>
<td>Total Federal Taxes Paid</td>
<td>$158.5</td>
<td>$1,660.5</td>
</tr>
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Figures 1 and 2 show that in 2015 alone, the multiemployer system provided $158 billion in taxes to the U.S. Government. We also provided $41 billion in pension income to our retirees and paid more than $203 billion in wages to our 3.8 million active workers. Combined, the pension and wage income supported 13.6 million American jobs and generated $1 trillion in GDP.

While the vast majority of multiemployer plans are financially healthy, there is a significant crisis looming without Congressional action. Congress understood this when it established the Joint Select Committee on Solvency of Multiemployer Pension Plans (JSC) in February 2018. However, with no legislation put forth by the JSC that would solve the crisis, the urgency for Congress to act this year is critical.

Without Congressional action, approximately 10% of multiemployer pension plans covering 1.5 million participants will inevitably become insolvent and run out of assets needed to pay benefits. As you grapple with how this crisis may be averted, it is of utmost importance that care is taken to preserve and protect the majority of plans that are currently in solid financial health. Multiemployer plans play a vital role in providing modest but essential lifetime retirement income to approximately 10.4 million American workers. These pension benefits, in combination with personal savings and Social Security, allow these working-class Americans to retire with dignity.

When a pension plan is facing insolvency, the Pension Benefit Guaranty Corporation (PBGC) is intended to step in to provide a backstop for these pension benefits. However, for multiemployer plans, the guarantee is quite modest – a maximum of $12,870 per year for a participant who retires after working for 30 years under the plan. A participant who retires with more years of service would have a higher maximum ($17,160 after 40 years of service), while a participant who retires...
with fewer years of service would have a lower maximum benefit ($8,580 after 20 years of service). On average, the retiree in an insolvent plan that goes to the PBGC will see a 53% reduction from the pension benefits they had expected to receive from their plan.

Unfortunately, the PBGC itself is also facing insolvency. The 2017 PBGC Projections Report released in May 2018 indicates that the PBGC is not expected to have assets in its multiemployer program fund to pay guaranteed benefits by the end of 2025. When the PBGC itself fails, under law it may only provide assistance for the level of benefit that is supported by its premium income, and even the modest guaranteed amounts currently provided will be further reduced, leaving the retiree with a 94% to 98% reduction from the benefit they had expected to receive under their plan.

The consequences of inaction are severe, will affect not only the participants in these plans, but the plan’s contributing employers, taxpayers, and the national economy, and are growing every single day that action is not taken.

**How Did We Get Here?**

While most multiemployer plans are in good health, a small number of plans, including some very large plans covering hundreds of thousands of participants, are facing inevitable insolvency in the very near future. It is critical to note that the funding challenges currently facing some multiemployer plans are not the result of reckless investing, aggressive assumptions, or unreasonably large benefits. Rather, the current crisis is the result of two back-to-back market collapses in 2000-2002 and 2008 and the subsequent Great Recession, as well as the unintended consequences of otherwise well-intentioned legislation.

When we look at causes of the current crisis, it is important to understand that multiemployer pension plans are established and operate much differently than other types of pension plans with which you may be familiar, including both defined contribution plans like 401(k)s and single employer defined benefit plans. Multiemployer pension plans are the result of collective bargaining agreements between one or more labor unions and more than one contributing employer. They are defined benefit plans where each participant earns a benefit for each year that they work in covered employment under the plan.

Unlike a defined contribution plan, in which all participants’ account balances fluctuate daily with the market, once earned, participants’ benefits under multiemployer plans may not be reduced except in very limited circumstances such as severe financial distress or projected plan insolvency. When a participant retires, that benefit is paid for the remainder of his or her lifetime.

Each multiemployer plan is governed by a board of trustees with equal representation from both management and labor – creating a “checks and balances” system that has worked well. The trustees also rely on credible and credentialed professionals such as investment consultants, professional asset managers, actuaries, attorneys, and accountants as advisors who provide additional checks on the actions of the board of trustees. Furthermore, the Department of Labor has overseen the management of multiemployer plans through its audit and enforcement programs and initiatives. The contributions required by the collective bargaining agreements are made to a separate trust that is independent of both the contributing employers and organized labor who
jointly sponsor the plan. Once negotiated, those contributions may not be stopped or reduced without reopening the collective bargaining process.

The current financial conditions in these plans can be traced back to the unintended consequences of 45 years of federal laws, regulations, rules, policies, and Treasury’s unwillingness in 2016 to implement the Multiemployer Pension Reform Act of 2014 (MPRA) in a statutorily faithful manner. In addition, the poor investment returns that occurred during the dot com bubble burst, 9/11 and the corporate accounting scandals during the 2000-2002 time period, followed by the financial market collapse in 2008 and 2009 which led to the subsequent Great Recession, created significant funding challenges for multiemployer plans.

The specific federal laws and policies that have been detrimental to multiemployer plan funding include the limitation on the ability of trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by the anti-cutback rule under the Employee Retirement Income Security Act of 1974 (ERISA), the excise tax on contributions to fully-funded plans as part of the Tax Reform Act of 1986, the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), and the deregulation of the trucking industry through the Motor Carrier Act of 1980, and. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries.

While these policies were implemented with the intention of protecting both participants and plans, they have had significant unintended consequences over time. The establishment of withdrawal liability under MPPAA expanded the contributing employers’ funding obligations beyond the level that was mutually agreed upon by management and labor. This has had disastrous consequences for employers and plans. It is a proximate cause of employers leaving the multiemployer system; it has limited the opportunities for owners to sell, merge or pass-down their businesses; and it has made it significantly more difficult to bring new employers into the multiemployer system. Withdrawal liability has exacerbated the poor demographic trends affecting public and private pensions, as well as Social Security.

Likewise, the intent of the ERISA’s anti-cutback rule was to protect benefits that participants have earned, given highly publicized pension failures pre-ERISA. This is clearly intended to be beneficial to participants. However, for plans that are currently facing insolvency, this rule has severely restricted the ability of trustees to manage plans in situations where the assets may no longer be able to support the level of benefits that was previously anticipated. Had trustees in troubled plans been able to make adjustments earlier, well in advance of a projected insolvency, the reductions required to maintain solvency would have been significantly less than those participants are currently facing. Ultimately, the anti-cutback rule does not actually protect participants in failing plans from benefit reductions, it simply means that those multiemployer participants will face even more severe benefit cuts when their plan becomes insolvent and subject to the PBGC guarantee, and further benefit cuts when the PBGC itself goes insolvent.

The Internal Revenue Code (IRC) requires funding of multiemployer plans. However, the Tax Reform Act of 1986 (TRA ’86) imposed an excise tax on contributions to fully funded plans and
limited the deduction an employer may take for contributions. Multiemployer plan contributions are determined through the collective bargaining process, and employers that do not make those required contributions are in violation of federal labor law. After TRA '86, if a plan became overfunded as a result of strong investment gains, employers would not have been able to deduct all required negotiated contributions and would have been subject to an excise tax on the excess. Legislation effective in 2002 (as fortunes turned and plans had investment losses) finally increased the tax deduction limits. However, to address this problem in the 1990s, trustees increased participant benefits (i.e., increased plan liabilities), so that employers would not be subject to the severe excise tax on contributions to a fully funded plan. Additionally, ERISA and the IRC have prohibited plans from reducing already accrued benefits (with minor exceptions granted to Red Zone plans in the Pension Protection Act of 2006 (PPA ‘06), and to critical and declining status plans by MPRA in 2014) regardless of the financial health of the plan. As a result, plans were not allowed to develop a surplus, and the benefit increases that occurred during good times, cannot be undone in bad times.

It is worth noting that the situation that faced single-employer defined benefit pension plans during this period was very different. The most obvious difference was the fact that the sponsors of these plans had the option to simply stop contributing to the plans during periods of overfunding. Many plan sponsors took advantage of this option, and it was not uncommon for these companies to make no contributions to these plans for multiple years. At the same time, there was no need for these plans to raise their benefit levels to eliminate the overfunding, so many of them remained significantly overfunded year after year. Some observers have noted that single-employer plans have historically had higher funding levels than multiemployer plans. This observation is true but ignores the fact that in the PBGC’s single employer program, the PBGC is the insurer of first resort, which means that poorly funded plans are typically taken over by the PBGC during an employer’s bankruptcy process, thus eliminating the poorly funded plans from the reported data. Additionally, the ability of single employer plans to effectively maintain a surplus position gave them an inherent funding advantage over multiemployer pension plans.

In fact, while the funded level of the few single-employer plans remaining today is strong, the number of plans and the amount of retirement security they afford their participants has fallen precipitously. The laws, regulations, PBGC premiums, and funding requirements established for single employer plans by the PPA ‘06 as well as the numerous changes that FASB has made to pension accounting standards since the mid-1980’s have had a significant negative impact on the economic viability of single-employer defined benefit pension plans for employers. The PBGC data shows that since the passage of ERISA, 87% of single employer defined benefit plans no longer exist, either through standard terminations or distressed trusteed terminations. Additionally, 8,285 plans have accrual or participation freezes, leaving 14,048 open insured single-employer plans. The laws, regulations and rules governing single-employer defined benefit plans have clearly incinced employers to terminate their defined benefit plans, discouraged employers from offering a defined benefit pension, and has led to weakening of the retirement security for working Americans.
Treasury’s implementation of MPRA prior to 2017 was completely outside of what Congress and the multiemployer community intended. While Treasury’s process has improved, its interpretation of MPRA requirements remains a risk to restoring plan solvency, protecting the retirees of critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and become subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent. Further, MPRA provided the U.S. Government with the best tool to ensure that plans do not come to the PBGC in the first place because every approved MPRA application removes that plan from the list of plans that comprise the PBGC’s deficit, thereby improving the finances of the PBGC’s multiemployer program.

The 2016 rejection of the Central States Pension Fund’s MPRA application will have serious negative consequences for participants, employers, unions, the multiemployer system, and all levels of government. For critical and declining status plans, every year that goes by without a real solution results in negative cash flow, which reduces the plan’s assets, and moves the plan closer to insolvency. This rejection also impacted the finances of the PBGC and its multiemployer program. Had the Central States Pension Fund’s MPRA application been approved, approximately $20 billion of the PBGC’s deficit would have been eliminated.

Since 2000, trustees of multiemployer plans have in fact taken dramatic self-help steps to both increase contributions and reduce future benefits for active participants to restore their plans to health. One example comes from Mr. Brian Slone, an Apprentice Instructor for Millwright Local 1090 in Dayton, OH and participant in the Southwest Ohio Carpenters Pension Fund. Mr. Slone testified before the Joint Select Committee on Solvency of Multiemployer Pension Plans on July 13, 2018 saying:

“To put it in dollar terms, since the 2000 recession, the Fund has repeatedly cut back the benefits received by the members who were active at that time. Because of these cuts, a Fund participant who has accrued benefits can now expect a pension that is around 30% less than a similar person who retired in 2000. For example, a participant with 30 years of service working 1,500 hours a year would have contributed approximately $85,000 over their working years and received a monthly benefit of about $3,130. A participant retiring in 2016 would have contributed approximately $153,000 and received a monthly benefit of about $2,210 per month. A participant retiring in 2030 will have contributed approximately $290,000 and will receive a monthly benefit of approximately $1,640. This participant will contribute 3.5 times more than the 2000 retiree and receive 40% less in monthly benefit, 30 years later, not adjusted for inflation.”

[Emphasis original]

While extremely difficult for all stakeholders, the remedial actions taken by the plan trustees have enabled most multiemployer plans to return to strong funding levels over the last decade. But these corrective actions were not sufficient for some plans.
The Cost of Inaction

Since the largest plan insolvencies and the complete insolvency of the PBGC are still a few years away, it can be tempting to dismiss this problem as not immediate. But the consequences of inaction are enormous, in many cases are already being felt now, and only grow worse the longer we wait to take action.

Costs for Participants

As others will almost certainly testify, the costs currently facing participants in plans facing insolvency are severe. Based on NCCMP’s review of twelve MPRA applications, participants would face an average benefit reduction of 36% under the applications filed with the Department of the Treasury. For example, a participant earning $27,300 per year in retirement, this reduction would mean the retiree would receive $17,472 per year after the average MPRA reduction.

While this is a life-altering reduction, this outcome is far better than the 53% reduction the same participant would see if their plan’s MPRA application is denied, as it was for the Central States Pension Fund. At insolvency, participants become subject to the modest PBGC guaranteed level, including our example participant, and would receive a maximum of $12,870 per year (at 30-years of service), or $1,072.50 per month. This guarantee level represents a significant reduction from the level most participants in multiemployer pension plans are receiving today and would present a severe financial hardship for most retirees.

But even that reduction is not the end of the story, because the PBGC has reported in its FY2017 Projections Report that it is more likely than not that the Corporation will run out of money by the end of 2025. Unless Congress takes swift action, the PBGC will become insolvent. When that happens, participant benefits will be reduced yet further, to pennies on the dollar. As Director Reeder testified in his appearance before this Committee in November 2017, the PBGC would only be able to provide assistance at the level supported by premium payments. In his oral testimony, he anticipated that participants would receive no more than 5% of the benefit they would have received under their plan, or a 95% benefit reduction. At PBGC insolvency, assuming that the retiree worked a full 30-year career, our example participant who originally expected to receive $27,300 per year from his plan would be reduced to a benefit of approximately $1,365 per year—or $114 per month. For those with less than 30 years of service at retirement, the benefit would be even less.

Figure 3: Benefit Reductions Under Current Law

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<thead>
<tr>
<th>MPRA Applicants*</th>
<th>Contractual Benefits Payable</th>
<th>Benefits Payable Under MPRA Application</th>
<th>Benefits Payable from PBGC Current Law</th>
<th>Benefits Payable from PBGC At PBGC Insolvency</th>
</tr>
</thead>
</table>

* NCCMP | Page 7
Costs for Employers

The lead up to the insolvency of a plan, and the actual insolvency of a plan, particularly one as large and systemically important as the Central States Pension Fund will have dramatic consequences on the financial health of the contributing employers. Certain consequences such as more expensive or more limited bank credit or capital are being felt now by the contributing employers in the Central States Pension Fund.

While it is difficult to know today the full extent of the damage, at plan insolvency it is highly likely that a number of employers in the Central States Pension Fund and other plans will become balance sheet insolvent and need to file for reorganization under Chapter 11 or Chapter 7 of the Bankruptcy Code. Some observers have argued that future insolvent plans, including the Central States Pension Fund, will not terminate through mass withdrawal, and therefore, employers will continue to contribute and will not have to book the withdrawal liability on their balance sheets.

This view misinterprets the market-based responses from the Financial Accounting Standards Board (FASB), the accounting profession, banks, and the capital markets. For example, almost every employer in the multiemployer system relies on bank credit, capital market debt, or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the contributing employers at insolvency—even if mass withdrawal is not invoked—the banks that provide capital to the employers in these insolvent plans will most assuredly consider the withdrawal liability or the otherwise required perpetuity contribution payments without benefit as part of pro forma financial statements used in making lending decisions. The capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of the employers to investors in the market.

Banks and investment banks that provide access to the capital markets have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines since 2008 and have repurchased massive amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability or the otherwise required perpetuity contribution payments without benefit that would be imputed to the employer at plan insolvency.

The notion that the private market would ignore these liabilities is inconsistent with market behavior during the financial crisis which began as early as August 2007. In fact, even the “AAA” rated Government Sponsored Enterprises (GSEs) saw that market participants will make their own valuation of an issuers’ liabilities. In June and July of 2008, the market became very concerned about the value of the mortgages that underpinned Fannie Mae and Freddie Mac mortgage-backed securities. The market reaction was so swift that Congress enacted the Housing and Economic Recovery Act of 2008 in less than four weeks, which authorized Treasury to purchase unlimited amounts of Fannie Mae and Freddie Mac securities. Today, both entities remain in conservatorship, Treasury owns $196.4 billion of Senior Preferred Stock in both and has commitments for another $254 billion if needed, and the Federal Reserve owns more than $1.4 billion of Fannie Mae and Freddie Mac debt.
trillion of Fannie and Freddie mortgage-backed securities—all of which presents a very clear picture of how the market continues to view the GSEs a decade later.

Separate from the banks and capital markets, the insolvency of these plans, and in particular the scale represented by the insolvency of the Central States Pension Fund and the liabilities that would be imputed to employers, will also cause FASB to reconsider the accounting standards used for multiemployer pensions. The contributing employer’s proportional share of the unfunded liability in a multiemployer plan has been a topic of concern for accountants for many years, and those concerns will become more real when faced with the insolvency of a large systemically important plan like the Central States Pension Fund.

In 2010, FASB initially sought on-balance sheet recognition of an employer’s proportional share of the plan’s unfunded liability before settling on a footnote disclosure of the multiemployer pension plans that the employer contributes to, the zone status and any funding improvement or rehabilitation plans, as well as the employer’s annual contributions to the plans. Changes by FASB to multiemployer pension accounting that requires on-balance sheet recognition of the plan’s unfunded liabilities will limit many employer’s access to bank credit and capital and will drive many employers to seek protection under the Bankruptcy Code. This in turn will reduce employment and the financial health of the multiemployer plans that support 10.4 million participants and that provide enormous tax revenue to the government.

Costs to Taxpayers and the U.S. Government

Just as there are severe costs for plan participants and employers, taxpayers at the federal, state, and local level will all bear a heavy burden if Congress does not intervene to prevent the multiemployer solvency crisis. Alex Brill’s report, The Crisis Facing Multiemployer Plans, calculates the single year impact in 2025 of the failure of a single plan – the Central States Pension Fund. He determines that:

"...the loss of projected pension benefits to Central States pensioners would lead to the loss of more than 55,000 jobs across the United States in 2025. Labor income would drop by nearly $3 billion, and GDP by more than $5 billion. State and local tax revenue would decline by nearly $450 million, and federal revenue by $1.2 billion."

Mr. Brill’s report presents a startling and useful data point but represents only a small piece of the broader reaching and significantly longer lasting impact of the multiemployer crisis facing us today. In addition, since these pension benefits represent a significant portion of multiemployer participants’ income in retirement, there will be significant costs as a result of retirees’ increased reliance on public social safety nets if the plans are permitted to fail. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, when the full pension promises are not kept, there will be additional demands (costs) on:
"...the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems."

The report concludes that:

"[It] is simply unrealistic to presume, that no state or local pension plan will fail or that such failure will have no effect on federal spending or revenue."

[Emphasis added]

This is even more true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

The insolvency of the Central States Pension Fund and the PBGC will dramatically reduce the pension benefits payable to the retirees in insolvent plans. It will also affect the current jobs available with contributing employers. The collapse of these plans and the broader contagion within the multiemployer pension system will result in the loss of tax revenue for the Federal Government.

There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are currently being paid wages. Based on NCCMP’s report that showed that the system paid $158 billion in federal taxes during 2015, and adjusting for the impact of the 2017 tax reform, we believe that the U.S. Government will lose between $32 billion and $103 billion in tax revenue over the 10-year budget window from the lost pension and wage income resulting from the collapse of critical and declining status plans and estimated employment losses between 15% and 100% of the active workers in these plans as described in Figure 4 below.

**Figure 4: Federal Tax Revenue Loss (2019-2028) - No Change to Current Law ($Billions)**

<table>
<thead>
<tr>
<th>Federal Tax Revenue Source</th>
<th>15% Employment Losses</th>
<th>25% Employment Losses</th>
<th>40% Employment Losses</th>
<th>100% Employment Losses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pensions and Pension Based Output</td>
<td>$19.6</td>
<td>$19.6</td>
<td>$19.6</td>
<td>$19.6</td>
</tr>
<tr>
<td>Wages and Wage Based Output</td>
<td>$12.5</td>
<td>$20.8</td>
<td>$33.3</td>
<td>$83.1</td>
</tr>
<tr>
<td>Total Federal Tax Revenue Loss</td>
<td>$32.1</td>
<td>$40.4</td>
<td>$52.8</td>
<td>$102.7</td>
</tr>
</tbody>
</table>

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis and as described in Figure 5 below, we believe that the U.S. Government will lose between $68 billion and $215 billion in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs under the Federal Credit Reform Act.
Figure 5: 30-Year Net Present Value of Federal Tax Revenue Loss (2019-2048) - No Change to Current Law ($Billions)

<table>
<thead>
<tr>
<th>Federal Tax Revenue Source</th>
<th>15% Employment Losses</th>
<th>25% Employment Losses</th>
<th>40% Employment Losses</th>
<th>100% Employment Losses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pensions and Pension Based Output</td>
<td>$42.5</td>
<td>$42.5</td>
<td>$42.5</td>
<td>$42.5</td>
</tr>
<tr>
<td>Wages and Wage Based Output</td>
<td>$26.0</td>
<td>$43.3</td>
<td>$69.3</td>
<td>$173.2</td>
</tr>
<tr>
<td><strong>Total Federal Tax Revenue Loss</strong></td>
<td><strong>$68.5</strong></td>
<td><strong>$85.8</strong></td>
<td><strong>$111.8</strong></td>
<td><strong>$215.7</strong></td>
</tr>
</tbody>
</table>

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees that see a 94% to 98% reduction in their pensions will be forced into the social safety net that the U.S. Government and the States provide. As discussed above, the U.S. Senate Committee on Finance report issued in January 2012 recognized this reality, although it considered it in the context of state and local government pensions. The failure of the multiemployer plans and the PBGC is significantly worse than the context raised in Ranking Member Hatch’s report because governmental entities are sovereigns with taxing authority, and other options to fix their liabilities, while multiemployer retirees will face a nearly complete loss of benefits following the collapse of the PBGC.

Figure 6 below outlines the U.S. Government’s FY2017 spending on the relevant safety net programs and their participants.

<table>
<thead>
<tr>
<th>Federal Safety Net Program ($ Billions)</th>
<th>FY 2017 Spending</th>
<th>Participants (millions)</th>
<th>Average Spending Per Participant</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medicaid</td>
<td>$389.4**</td>
<td>67.6**</td>
<td>$5,763</td>
</tr>
<tr>
<td>Supplemental Security Income (SSI)</td>
<td>$53.0**</td>
<td>8.1**</td>
<td>$6,548</td>
</tr>
<tr>
<td>Supplemental Nutritional Assistance Program (SNAP)</td>
<td>$78.5**</td>
<td>42.2**</td>
<td>$1,860</td>
</tr>
<tr>
<td>Housing Assistance</td>
<td>$45.8**</td>
<td>4.7**</td>
<td>$9,749</td>
</tr>
<tr>
<td>Low Income Home Energy Assistance Program (LIHEAP)</td>
<td>$3.4**</td>
<td>6.0**</td>
<td>$565</td>
</tr>
<tr>
<td><strong>Total Federal Safety Net Spending</strong></td>
<td><strong>$570.1</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Based on 2017 data, we estimate that the U.S. Government will have new safety net spending over the 10-year budget window of $138.3 billion (see Figure 7) and $263.8 billion on a net present value basis over the 30-year period 2019-2048. This is based on conservative participant estimates limited to the 63,000 retirees currently in pay status at the PBGC and the 653,379 retirees currently in pay status in plans that are currently in critical and declining status. The estimate for new Medicaid spending is limited to 10% of those in pay status. We based the 10% estimate on those who were pre-65 and in pay status in a very large critical and declining status plan.
Combined, the 10-year cost to the U.S. Government of not finding a bipartisan solution to the multiemployer pension crisis is between $170 billion and $240 billion. These costs will continue for decades after the first 10-year budget window and, on a net present value basis, will cost between $332 billion and $479 billion over the 30-year period between 2019-2048.

The actual costs are likely to be higher, perhaps significantly, depending on whether additional plans currently in critical status are unable to restore themselves to health through their rehabilitation plans and decline further into critical and declining status, how the broader contagion plays out with employers, and the impact of the market-based responses of FASB, banks and the capital markets on the contributing employers.

Contagion

Some observers have expressed doubt about the existence of a contagion effect among multiemployer pension plans, believing instead that plans would fail in isolation with no further consequences than to their own participants and employers. Nothing could be further from the truth. The universe of multiemployer plans is incredibly interconnected, with many employers participating in many different multiemployer plans. While accurately quantifying the interconnectedness of the multiemployer system is difficult, it is clear that the failure of a large, systemically important plan like the Central States Pension Fund would have devastating consequences on other Teamster sponsored plans and the multiemployer system as a whole. There is significant overlap in employers between the Central States Pension Fund and many other multiemployer pension plans including those that are currently healthy.

When the Central States Pension Fund or other funds become insolvent, it can have dramatic consequences on the financial health of the contributing employers. This will, in turn, damage their ability to make contributions to other funds in which they also participate. While it is impossible to say with certainty how severely the currently better funded plans would be impacted by this weakening of their employer base, it is safe to say that any plan that shared employers with a failed plan would be in a less stable position going forward and, depending on the severity of the harm done to employers, could face new financial challenges themselves.

In the “Costs to Employers” section above, we outlined various types of market-based responses that represent contagion impacts that we have seen to-date as well as additional responses that we expect at the insolvency of the Central States Pension Fund.

Figure 7: New Federal Safety Net Spending by Program (2019-2028) and (2019-2048) ($Billions)

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Assistance</td>
<td>$69.9</td>
<td>$133.3</td>
</tr>
<tr>
<td>Supplemental Security Income (SSI)</td>
<td>$46.9</td>
<td>$89.5</td>
</tr>
<tr>
<td>Supplemental Nutritional Assistance Program (SNAP)</td>
<td>$13.3</td>
<td>$25.4</td>
</tr>
<tr>
<td>Medicaid (10% of Retirees in Pay Status Eligible)</td>
<td>$4.1</td>
<td>$7.9</td>
</tr>
<tr>
<td>Low Income Home Energy Assistance Program (LIHEAP)</td>
<td>$4.1</td>
<td>$7.7</td>
</tr>
<tr>
<td>Total New Federal Safety Net Spending</td>
<td>$138.3</td>
<td>$263.8</td>
</tr>
</tbody>
</table>
Conclusion

The costs of inaction are substantial and increase dramatically the longer we wait – for the multiemployer plans currently facing insolvency, the participants and employers in those plans, the U.S. Government, and the nation as a whole. While the Joint Select Committee was not successful in developing a legislative solution that would solve the serious issues facing critical and declining status plans without decimating the rest of the multiemployer system, many of the ideas that were put forth could be reworked to form a credible solution that protects retirees while strengthening the entire multiemployer system.

We thank you for your attention to this urgent matter and look forward to working with you on bipartisan solutions that protect and preserve plans that are financially healthy, that can garner the necessary support to pass the House and the Senate, that can be signed into law and implemented by the Executive Branch, and that will solve the problem.

Thank you for the opportunity to share these thoughts, and I look forward to your questions.
4 See Joint Select Committee on Solvency of Multiemployer Pension Plans, Understanding What’s at Stake for Current Workers and Retirees, July 13, 2018, https://www.pensions.senate.gov/sites/default/files/Brian%20Shane%20Testimony%20%28Final%29.pdf
11 Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf; 2015 Federal Taxes Paid on Wages to Active Employees and Economic Output from Wages (Slide 8) are inflated at 1.0% annually between 2016 and 2047. Tax revenue is then reduced by the average tax reform amounts for the period between 2018 and 2047 as projected by CBO’s pre-reform and post-reform estimates. The tax revenue loss is for the period 2019-2028 and are the summation of the yearly product of total taxes generated and projections of 15%, 25%, 40%, and 100% employment losses among the 633,739 retirees in pay status. This is for the period 2019-2028.
12 Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf; 2015 Federal Taxes Paid on Wages to Active Employees and Economic Output Related to Pension Benefits (Slide 8) are inflated at 1.0% annually between 2016 and 2048. Tax revenue is then reduced by the average tax reform amounts for the period between 2019 and 2048 as projected by CBO’s pre-reform and post-reform estimates. The tax revenue loss is the summation of the yearly product of the tax revenue and the percent of retirees in critical and declining status plans presumed to go insolvent. This is for the period 2019-2048, discounted at OMB’s current single effective rate of 3.21%.
1 Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, https://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid on Wages to Active Employees and Economic Output from Wages (Slide 8) are inflated at 1.0% annually between 2016 and 2048. Tax revenue is then reduced by the average tax reform amounts for the period between 2019 and 2048 as projected by CBO’s pre-reform and post-reform estimates. The tax revenue loss is for the period 2019-2028 and are the summation of the yearly product of total taxes generated and projections of 15%, 25%, 40%, and 100% employment losses among the 203,501 active workers in Critical & Declining plans. Tax revenue loss is the net present value of the tax revenue loss for the period 2019-2048, discounted at OMB’s current single effective rate of 3.21%.
10 Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, https://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid on Wages to Active Employees and Economic Output from Wages (Slide 8) are inflated at 1.0% annually between 2016 and 2048. Tax revenue is then reduced by the average tax reform amounts for the period between 2019 and 2048 as projected by CBO’s pre-reform and post-reform estimates. The tax revenue loss is for the period 2019-2028 and are the summation of the yearly product of total taxes generated and projections of 15%, 25%, 40%, and 100% employment losses among the 203,501 active workers in Critical & Declining plans. Tax revenue loss is the net present value of the tax revenue loss for the period 2019-2048, discounted at OMB’s current single effective rate of 3.21%.
23 U.S. Department of Health and Human Services, Office of Community Services, LIHEAP Fact Sheet, https://www.acf.hhs.gov/ocs/resource/liheap-fact-sheet-
24 At insolvency of the PBGC multiemployer fund, the PBGC can only pay out benefits in the amount of the premium income it receives. This will result in retirees receiving benefits between 2% and 6% of their original contractual amount. These retirees will be able to access the federal poverty programs. Calculated based on the average federal Housing Assistance spending per participant of $9,749 (Figure 5), multiplied by the sum of the PBGC’s current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2019-2028 spending is the summation of these annual amounts.
25 At insolvency of the PBGC multiemployer fund, the PBGC can only pay out benefits in the amount of the premium income it receives. This will result in retirees receiving benefits between 2% and 6% of their original contractual amount. These retirees will be able to access the federal poverty programs. Calculated based on the average federal Supplemental Security Income (SSI) spending per participant of $6,548 (Figure 5), multiplied by the sum of the PBGC’s current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2019-2028 spending is the summation of these annual amounts.
26 At insolvency of the PBGC multiemployer fund, the PBGC can only pay out benefits in the amount of the premium income it receives. This will result in retirees receiving benefits between 2% and 6% of their original contractual amount. These retirees will be able to access the federal poverty programs. Calculated based on the average federal Supplemental Nutritional Assistance Program (SNAP) spending per participant of $1,860 (Figure 5), multiplied by the sum of the PBGC’s current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2019-2028 spending is the summation of these annual amounts.
27 At insolvency of the PBGC multiemployer fund, the PBGC can only pay out benefits in the amount of the premium income it receives. This will result in retirees receiving benefits between 2% and 6% of their original contractual amount. These retirees will be able to access the federal poverty programs. Calculated based on the average federal Medicaid spending per participant of $5,763 (Figure 5), multiplied by 10% (an approximation of...
retirees ineligible for Medicare) of the sum of the PBGC's current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2019-2028 spending is the summation of these annual amounts.

At insolvency of the PBGC multiemployer fund, the PBGC can only pay out benefits in the amount of the premium income it receives. This will result in retirees receiving benefits between 2% and 6% of their original contractual amount. These retirees will be able to access the federal poverty programs. Calculated based on the average federal Low Income Home Energy Assistance Program (LIHEAP) spending per participant of $565 (Figure 5), multiplied by the sum of the PBGC’s current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2019-2028 spending is the summation of these annual amounts.
Chairwoman WILSON. Thank you, Ms. Becker. We will now proceed to member questions. Under committee rule 8A, we will now question witnesses under the 5 minute rule. I will now yield myself 5 minutes.

Mr. Morgan, it is clear from your testimony how much pride you took in your work as a mixer and oven operator. Can you please describe the different jobs you worked in the bakery?

Mr. MORGAN. Besides mixer and oven operator, I worked in the sanitation department. I worked in the wrapping room at the end of the production line. I worked in the middle of the production line as divider operator after we cut the bread up. I worked in the molding department where we mold the bread. All this was part of an assembly line. The mixing room started the process and then it went through the different stages of processing. Dividing, molding, proofing, and then final wrapping room production.

I worked every part of the line even sanitation, even receiving. My 33 year career at Wonder Bread I did almost every job in the bakery.

Chairwoman WILSON. Mr. Morgan, can you please tell us why you and your fellow union members sacrificed wage increases during contract negotiations for increasing your pension benefit level and why was that important to all of you?

Mr. MORGAN. Well, as I think back on that, when I first started at the bakery I was 19 years old and I used to go to all the union negotiation meetings. And a lot of the senior members that’s what they were doing. They were putting more money into their pension. I was young and I didn’t know anything but they drew me—they drew me along and said hey, you are going to need a pension 1 day when you retire and when you get older.

I never wanted to put my extra money or my wage increases into the pension. But they guided me through this, the senior members guided me through this and said you are going to need that money. And quite literally I did need it after the bakery closed.

So it was always the good—and I taught that to the other members. As new members came in, they were young, I taught that to them. I said it is always good to put some of this money that we get in wage increases into the pension and they argued just like I argued. Oh no, no, I need my money now. I got bills now. I have children now.

But I said you are going to really need that money at the end. You never know when you are going to retire. You might work till 60, 65 and that money will be there for you. And you always going to—you will be able to use that money in retirement.

Chairwoman WILSON. My last question is can you tell us what your pension means to you and what would happen if Congress does not act to protect it? What do you stand to lose?

Mr. MORGAN. Well, I stand to lose being able to be independent and taking care of my family. I pay all my bills with my pension. If I lost it, I don’t think I could go into another bakery and get a job at this point in my life. I’m 57, if the pension failed at 60, there is not too many people hiring 60 year olds who walk into a bakery nowadays.

So I probably would be out of work. I probably would have to go on social programs to make ends meet. It would be devastating to
me and my family. So I need my pension to get by every day and then do the things that I do. For medical supplies, for medical prescriptions. That’s another story all together but without that pension check I would be devastated.

Chairwoman WILSON. Mr. Morgan, we all knew—we all know Wonder Bread all across the country. And I want to thank you for being here today and telling us your story. It is heartwarming.

Mr. MORGAN. Thank you, Madame Chair.

Chairwoman WILSON. So I open up for all of us and the committee and the people in the audience and all of our guests here today. And I want you to know that we are going to fight for you and the many others who are at risk of losing their pensions due to this crisis. And we as a Congress will not stop until we get a solution. We promise you that.

Mr. MORGAN. Thank you so much.

Chairwoman WILSON. Mr. Walberg and I are hand in hand, promise you that. I now recognize the Ranking Member Walberg for his round of questions.

Mr. WALBERG. Thank you, Madame Chairwoman. And thanks to the panel for being here. It is worthy it’s a worthy discussion we have today with no simple answers. I was hoping one of you would give that answer.

Mr. Blahous, the most recent PBGC data shows that for 2016, less than 2 percent of participants are in multiemployer plans that are more than 70 percent funded. On the other hand, 75 percent of multiemployer plan participants are in plans that are less than 50 percent funded. And 95 percent are in plans that are less than 60 percent funded.

Do these statistics raise the possibility that even plans not projected to run out of money in the next decade or two we will be unable to pay promised benefits over the long run?

Mr. BLAHOUS. I would say absolutely yes. And I think this is very important to understand because we throw around this figure of a $54 billion projection, projected deficit in the PBGC insurance fund and that’s based on the projection methodology that they use. But there is a lot more underfunding over the horizon beyond what is reflected in the $54 billion figure.

So, no one should be laboring under the illusion that if we sort of stitch up and patch together a few particularly prominent or immediate problems in specific plans—

Mr. WALBERG. Central States specifically.

Mr. BLAHOUS. What—I don’t like to talk about specific plans but right. I mean, there are certain large plans out there—

Mr. WALBERG. It is beyond that.

Mr. BLAHOUS [continuing]. right now that are focuses of immediate concern. But the story is not going to end there unless you fix the underlying structural problems in the multiemployer pension system. That other $600 billion worth of underfunding, that is going to come to roost.

And so this is not just a matter of patching things up and moving on. There is a fundamental, structural, worsening problem that has to be addressed.
Mr. WALBERG. So, if we fix Mr. Morgan’s issue, which we want to, you are saying that doesn’t do it for many others as well if we don’t structurally do some significant changing?

Mr. BLAHOUS. That’s exactly what I’m saying.

Mr. WALBERG. OK, thank you. Professor Naughton, according to the most recently available PBG data, multiemployer plans are underfunded by $638 billion. That is a large number even around here putting benefits for over a million planned participants at risk. This is of course unacceptable.

As we all know, the first rule of holes is to stop digging. As such, is new underfunding being created in these plans each year and if so, is this new underfunding limited to yellow zone and red zone plans?

Mr. NAUGHTON. No. So, every year there is new underfunding but it is not restricted just to those plans. So, the way the system is set up, the contribution requirements don’t reflect the full economic value of what is being promised.

So every year when a new benefit is promised to a current participant, there is some amount of just structural underfunding that goes along with that. And that’s obviously, you know, creates a bigger problem because when you sort of project things forward, where if you look at the last several years, every year the level of underfunding has gone up in the system.

So it’s not like if you look back a couple years ago it was $800 billion and now it’s down to $600. It’s been going up every year. And the reason it has been going up is because the participants that are collecting are getting closer to retirement. Their benefits are being promised to people that are not being funded and this is sort of the cycle that we are on.

That is going to continue unless there is a complete change in how they’re funded. And then, you know, the other related point is imagine there is another recession next year, what that would do to the funded situation and those plans. And that’s why it’s also important to take a look at how they are investing their assets to at least limit the damage that would come from these other types of external events.

Mr. WALBERG. OK. Additionally, Professor, when multiemployer pension plans fail, are union and employer trustees personally liable?

Mr. NAUGHTON. Currently they are not personally liable. So the trustees are fiduciaries and there are situations where those fiduciaries have been sued by participants for not fulfilling their duties by making very risky investments by not collecting sufficient funding but those have not moved their way through the court system yet. And at least statutorily there is no official rule that would hold.

Mr. WALBERG. That they are liable. Do businesses and unions who jointly sponsor these plans, both have liability?

Mr. NAUGHTON. They have potential liability. So there is no, again there is no statutory rule that says they’re responsible for things. When you look at the businesses, what they have agreed to being part of the plan is to be joint and severally liable for all of the underfunding. And so we have heard other people testify about
withdrawal liability but that it really means is you’re the last firm standing.

And so to the extent that it gets to that point where a fund goes insolvent, the employer is obligated to contribute toward the plan. And to the extent that they don’t have the resources to actually cover the insolvency and they’re simply forced into bankruptcy.

The example that Mr. Morgan presented, when Hostess Brands is a case where there was a company that was liable and, you know, owed close to a billion dollars. It simply didn’t have the resources to actually do that. There was no money left. The people had already taken the money out of the company.

So that’s sort of what it—so when you look at sort of the structure of what could happen, the employers that are part of these plans could be forced into bankruptcy.

Mr. WALBERG. Thank you. I yield back.

Chairwoman WILSON. Thank you. I now recognize Mr. Norcross for 5 minutes.

Mr. NORCROSS. Thank you, Madame Chairwoman, and thank you for putting together this incredibly important hearing today and to Ranking Member Walberg and Dr. Roe who I have been working on a number of these issues for 2 years and certainly to Bobby Scott who we served together on the joint committee. Pensions. That promise of a retirement that you put on hold through wages. Mr. Morgan, it is absolutely—these are wages, these are your dreams that you put on hold. We certainly understand that.

$12,870 a year. What do you do with that after you are making 30,000? Because this is money. There are so many issues surrounding this and it can become complicated. But a couple facts we know are going to happen. If we do nothing, the system crashes and it takes down virtually everyone with it sooner or later.

We don’t have an option to do nothing. This is a disaster. We literally spend hundreds of billions of dollars a year when a hurricane strikes a state, an island, or elsewhere. It is not their fault, but we do that. This is what we do in America.

When the banks were going under, what did we do? We saved them because it is good for all of us. When the auto industry—these are peoples wages and through no fault of their own, they’re being left out to dry. This impacts all of us. We need to level the playing field.

So we have heard from a variety of you and I want to thank you for your testimony today. If it was as simple as some people are suggesting, this would have been done already. You can’t just change assumptions and have those health plans pay of everything else. This is a natural disaster that hits our country and it needs a national answer.

So as we go through this, there is a couple of things that are on the table. And I would like to submit for unanimous consent, enter into the record, compilation of the materials and a memo describing our work with the Joint Select Committee on the Solvency of Multi-employer Pension Plans.

Chairwoman WILSON. Without objection, so ordered.

Mr. NORCROSS. Thank you. So, we know if we do nothing this crashes and burns. The Butch Lewis Act is the one that we are talking about. I equate it to a person who is being rushed into the
emergency ward. Unless we take care of him immediately, he dies. But we also want the system to continue to grow and get stronger and that is what we had the GROW Act was a composite plan.

Because unless we fix the underlying issue as many of you testified, we are going to be back here and none of us want this. We want to fix it for the once and for all.

So for Mr. Spencer, why should government get involved here?

Mr. SPENCER. Well, I appreciate the question because it is one we hear frequently and I think the simple fact is that these plans are—some of these plans are in such a condition that they’re not coming back.

As I said in my testimony, regardless of what interest rate assumptions they use, regardless of what investment options they make, they’re not going to be able to recover without funding and as you noted, there is really not a lot of great options here. We are sort of debating over the least worst option.

There is always risks with these types of loans to plans. There is always the risk of a default. But you compare that to the risk of doing nothing and I think as we have heard today that risk is substantial and it is very real.

Mr. NORCROSS. Because it will take down the private side, those employers who are there potentially are going under. And when they do, they do shed their liability which is one of the structural issues. If you can walk away, first position in bankruptcy are wages. So they get their last paycheck. But if you turn that in, wages into pension, they are in third position. This is why none of the money ever gets there once somebody goes out. They shed their entire liability.

If we concerned it as wages it would be up front and we wouldn’t be here today. It is one of the most major problems. I understand bankruptcy is a very difficult issue for companies because they want a return. But in exchange for their return they left all the people behind you. They didn’t start their life over as a company. The people behind them have to pick up the pieces.

And fundamentally I just want to leave you with one thought. We are all in this together. Everybody is in this together. All 50 states have companies, have people on this system. We owe it to them because we made the rules that they’re investing by.

With that, I yield back the balance of my time.

Chairwoman WILSON. Thank you. I recognize Dr. Roe.

Mr. ROE. Thank you.

Chairwoman WILSON. For 5 minutes.

Mr. ROE. Thank you very much. And I am going to start, Mr. Morgan, by telling you a story. When I was in the Army in Southeast Asia in 1973, my dad’s company, he was a union member, worked for BF Goodrich. His company moved south of the border. Thirty years after World War II he got a $10,000 buyout for his pension for 30 years worked, that is it. My family has been down this road.

The problem that we have right here, it is basically an arithmetic problem. You have got more liabilities than you have benefits and the structure of the plan, I was on the Committee with the Chairman and with Congressman Norcross. We have worked hard on
this issue. I understand it probably as well as anybody in the Congress.

You had a plan set up with multiple companies went in. It was a last man standing rule. The assumptions made on returns were way too high for many of them. At 8 percent on paper they look pretty good but that just wasn’t reality. And so those assumptions are too hard. There actually are probably are more plans in the red zone than we know of right now. I think probably there are.

And because of these assumptions that have been made and you can make, if you can get an 8 or 10 percent return, you can make your balance sheet look pretty good. Except that is not reality. And there is no question going forward. We missed an opportunity in 2014 to put a composite plan or a hybrid plan out there to begin to allow companies to heal.

I look at Schnucks and I see what a situation there in and it is a very solid company. There are other people out here in this audience I know that are representing companies that are very solid companies but have an incredible last man standing liability that is exceeds the value of their company.

And we—I just—I may have heard this wrong but we got 3.8 million workers and 10 million retirees. The idea is you were going to continue to put more and more people in, sort of like Social Security was except that what Mr. Morgan should have had was what he put in all these years, should have been there just for him when he got out. And that is not how these plans were designed and that is why we have to redo it.

And before I forget it, I want to thank the NCCMP. They have been very helpful in educating me on this extremely complicated issue.

So my question to you guys is this. If we have got a plan out here with the issue. I have heard all the assumptions about what will happen if we don’t do something. There has been one plan or maybe two, I heard in a testimony on the Senate side, that have ever paid a loan back. So how does it make it better when the Federal Government loans money to a plan that can’t pay it back? If you can’t pay your liabilities now, how does giving more money allow you to pay this back? And somebody, anybody can take that one.

Mr. SPENCER. Well, thank you for the question. I think the answer is that it’s not just the loan, OK. So we have got five principles in our package that we put forward which includes some other tools to help plans restructure, to help plans deal with some of the funding deficiencies to help when they were in the plan.

Mr. ROE. But, Mr. Spencer, help me, right here. When you say restructure, put that in English. Is that to lower what you are going to pay Mr. Morgan? That is what he wants to know at the end of the day. Am I going to get paid what I thought I was going to get paid when I put it in and is that what you are saying? Because that was one of the tools we gave in the 2014 plan.

Mr. SPENCER. Right. Under MPRA, there were provisions for benefit suspensions and there were also provisions to allow plans to merge. There were provisions in there for partitions so I think all of those tools need to be given some time to work in conjunction with loans. I think that is a better way to look at whether or not
those plans would be able to repay the—there is always a risk of
default. I mean, that’s a given. We can’t get around that completely
but there are ways to make it less risky for the taxpayers who after
all are putting, would be putting the money in.

Mr. ROE. Well, what are they? Because again I am trying to fig-
ure out a plan that is six. I mean, these plans that are probably
more than 600 plus billions. And that money is loaned at say 60,
well at 30 billion a year over 20 years. How do you pay it back
when you can’t pay your bills now because as Dr. Naughton said,
we haven’t rejected the economic cycle. There will be another reces-
sion. It will come at some point. Maybe not in the next year or two
but at some point in time there will be.

Mr. SPENCER. Right. These—the way that we have envisioned
this with very lower interest loans that, you know, hopefully the
plans will be able to make some of that back but I think Mr.
Blahous in particular, talked about things like orphans. You have
got to deal with that question of the folks who are in the plans that
aren’t receiving any employer contributions—

Mr. ROE. So what you are saying you will take this money but
let’s say we give a plan a billion dollars. And they pay benefits with
that. Then they invest that money and hope to earn a higher rate
than what they are supposed to pay back? Is that what I am hear-
ing you say?

Mr. SPENCER. Well, some of that would be invested. Of course
some of it has to be paid in benefits as well. But again, I think
combined with the other tools that MPRA provided and that we
would envision as part of the plan going forward, you would be,
there would be less of a risk of plans defaulting on those loans. But
it is a risk that’s there.

Mr. ROE. Well, I thank you very much. And I appreciate the
panel. You all were excellent. I yield back.

Mr. SHAPIRO. I realize the time is up.

Chairwoman WILSON. Thank you. Thank you very much.

Mr. SHAPIRO. I’m sorry.

Chairwoman WILSON. I now recognize representative wild for 5
minutes.

Ms. WILD. Thank you, Madame Chair. Good morning to all of
you and I echo my colleagues’ sentiments. Thank you for shedding
so much light on this very important subject that affects workers
across our country, certainly in my district and I know in all of my
colleagues’ districts. I wish Congress didn’t have to get involved in
this problem.

I wish employers across the country would honor their obligation
to employees as Ms. Moorkamp, Schnucks Markets has over the
years. I understand from what you have told us that Schnucks has
faithfully paid its pension obligations consistently since 1958 I be-
lieve.

I wish all employers would do that rather than executives essen-
tially stealing from their employees by granting themselves big pay
raises at the expense of their employees’ futures and their retire-
ment.

And I know that is what happened, Mr. Morgan, at Hostess.
Your written testimony was very compelling on that regard. It is
my understanding, sir, that you were 33 years with Hostess and
that in 2012, it closed its doors. During all that time, you worked on a full time basis, sir?

Mr. MORGAN. Yes, I did.

Ms. WILD. And it was a physically demanding job, is that correct?

Mr. MORGAN. Every day. Every day.

Ms. WILD. And you—did you—did you personally get involved in discussions about negotiating pay raises in favor of pension contributions?

Mr. MORGAN. Yes, I did. I was also a member of the negotiation team and every negotiation that we had, we would talk about pay raises and then we would go right to pension benefits. You know, some of the pay raises would be 35, 40 cents. Out of that money we would take probably 12 to 13 cents and buy additional pension money.

Ms. WILD. And that was—those additional purchases of pension money were done by the employees themselves, correct?

Mr. MORGAN. Absolutely.

Ms. WILD. That wasn’t by the employer?

Mr. MORGAN. No.

Ms. WILD. Because of the—

Mr. MORGAN. No, that came out of our pockets.

Ms. WILD. Because of your interest in securing your retirement future.

Mr. MORGAN. And making the levels higher.

Ms. WILD. Understood. And did I understand you correctly that with the pension that you currently get, Mr. Morgan, you are able to pay your bills?

Mr. MORGAN. Yes.

Ms. WILD. You are not getting rich, is that fair to say?

Mr. MORGAN. Not getting rich.

Ms. WILD. But you are able to pay your bills.

Mr. MORGAN. Yes.

Ms. WILD. And if you were to lose your pension, would you need to rely on government assistance?

Mr. MORGAN. Absolutely. Absolutely. I would, you know, I would try to get more jobs, I would try to apply for jobs but when you are in your late 50’s, early 60’s, how many employers are going to hire you? You know, you struggle with that. But every day I have to pay bills.

Ms. WILD. And are you currently working part time or otherwise?

Mr. MORGAN. Yes, I work part time job at a school.

Ms. WILD. OK. Is that to supplement your pension income?

Mr. MORGAN. Yes.

Ms. WILD. Would that part time income that you have at school suffice to pay your bills if you—

Mr. MORGAN. Oh absolutely. Absolutely.

Ms. WILD. If you were to lose your pension?

Mr. MORGAN. That can pay my bills.

Ms. WILD. OK. And would you just describe for us what your employer told you in 2011 about an interruption to pension contributions that was happening?
Mr. MORGAN. Well, they wanted a break from paying the money into the fund. And our union decided, you know, let’s try to help this company the best way we can by giving them some kind of a break in payments. But when they did that, you know, Hostess was never interested in repaying that money. And then they filed Federal bankruptcy and then they walked away. They didn’t have to pay it anymore after that.

Ms. WILD. And—

Mr. MORGAN. We worked 2 years before the plant closed without them contributing to the pension fund.

Ms. WILD. Thank you, Mr. Morgan. Dr. Naughton, I just want to address the situation that Mr. Morgan just described. In the case of—you had mentioned in your testimony before that when this happens the people have already taken the money out of the company. You weren’t specifically referring to Hostess but companies in general that were not able to meet their pension contributions, correct?

Mr. NAUGHTON. Correct. If you are going to end up in bankruptcy, it is usually because there is no money left in the company.

Ms. WILD. And when you say the people, you are not talking about the workers took money out of the company, are you?

Mr. NAUGHTON. You—

Ms. WILD. You are talking about the people who bail on the company when its, the times get tough, right?

Mr. NAUGHTON. So I don’t know who the exact person is in each situation but in general, when a company runs out of money, everybody suffers.

Ms. WILD. And this is something that can repeat itself over and over and over again?

Mr. NAUGHTON. Absolutely.

Ms. WILD. In the future.

Mr. NAUGHTON. Yes.

Ms. WILD. Is that right?

Mr. NAUGHTON. And you can guarantee that there will be companies over the next several years that are in these plans that are going to go bankrupt and have these same series of events occur.

Ms. WILD. Thank you. I yield back.

Chairwoman WILSON. Thank you. I now recognize Mr. Allen for 5 minutes.

Mr. ALLEN. Thank you, Chairwoman, and thank you for sharing this information with us. This is my third term. I was here I think my first year 4 years ago. We set, you know, in a similar meeting and, you know, it looks like we have made little or no progress and a lot of promises were made and not kept.

Obviously Congress, you know, we are here today to listen, and learn and be a part of trying to solve this crisis. I believe any proposal must have, you know, some structural reforms that in rather, you know, this—a band aid approach is just not going to fix a hemorrhaging problem.

You know, and of course we have got other issues. I mean, we have $22 trillion dollars in Federal debt. So for us to sit here and we are managing that supposedly. And for us to sit here and say we are going to solve your problem is, it is troublesome because
some people say it might take 400 million years to pay off that debt.

So whatever we do to fund these retirement programs, how many generations is that down the road that are going to pay for it? Amazing to think about it, isn't it? In other words, our children's, children's, children's, children's, children's, children will pay for whatever we do to try to fix this. And I don't think they are going to be real happy with us.

But, Dr. Naughton, and Dr. Blahous, did any of the solutions that are on the table today or have been discussed over the past few years actually do anything to solve the pending pension crisis? And have these proposals included any structural reforms? In other words, we know this, we have got a problem. Has there been anything done to fix it?

Mr. BLAHOUS. I do think there are some positive models out there for reform. One of them is the 2006 Pension Protection Act, what was done on the single employer side. That was very tough and difficult, ardously negotiated legislation. But it did succeed in stabilizing what was then a burgeoning problem in the single employer system. And I think there are a lot of important lessons that could be drawn from that to address the multiemployer system.

If you are asking whether I have seen specific legislative proposals over the last year that would fix the multiemployer problem, I have not. I mean, there were various outlines that were floated around. I don't think they would have succeeded in solving the problem. But then again, this is a very difficult problem to solve. And I—go ahead.

Mr. ALLEN. Without legislative, I mean, in other words, we know companies come and go. And we know that people move from company to company. You know, we are in a, thank goodness we are in a growing economy right now. One of the best, maybe the best economy in the world which is one of the ways we are going to get out of this mess.

But given the current situation in knowing that companies are going to come and go, that you still have multiemployer pension plans, what are we doing right now to fix this going forward without anything that Congress would do?

Mr. BLAHOUS. You know, I think the hard truth is it is not going to be fixed without legislative action. I just—I do not think the crisis can be diverted without legislation, without Federal legislation. I think the problem too large and too immediate and the problems are too vast. Problems with the funding rules, problems with measurement inaccuracy, problems with the orphan workers. I do not see the system righting itself without Federal legislation.

Mr. ALLEN. Any kind of idea on the impact? Obviously we are, you know, growing at 3 percent maybe right now. We would like to see greater economic growth. Every time, I mean, when I get up in the morning I think about economic growth and creating jobs. Because again, that is the only way we are going to get out of this mess we are in.

What is going to be the impact? Anybody have any idea what the impact on the economy is?

Mr. BLAHOUS. Well, I would say economic growth helps.

Mr. ALLEN. Yes.
Mr. BLAHOUS. But you have to bear in mind—
Mr. ALLEN. But if something is not done what is going to be the hit to the economy? Do you have any idea?
Mr. BLAHOUS. I'm sorry?
Mr. ALLEN. What would be the actual hit to the economy if we said hey, this is your problem—
Mr. BLAHOUS. Right.
Mr. ALLEN. We have got other problems we have to deal with.
Mr. BLAHOUS. I would—
Mr. ALLEN. What is going to be the hit?
Mr. BLAHOUS [continuing]. be loath to try to quantify if. It would be, I think it would be very substantial. I think the point I would make is that a growing economy by itself is not going to fix this problem.
Mr. ALLEN. Right.
Mr. BLAHOUS. Without legislation.
Mr. ALLEN. It helps. You got more people—
Mr. BLAHOUS. It helps.
Mr. ALLEN [continuing]. paying in. OK.
Mr. BLAHOUS. We have had recovering financial markets for the last several years and yet the funding ratios in multiemployer plans have actually declined.
Mr. ALLEN. Right.
Mr. BLAHOUS. We have gone from 50 percent in 2011 down to 43 percent in 2015 and that was with the financial markets recovering. So we need to do more.
Mr. ALLEN. I am out of time. But Mr. Morgan—
Chairwoman WILSON. We have to—
Mr. ALLEN. Mr. Morgan, you are a great American. Thank you for your years of service.
Chairwoman WILSON. Yield back your time.
Mr. ALLEN. Sir.
Chairwoman WILSON. Without objection, so ordered.
Ms. STEVENS. Thank you, Madame Chairwoman. I wish to enter 3 letters into the record. Two are from AARP and the Teamsters which has a significant presence in my district in support of H.R. 397.
And the other letter is from the Council for Citizens Against Government Waste which, while we don't agree on everything, highlights the critical importance of solving the impending multiemployer pension crisis in a bipartisan way. Something that I believe this subcommittee under Madame Chairwoman's leadership can achieve.
Chairwoman WILSON. Without objection, so ordered.
Ms. STEVENS. Thank you. Thank you. I would like to note that this issue hits extremely close to home for me. Central States which as we all know is about to be insolvent covers tens of thousands of workers in my state including almost 3,000 people in my district alone who are covered by 102 employers.
I would like to also just recognize the tremendous leadership of the Teamsters and their friendship to many on this committee and throughout southeastern Michigan. And I would like to recognize every labor union tuning in today as we as a committee seek to
bring your issues to the fore and as we project a vision of the future and value of work vis a vis a 21st century labor movement.

We find ourselves in a new movement, in a new Congress in this committee. Doing nothing means plans will fail. Businesses will fail. Employees will get zero of what they have earned and tax payers will end up paying for it. Insolvency is not an option and it doesn’t have to be.

I am a proud cosponsor of H.R. 397 the Butch Lewis Act. This bipartisan legislation would shore up pensions that are facing insolvency already and those that aren’t facing insolvency in the very near future. CBO as we know has estimated that this will cost between $34 billion to $100 billion.

So, Ms. Becker, I would like turn to you and just ask what would be the total cost to tax payers over the next 10 years accounting for both lost tax revenue and social safety net programs if the multiemployer pension crisis is not addressed?

Ms. BECKER. So absolutely, thank you. That’s a great question. And as we were talking about before, you know, when these plans fail there will be a cost to the government and it will encompass both the lost tax revenue and the social safety net spending that will happen when these, the participants in these plans lose their benefits.

So on a—the 10 year window, it sort of depends on how much you expect these participants to be able to recover those jobs and those wages that they will lose when the employers, you know, go bust. But it is somewhere between—somewhere between—oh, I apologize. I flipped my page. Is somewhere between 170 billion and 240 billion in total between the tax loss revenue and the increased social safety net spending.

Ms. STEVENS. Thank you. and, Ms. Becker, by your organization’s nonpartisan data informed estimations, wouldn’t the overall cost of doing nothing be far greater to tax payers than the cost to implement H.R. 397?

Ms. BECKER. So the cost of doing nothing is likely to far outweigh the cost of any action that they government takes to avert this crisis. The faster you can act, the less expensive this is going to be to fix the problem.

Ms. STEVENS. Thank you. I yield back the remainder of my time.

Chairwoman WILSON. Thank you. I now recognize Representative Taylor for 5 minutes.

Mr. TAYLOR. Thank you, Madame Chair, appreciate that. This is clearly a very serious problem and I appreciate the testimony we have heard here today. One thing I do understand is if you charge an actuarially unsound premium for an insurance product, eventually its actuarial unsoundness will come to roost, right. So if you charge $100 for something that costs $600, you are not putting enough money away to actually cover the risk that you are trying to cover and then we are in this hearing, right.

And, so Dr. Blahous, could you just expand on that in your testimony? Because I think you spoke to that and I think, I got the number right, 1 to 6 but.

Mr. BLAHOUS. Well, that’s right. In fact, I think the 1/6th premium, the fact that premiums per capita on the multiemployer side
are 1/6th per participant what they are in the single employer side. Actually I think that understates the problem that you’re talking about which is that in order to be actuarially fair, an insurance premium has to recognize the risk of payment risk, the risk of failure.

Mr. TAYLOR. Sure.

Mr. BLAHOUS. And right now, we have a single employer system that is basically stable. The last PBGC report found no net deficit in the single employer insurance program but there is a $54 billion projected deficit in the multiemployer system.

And yet, the multiemployer system is charging premiums that are much, much lower than they are in the single employer side. So there’s the magnitude issue but there is also the design issue.

On the single employer side, there is a flat rate premiums but there is also a variable rate premium. The variable rate premium is assessed on underfunded plans.

Mr. TAYLOR. Got it.

Mr. BLAHOUS. That recognize the additional risks they pose to the insurance system. You don’t have a similar animal on the multiemployer side. And so in effect, sponsors of funded plans are basically subsidizing the risk to the system that is caused by underfunded plans and the insurance system is not able to charge anything close to the appropriate premium that recognizes that risk of underfunding.

Mr. TAYLOR. Sure. So just to restate what I think you just said is that if you are not charging the actuarially sound premium, it will be actuarially unsound. I am, that is just, that is almost tautological in a sentence but I think it is just factually correct.

Mr. BLAHOUS. Right.

Mr. TAYLOR. And then in terms of the—you are talking about a risk premium. So if an employer is underfunding their payments into their pension fund, there is not a penalty assessed in terms of the risk premium.

In other words you know, if you think about auto insurance, a riskier driver, someone who has had many accidents is going to pay a higher premium than someone that has never had an accident because the insurance company adjusts based on risk. So in this case, you have a pension plan which is underfunded. There is no additional premium on the multi side but there is on the single side.

Mr. BLAHOUS. That’s correct. And I think this speaks to a larger question of moral hazard in the system which is we have had a lot of very good discussion here about, you know, this is basically compensation for workers, right. Like wages, or in lieu of wages. These are benefits that workers have earned. But at the same time, it is a lot more pleasant situation for employers and union representatives alike if there are additional dollars on the table available for wages rather than having to put that money in the pension plan.

Mr. TAYLOR. Sure.

Mr. BLAHOUS. And so that creates a lot of moral hazard to shift the risks of underfunding to the insurance system to other employers and other workers. And the only way to counterbalance that moral hazard is to make sure that there are rigorous enough stand-
ards for funding, rigorous enough insurance assessments, and rigor-
ous enough safeguards against digging the underfunding hole
deeper. Otherwise, you see the incentives that lead to the grossly
underfunded situation that we have today.

Mr. TAYLOR. And just to state the obvious, the sooner that Con-
gress acts to make an actuality sound premium set up, the soon-
er—the less damage there will be to actually have to dig out for
the future. Is that a fair statement?

Mr. BLAHOUS. Right. I think, I mean, I think there are two lev-
els here. One is the solvency of the PBGC insurance fund and the
premiums speak directly to that.

Now you have a larger underfunding problem out there beyond
that. And so there are risks to workers whose benefits have been
promised in excess of the PBGC insurance guarantee that arise
from larger underfunding in the system.

But the first order of business if you interpret that as a stabi-
lizing the PBGC insurance fund certainly requires a reformed pre-
mium structure.

Mr. TAYLOR. All right. Thank you. Madame Chair, I yield back
the balance of my time.

Chairwoman WILSON. Thank you. I now recognize Representa-
tive Fudge for 5 minutes.

Ms. FUDGE. Thank you very much, Madame Chair, and I thank
my colleagues for allowing me to go out of turn. Thank you so
much. I will be very brief.

First, I would like to ask unanimous consent to enter into the
record a letter from the Bakery and Confectionery Union and In-
dustrial International Pension Fund which proposes a long term
low interest loan solution as has been discussed here.

Chairwoman WILSON. Without objection. So ordered.

Ms. FUDGE. Thank you. And I just want to say two things. It
is interesting that for people who have worked 30 years, whether
it be for a pension or Social Security or Medicare, we always have
a problem with trying to find a way to find a solution for these peo-
ple. If we make them a promise, we ought to keep it.

I think sometimes we forget as members that our real job here
is to take care of the people we serve. It is not to save money. It
is to take care of the people who sent us here. And so I would sug-
gest very strongly that instead of spending $5 billion on a wall, we
put it into the pension fund. Let’s put it into PBGC. I think it’s im-
portant that we do that. Because it is more important to me to take
care of the people who work for this country than it is to build an
unnecessary wall. Madame Chair, I yield back.

Chairwoman WILSON. Thank you. I now recognize Mr. Watkins
for 5 minutes.

Mr. WATKINS. Thank you, Madame Chair. And also thanks to
Republican Leader Walberg. My question is for Dr. Blahous.

Now it seems to me that many of our workers particularly our
millennials are paying into pension plans that will become bank-
rupt. So perhaps an alternative solution could be that they receive
less of what they have accrued in the pension plan and be allowed
to contribute to a 401K or an IRA, something that they would own.
What are your comments on that?
Mr. BLAHOUS. Well, I certainly agree with the point that the sort of historical defined benefit structure in many systems is not serving the interests of younger Americans very well.

Andrews Biggs has done some excellent research on this for us at the Mercatus Center but basically sort of surveyed the denied benefit landscape. And you'll find underfunding wherever you look. You will find it in the multiemployer system, you will find it in state and local pension plans. You will find it in Social Security.

In comparison, the defined contribution system while it has its shortcomings, is performing comparatively better. And it also is less sensitive to demographic shocks because if were in a sense prefunding your own future retirement benefits that type of system is less sensitive to a change in the ratio of contributing workers to retirees.

So I certainly take your point. I think there have been proposals that have been put forward by Rachel Greszler, that basically to sort of let people buy out of the system in a way. Now they would get less than they are currently being promised by the multiemployer pension systems and you wouldn't be able to give them everything that they were currently promised but if people were willing to take a haircut on that benefit in order to receive a certain form of it, you could transition them to a defined contribution type of system.

Mr. WATKINS. Thank you, doctor. Thank you, Madame Chair. I yield back.

Chairwoman WILSON. I now recognize Mr. Levin for 5 minutes.

Mr. LEVIN. Thank you, Madame Chairwoman. I would like to start by thanking all the witnesses for your testimony and participation today and, in particular, it is enlightening to hear the real live experience of companies and workers from Ms. Moorkamp and Mr. Morgan. It is extremely helpful to us. And I notice a lot of folks in the room here too, I know brother David Durkee from BCTGM is here. I saw mine workers, steel workers, Teamsters and others and I really appreciate you folks being here.

The fundamental point about pensions is that they are not charity, they are not a donation, they are money that workers put aside themselves in cooperation with their employers so they could have a dignified retirement. They own it, it belongs to them and shame on us if we don't help them have that in their retirement.

Madame Chairman, I would like unanimous consent to introduce 4 documents into the record. A letter to the chairman of our committee from Anthony Perrone, the president of UFCW. A letter from Robert Martinez, the president of IAM. A letter from Leo Gerard the president of the Steel Workers and a statement from the steelworkers on the pension crisis.

Chairwoman WILSON. Without objection. So ordered.

Mr. LEVIN. Thank you very much. Thank you. I would like to ask you a question, Mr. Blahous, about the use of corporate bond rates. I need to understand this better. I believe you advocate using corporate bond rates to discount multiemployer pension liabilities. And currently those discount rates are very low because we are in a fairly low interest rate environment still.

But would you also support discounting those liabilities at 9 percent or 10 percent when interest rates rise as happened in the 80's?
Mr. BLAHOUS. I do think they should float, yes. The—wherever corporate bond rates go—
Mr. LEVIN. Wherever they go.
Mr. BLAHOUS. Wherever they go.
Mr. LEVIN. And do you acknowledge that there is year over year volatility in the corporate bond market so the problem may get worse if and when interest rates rise?
Mr. BLAHOUS. Great question. The volatility question is really important and I appreciate your asking it because this was a sticking point in 2006 when we were debating correct discounting for the single employer system.

And the concern predictably was that using accurate discounting would lead to unwanted volatility and contribution requirements. And my strong recommendation is I think it is important to dampen required contribution volatility but I would not do it by distorting the measurements, by distorting the discount rates.

I would do it by brute force limitations on annual contribution volatility because of the funding rules, the contribution rules, that is something that you might need to massage to get to where you want to go in terms of policy. But I would not try to dampen volatility by distorting the measurements because the liability is simply—

Mr. LEVIN. All right. Well, let me ask you a question then, Ms. Becker. What impact do you think changes in the funding rules would have on healthy plans? That is a concern of mine.

Ms. BECKER. So if we change the discount rates or the funding rules that apply to the healthy plans right now, it would have really dramatic consequences both on the participants in those plans and on the employers that participate in them.

Mr. LEVIN. Positive or negative consequences?
Ms. BECKER. Absolutely negative consequences.

Mr. LEVIN. So can you explain a bit?
Ms. BECKER. Yes, please. When we looked at this previously, we took a look at a couple of different example plans for what might happen if you go ahead and change the discount rates.

The most immediate and obvious consequence which I think was referenced a little bit earlier is that the contribution rates are going to go through the roof for the same level of benefits. So an example plan where contributions were right around 22 percent of pay that is, you know, a substantial contribution that is going—

Mr. LEVIN. Indeed.
Ms. BECKER [continuing]. in to fund retirement benefits. Those would at least double. So you would be looking at somewhere between 46 percent of pay and 60 percent of pay to fund the same benefits into those plans. I don’t know perhaps the employers on the panel can speak to whether a 60 percent of pay contribution rate to fund benefits would be bearable or not but my impression is that would be strenuous.

When you look at that, that is not even resolvable. It would be easy to say well, OK. So these plans noted to stop offering benefits going forward and that will resolve those contribution requirements. You won’t have to pay for more benefits, you just have to pay for what you already put into the plan.
For these plans, you know, a—that is not a possible solution here. Even if you were to freeze accruals going forward, you are still looking at contribution requirements that are somewhere between 30 and 40 percent of pay.

Mr. LEVIN. All right.

Ms. BECKER. Again, I would turn to the employers and ask whether that is bearable.

Mr. LEVIN. Well, thank you. My time is up but I would just make the point that we need to solve this crisis now as you have all said but I just want to make sure that our solution solves it and doesn’t make it worse down the road. Than you, Madame Chairwoman, I yield back.

Chairwoman WILSON. I recognize Representative Johnson for 5 minutes.

Mr. JOHNSON. Thank you, Madame Chair. Dr. Naughton, you mentioned in your testimony you used the annuity analogy talking about I think that these plans in general need a lower risk profile. I was a little surprised by that. I am, used to be Chief of Staff to the Governor in South Dakota and we would take a lot of pride in our—in state employee retirement system.

And that doesn’t have that kind of exceptionally low-risk profile, of course it has got a broad based and mixed portfolio, but quite heavy in equities. I mean, our plan is more than 100 percent fund-ed and I think weathered the recession reasonably well compared to most.

So maybe flush out your comments a little bit. I would think it would be very hard to deliver any kind of a real return with an ultra-low risk approach.

Mr. NAUGHTON. That’s a great point. So when you look at pensions generally there is sort of this belief that we should have a diversified portfolio and the idea of following an approach where you can take equity risk, a requirement is that you can absorb the downside of that equity risk.

So if you’re a state that has a lot of sources of revenue, you could increase tax receipts in the future, whatever is to fund it if there is a negative period, you can respond to it. If you look at the single employer system, you know, a good example there would be General Motors where in 2003 they issued $10 billion worth of bonds and put the money in the pension plan. So they were investing in equity through some down years and they responded by putting more money in the plan.

What’s unique about multiemployer plans, is they don’t really have the same ability to go back and get contributions. Because there’s a, there’s many, many participating employers and over time, those participating employers come and go. You know, one of the ideas that has been raised today is when you look at the plans that are in the worst condition, it is the ones with orphan employees. Because those are the ones that are in, you know, amongst all of them, these are the ones that are least able to go back and get additional contributions. So when you look at that multiemployer plan system the way it is set up, if you were to ask Mr. Morgan what he thought he was getting, he would say I was promised a retirement benefit. When someone promises you something they
don’t put the money in the stock market, they put it in sort of a low-risk annuity type set up.

And so that’s sort of is the final disconnect here is the trustees of the fund should have sort of recognized that there is a lot of inability to go back to get more funding, there is a lot of inability to weather the downside. If we happen to have a really good year, what the multiemployer plans tend to do is they increase benefits. They couldn’t be overfunded. And so structurally there was no way to respond to equity risk. And so if you think about it logically, they shouldn’t have been taking it in the first place.

Mr. JOHNSON. I mean, isn’t this just a math problem? And we have had a lot of discussion about discount rates and that all makes sense to me but we know it seems like if you really want to be actuarially sound, you are going to estimate that a certain number go bankrupt and you are going to estimate that there will be down years because there are always down years. And that you should be able to weather those storms if you make reasonable and conservative assumptions. Isn’t that right?

Mr. NAUGHTON. Yes, that’s correct. But that’s not what these plans do. I mean, if you look at your own individual retirement, all of us, you know, when you were young we invested in equities in our own 401k’s and when we get older we switch it to low-risk fixed because we are concerned. When you look at the multiemployer plans, the vast majority of participants are older and that by itself will tell you they shouldn’t be investing in these risky securities.

Mr. JOHNSON. Yes, that makes a ton of sense to me. So now, Dr. Blahous, you mentioned a statistic. You said 1/6th of something and I tried to catch it and then I tried to look in your written testimony but I wanted, I thought I heard it right but it seemed hard to imagine. So can you repeat that?

Mr. BLAHOUS. The average premium payment on the multiemployer side is 1/6th per capita what it is on the single employer side. Although the insurance program deficit on the multiemployer side is much, much larger.

In fact, if I could dramatize it still further, last year—

Mr. JOHNSON. That is pretty dramatic though.

Mr. BLAHOUS. That’s pretty dramatic. About $5.5 billion in premium revenues were collected from single employer sponsors last year. There were about 300 million for multiemployer sponsors. And yet the single employer system is not in defect but the multiemployer insurance program if facing a $54 billion deficit.

Mr. JOHNSON. So that is a pretty substantial policy failure?

Mr. BLAHOUS. It’s a very—

Mr. JOHNSON. For the premiums to be set that low.

Mr. BLAHOUS. Not only the magnitude of the premiums but the design. The fact that there is no variable rate premium for underfunded plans on the multiemployer side.

Mr. JOHNSON. I mean, I understand what these, some of these contribution things are set through collective bargaining arrangements. I assume that the infrequent nature of renegotiation complicates how nimble these plans can be and adjusting to actuarially liabilities.
Mr. BLAHOUS. Well, I would say that the problem is even more severe than that. Because remember how these plans are designed in ways that are different from the single employer system. In the single employer system might have a set of benefits promises and then if you make actuarial assumptions that are too aggressive, you might not put as much funding in as you should.

With the multiemployer side as you said, it's built around a collectively bargained contribution rate. So if the trustees then go out and use unrealistic assumptions to build the benefit structure, the benefit promises themselves are inflated because of the use of aggressive discount rate assumptions.

So you have a situation where the board of trustees is making more benefit promises than the contributions can fund, and then getting in trouble and wanting assistance.

Mr. JOHNSON. Thank you, Madame Chair, for your additional courtesy.

Chairwoman WILSON. Thank you. I now recognize Representative McBath for 5 minutes.

Ms. MCBATH. Thank you, Madame Chair. And thank you so much for convening this hearing. And thank you to the witnesses that are here this afternoon.

In my district, UPS has its world headquarters. That is the 6th congressional District of Georgia. And they employ around 15,000 people across Georgia and roughly 399,000 people across the United States. UPS also contributes nearly 2 billion per year to 27 different multiemployer pension plans. So I know how important this issue is to a major employer in my district.

Last year, UPS testified at a hearing conducted by the Joint Select Committees on the Solvency of Multiemployer Pension Plans. Madame Chair, I would like to ask unanimous consent to enter UPS's testimony into the hearing record.

Chairwoman WILSON. Without objection.

Ms. MCBATH. Thank you. I note for the record that UPS made a similar point that I am hearing today from many of our witnesses. The cost of PBGC's failure will be extraordinary and will result in a loss of tax revenue and higher demands on Federal, state and local government safety nets.

UPS also makes the point that changing the actuarial assumptions used by multiemployer plans to be closer to what the single employer plans use would make the crisis even worse.

I would like to ask Ms. Becker, do you agree with UPS that changing the actuarial assumptions would make the multiemployer pension problem worse?

Ms. BECKER. Absolutely. So if you go ahead and change the discount rates, you are going to drive many of the plans that are currently in good financial health into one of the zones and into poor financial health.

Ms. MCBATH. Thank you. And can you please explain how it would get worse?

Ms. BECKER. So when you change the discount rate, you are forcing plans to rather than taking a very long term look at how these benefits are earned and how they are going to be paid out, you take them—you force them to take a look at—look only at what they expect to happen over the very short term in the markets.
And when you do that, when you drive plans into the zones, which is what you will do there, you are going to force dramatic increases in the contribution rates onto employers or you’re going to force dramatic reductions in benefits on the participants or some combination of those two.

Ms. MCBATH. So could this change—could this change increase UPS’s contributions and potentially impact other plans in which UPS contributes?

Ms. BECKER. Absolutely. So that’s something that we mentioned a little bit earlier. That’s something that Mr. Spencer mentioned as well, is the idea that multiemployer plans are very interconnected. Employers that participate in multiemployer plans don’t just participate in one multiemployer plan. They participate in 2 or 3 or 5 or 10. So when there is something that impacts the financial health of one other employers that participates in those plans, that is going to, you know, depending on the financial health of the employer and where it starts, that is going to make it harder for them to continue to contribute to other multiemployer plans that are out there.

So as you impact the financial health of a given employer or a given plan, you are going to impact the financial health of many other multiemployer plans in the system.

Ms. MCBATH. Thank you very much. And, Ms. Becker, I really do look forward to being able to work with my colleagues in advancing a bipartisan solution that is so well needed. This is a crisis and I hope that we are able to work together in a bipartisan way to manage this crisis going forward and I yield back the balance of my time.

Chairwoman WILSON. Thank you. I now recognize Representative Meuser for 5 minutes.

Ms. MEUSER. Thank you, Madame Chairwoman. Good afternoon. The plan participants that we have here, the workers, the Mr. Morgan’s of the world, certainly deserve none of the blame for this grossly underfunded pension plan problem that exists. Yet they are the ones facing the dire consequences which is an unacceptable outcome.

This, in my view is another example of the false promises of defined benefit pension programs. Mr. Shapiro a little earlier mentioned as he was defending the plan that there were only 1 million people that could lose everything. Well, 1 million people is a catastrophe.

And blaming 2008 market crash to be the core of all this, the market has recovered as we all know over 80 percent from its highs before the crash. So that well exceeds the 7 percent or so annual growth actuarial rate that is used to determine where the fund should be.

So all that being said, Mr. Spencer, you outlined in your principles of reform in your testimony the last two you wrote while the PBGC may ultimately need more money in the form of increased premiums, these increases must be evaluated after tools to restore the solvency of these plans are put in place. And you followed that with composite plans must be authorized so that healthy multiemployer plans can stay that way. Can you be specific and offer some ideas here?
Mr. SPENCER. Sure, thank you. With regard to the healthy plans, our objective is to help them stay that way so that we are not back here again in a couple years talking about the same issue.

So with a composite plan, the idea is that you would take the fouls that are in the existing DB plan, free of accruals and kind of wall that off and then allow other employees, well, those same employees too that are in the current plan, to be part of the composite plan and the plans must be funded at 100 percent.

Some of the tools that were in MPRA would also be applied to those plans so that the plans would not find themselves in an underfunding situation. But key is that they're also privately managed, right. There is no need for the PBGC to backstop the composite plan.

So some of those types of tools, some of the other tools that are in MPRA, particularly partitions, mergers, where needed, benefit suspensions ought to be applied to these plans going forward so that again we don't wind up back here in two or 3 years talking about some of the plans that are now healthy and that would find themselves in an unhealthy condition.

Ms. MEUSER. All right. Well, thank you. Well, I certainly look forward to working with our colleagues and coming up with some solutions for the people. Madame Chair, I yield back my time.

Chairwoman WILSON. Thank you. I now recognize Representative Trahan for 5 minutes.

Ms. TRAHAN. Thank you, Madame Chairwoman. Thank you. Thank you all for coming. Mr. Morgan, I don't actually need to ask you anything because when I look at you, I see my dad. A retired union iron worker, someone who like you worked physically hard every single day. He is battling MS right now in retirement and I often think especially when I am sitting on this committee that if his pension and his benefits were not in place for him that it would bankrupt our entire family.

So I understand this hearing is to address the cost to people like you if Congress, if we do nothing. And I can only imagine the anxiety, the economic anxiety that you have thinking about or calculating the consequences of us doing nothing.

I appreciate all of the prescriptions that have been recommended to us today for the future on how we might restructure defined benefit programs going forward. But protecting Mr. Morgan's dignity and the 10 million others like him, requires immediate action.

Would everyone agree with that comment? OK. Is—I guess I am curious because I—well, is there anyone on the panel who does not think that Federal assistance is required right now to stabilize the PBGC? Terrific. Everyone agrees that inaction is not an option. So that is, that is helpful.

I did want to ask a question to Mr. Shapiro. Because you mentioned a number of factors as contributing to the decline of multi-employer plans. Maturing of plans, the lopsided ratio of retirees to workers, deregulation of trucking and other industries has added to this decline. Union rights have been under attack, the rights to organize, the collective bargaining rights that across our country they play out in state legislature and in our Supreme Court.

What impact has declining union membership had on the system?
Mr. SHAPIRO. Well, thank you for the question. It has made it harder for plans to recover from other factors that cause downturns.

And I just want to go back to a comment that Professor Naughton made earlier which is you take risks when they can be properly managed. I can paraphrase that but that’s how I wrote it down, which I couldn’t agree with more.

And, you know, if you look back at the past 15 years at the tremendous declines that have occurred in the stock market, in the earlier years, the fact that, you know, the majority of plans have been able to get through that reasonably unscathed speaks to the fact that the system is pretty resilient when it comes to managing risks.

But clearly for an important and a large segment of the population those risk absorption mechanisms were insufficient and that’s why we are in the boat that we are in. So those trends that you mentioned, are those that have kind of led to these plans being less able to absorb that risk.

And as we look to go forward, I think the focus should be on making sure that balance is restored. That the risks that are taken and the ability to absorb risks are realigned because at the moment they are not. And that’s what led us to this current situation.

Ms. TRAHAN. Thank you. That is helpful. And, Ms. Becker, there is certainly structurally going forward we are going—this is a tough issue, it is a complicated issue and I think it is one where we are going to think hard about the prescriptions going forward.

I am wondering if you can share your analysis on why some multiemployer plans are healthier than other plans. And what, you know, characteristics or features do some of these healthier plans share beyond what has been proposed at the table today?

Ms. BECKER. Sure, thank you. So I think Mr. Shapiro touched on many of them much earlier, a little bit earlier which are, you know, the decline in the membership in the plans is tilting toward an imbalance between retired participants in the plan or inactive participants in the plan and active participants who are continuing to contribute to the plan.

That tilt in that imbalance there is, you know, a result of some of the things that you had mentioned in terms of the decline in union membership but there is, you know, also things that the government has done that has forced the hand in terms of driving that imbalance as part of the participants who are here to contribute to the plan itself.

So, you know, that’s and, you know, they’re the things that you hear, you know, fairly often. So trucking deregulation or, you know, the decline in the active participants or driving employers out of the system. All of those things make it much harder for these plans to recover going forward.

Ms. TRAHAN. Great. Thank you. I am almost out of time but it does seem to be that, you know, we are going to talk about the, you know, financially how defined benefits programs can be, should be set up so that it mitigates that risk.

But in my observation, we have done more to hurt the membership of the unions that has been a contributor to this problem. You know, as someone who grew up in a family that benefited from
those union values, from the fact that it is the backbone of our middle class, I think we should be doing more to strengthen that unionship. Certainly not inhibiting it. So thank you all, I appreciate it.

Chairwoman WILSON. I now recognize Dr. Foxx for 5 minutes, the esteemed Dr. Foxx.

Mrs. FOXX. Thank you, Chairwoman Wilson, I appreciate that very much. Professor—and thanks to all the witnesses for being here by the way.

Professor Naughton, when determining contribution amounts to a multiemployer plan, do unions and employers aim to fully fund the plans? Or do they instead aim to meet the minimum contributions required by their respective collective bargaining agreements? And do you believe contribution levels are sufficient to provide plan stability?

Mr. NAUGHTON. In general, those negotiations focus on the minimum contribution. So just like a credit card, if all you ever do is make the minimum payment, eventually that balance is going to get out of control.

When you look at sort of, you know, how it should work, you know, ideally you give companies the latitude to make the minimum so that during certain times they can make smaller contributions and during certain times they can make larger contributions. And that’s one of the great benefits of defined benefit plans as you can kind of adjust the contributions to match the economic cycle and what is available.

But in this case, that’s not what happened. What happened is it’s simply been the minimum almost every single time.

Mrs. FOXX. Yes. That is very unfortunate. And your analogy to a credit card bill is excellent.

Dr. Blahous, factors such as industry innovation, shrinking numbers of active workers, and economic downturns might negatively affect the multiemployer plans funding level. Are these factors predictable and what can plans do to prevent their negative impacts so that pension promises which are made to workers can be pension promises which are kept?

Mr. BLAHOUS. Well, I would say that some of these factors are more predictable than others. Certainly the, sort of the long-term demographic and aging trends are relatively predictable. The fact that there will be at some unforeseen time financial market shocks is predictable and prudent pension management would anticipate this.

I think this is very important because it is undoubtedly true that industry changes, changes, declines in the percentage of active workers, all those things have been negative stressors for the multiemployer plan universe. But they are not what has led to its uniquely underfund condition relative to the single employer system.

If you look at the percentage of active workers among total plan participants, it is just as low in the single employer system. That system has undergone the same financial market shocks. The differences are two.
One is the set funding rules and measurement rules that apply to the two systems and the premium rules. They are just simply inadequate on the multiemployer side.

And the other is the unique phenomenon of the orphaned workers. Single employer plans don’t have to deal with that orphan worker problem and there is where I think the strongest case for Federal intervention because Federal policy is to some degree responsible for that.

But those are the two main factors. This has not been driven by, primarily by financial market shocks or changes in the industry.

Mrs. FOXX. And I am glad you mentioned this, the issue of Federal intervention that my colleague asked about. I interpret—I believe probably different people interpret that phrase, Federal intervention different ways. You talk about policy and the way we can change the laws.

I believe that my colleagues believe bailout when they talk about Federal intervention. And while you all said yes, OK, we—Federal intervention can help, I believe we need to get on the record, and we will talk some more about that after the hearing, that it is not just a bailout of these plans that requires Federal action.

Dr. Blahous, I would like to ask you another question. For 2019, annual PBGC multiemployer program premiums, which are set by Congress, are $29 participant. Historically, these premiums have been much lower than $29 per year. In its 2018 Annual Report, PBGC stated as a deficit of $54 billion.

In your opinion, are PBGC premiums set at appropriate levels when compared to the risk PBGC assumes when it insures multiemployer pension plans?

Mr. BLAHOUS. Well, if I could preface my answer by first expressing may agreement with your previous point. But I do not believe that just the injection of Federal subsidization of a system whether it is packages, loans or otherwise is going to fix that problem. So I want to be very clear about that.

But I do think the premium structure is inadequate both in magnitude and in design. The premium assessments are not sufficient in amount to finance the potential claims on insurance coverage and they’re poorly designed in that they do not recognize the risks of underfunding.

Mrs. FOXX. Thank you very much. Thank you, Madame Chairwoman.

Chairwoman WILSON. Thank you. I recognize Representative Morelle for 5 minutes.

Mr. MORELLE. Good afternoon. Thank you, Chairwoman Wilson, for holding this very, very important hearing and to all the witnesses for being here today. I had a chance to review the submitted testimony. I am grateful we are taking time to understand the causes of the multiemployer pension crisis and meaningful solutions.

I have heard from many constituents and other stakeholders throughout the last several months and recognize the severity of the situation. There has been much discussion. I note that like the gentlewoman from Massachusetts, my father was a member of the pipefitters union and so a multiemployer pension system has been
very important to him. He passed and it is very important to my mom.

There has been a lot of discussion in recent years about retirement security and how we ensure hardworking Americans can retire confidently and with the peace of mind that they don't need to have a part time job to get by once they retire. And amidst the heightened awareness of retirement security, growing concern and shifting of responsibility, an undeniable fact is that we have made a promise to American workers about the sustainability of their retirement and they have the most to lose if we do not find a viable solution here.

I want to thank Mr. Morgan particularly for taking time to share your story. I have read your testimony and was stuck by your statement that you negotiated and fought for your pension because it meant you would be able to retire with dignity after a lifetime of very hard work. And I know from my dad’s experience how hard he worked every single day of his life. At the end of the day that is what we all want. We pay into a system with the promise that we can retire with dignity and we deserve what we have earned. So I appreciate your testimony. And I believe it would be our utmost goal to protect the employees who paid into the plans. Obviously also for the employer groups who have contributed as well. And I hope this hearing brings heightened awareness and attention to the severity of the situation.

I would also like to acknowledge that as we find solutions we should safeguard healthy and well managed plans that are doing right by their employees and I know this is a complicated subject. I dealt with a number of issues as the chair of the New York State Assembly's insurance committee for a number of years so these are challenging issues.

But I wanted to ask Ms. Becker, I had a couple of quick questions if I might. There are clearly structural issues in certain industries that have created challenge here. But that aside, if you could sort of isolate that and put that to the side as though that were possible, there are features of the healthier plans that I would like to ask if you could identify those and help us take that into consideration throughout our deliberations. Have you sort of identified what sets them apart I would be grateful.

Ms. BECKER. Sure. So the strong plans right now are very well funded, they are well managed. They have trustees who, you know, are representative of trustees throughout the multiemployer system who have taken proactive action to keep their plan in a healthy funded status, you know, as they have, you know, suffered market shocks or what the case is.

They also, you know, typically have a very strong, active workforce where they are, you know, strong and growing and they, you know, participants are continuing to contribute to the plans and earn retirements benefits that provide, you know, secure benefits going forward.

Mr. MORELLE. And that, you know, when it comes to some of those structural challenges in certain industries, those factors however, separate out the healthier plans from those that are struggling despite the structural changes. I wonder if you could just
Ms. BECKER. So that would be incredibly detrimental to all of the healthy plans that are out there right now. It would have an immediate impact on both the required contributions to these plans and to the benefits that they can pay out.

We did—we took a look at an example plan last year and what we found was that, you know, if you take—if you immediately adjust the discount rates, you are looking at least a doubling of the contributions required to fund the same benefits.

Or if you flip that around, you would need to take a dramatic reduction in the benefits that people have earned in order to keep the plan in a healthy situation.

Mr. MORELLE. Perfect. Thank you. Again, thank you to Chairwoman Wilson. I ask unanimous consent to submit the following letter into the record. It’s a letter on behalf of the Multiemployer Pension Alliance, it discusses the importance of ensuring that any plan that addresses the pension crisis does not impose undue costs on healthy multiemployer plans.

Chairwoman WILSON. Without objection.

Mr. MORELLE. I yield back my time.

Chairwoman WILSON. So ordered. I now recognize Mr. Fulcher for 5 minutes.

Mr. FULCHER. Thank you, Madame Chair. And first of all to the panel, you probably know this but apologies for not being able to be here for the whole thing. There is this thing called scheduling and being, needing to be at two committee things at the same time. But just know that you are appreciated and your testimony is appreciated. I have been able to stay on top a little bit of the content. And we are getting close to wrapping things up.

But just a brief question and this would go to Dr. Blahous. You know, some have said obviously that the financial downturn in 1901 and 1902 followed by the recession in 1908 is the primary reason that multiemployer plan funding levels are in the status that they are in. And those are tough to predict, those swing.

And so I would just ask just to kind of summarize, what—what do you think can be done in order to best safeguard workers retirement funding? Just moving forward? What is the summary advice here?

Mr. BLAHOUS. Well, I would start by saying that with respect to those who point the finger at the financial market shocks explaining the underfunding of the multiemployer plan universe, I respectfully but very strongly disagree with that assessment. Again, the single employer system has been through exactly the same financial market shocks but it is in much better condition. And so that is not the set of factors that has caused the multiemployer system to be in much worse shape.

What has happened is that you had the multiemployer pensions plans were less well funded to begin with. They’re not properly measuring their abilities or their assets for that matter. The funding rules do not work very well. The premium assessments don’t work very well and importantly, during financial market recovery years, they have not rebuilt their funding position.
You are going to have periods where your funding ratios are going to decline if the financial markets go down. What happened in the single employer plan universe is that in fact they actually took an even bigger hit in both financial market shocks. But in the recovery years they rebuilt their financial position. So in 2007, you had much higher funding percentages in the single employer plans than you had in say 2001 right after the dot com bubble burst.

You haven't seen that in the multiemployer plan university. In fact the funding percentages in the multiemployer plan universe have continued to decline even during the last several years of financial market recovery.

So if the multiemployer plans are not now in well-funded condition despite a decade that has been generally very, very good for the stock market that is clearly not the problem.

So I think it is very important that plans again they have to maintain an adequate funding position coming into, you know, during boom years, during bubble years so that they can withstand the downturns. And then when there were downturns and during periods of market recovery, they have to rebuild their funding position which is not what has happened.

Mr. FULCHER. And if I may, as you look at this current circumstances through your lens, what is the trend?

Mr. BLAHOUS. Dire. It's very dire. I think—I agree with the other panelists here that this is an urgent problem verging on a crisis and has to be dealt with quickly. But I think in some ways the data coming forward from PBGC understates the problem.

There has been discussion of, you know, the relative health of better managed, better funded plans. But again, a lot of that is illusory. A lot of that is based on actuarial assumptions that are not accurate.

And so there is a lot of potential damage to the insurance system and to the security of worker pensions beyond what is contained in that $54 billion deficit.

So I would say the outlook is very dire. I respectfully disagree with those who are saying throw money in now and do structural reforms later. I think that is an escalation, a continuation of current policy that has failed to date and I can virtually assure everyone on this committee that they will be back here looking at a bigger crisis down the road if we put money in first and leave structural reforms for later.

Mr. FULCHER. Doctor, thank you. Panel, thank you. And Madame Chair, I yield back.

Chairwoman WILSON. Thank you. I now recognize the esteemed Chairman Scott for 5 minutes.

Mr. SCOTT. Thank you, thank you, Madame Chair, and thank you for convening the hearing. And I want to thank you and the witnesses for pointing out that this is not just a problem for the workers and businesses, this is a problem for the Federal Government because if we don’t do anything, the Federal Government budget will take a significant hit and that has been quantified a number of times.

And I also want to recognize and welcome David Durkee who is the International President of the Bakery and Confectionery Union
as well as chairman of their pension fund who is dealing with this problem personally.

I want to thank the Chamber of Commerce for your report in 2017. That report noted that this is not only a problem for businesses that can go bankrupt but also for many of the workers who will end up on safety net programs.

And I also want to thank you for pointing out as your No. 1 concern, urgency as the important thing we have to look at.

Madame Chair, I ask you unanimous consent to put that report into the record.

Chairwoman WILSON. Without objection.

Mr. SCOTT. Now I want to thank Ms. Becker for quantifying the problem we have got and pointing out that between $170 and $240 billion is what we are on the hook for right now if we don’t do anything. And point out that all of the legislative responses to the problem are a lot cheaper than that. So that the worse thing we can do from the Federal Government point of view is nothing.

We ought to do something to address the problem and that we are on the hook for those hundreds of billions of dollars over the course of time.

As we consider the so-called bailout, we have to recognize that we are on the hook, that the Butch Lewis bill that has been—hasn’t been formally, completely scored yet, but the guess is no more than 30 to 100 billion which is significantly less than the cost of doing nothing.

Madame Chair, I noted that a previous witness, Douglas Holtz-Eakin of the American Action Forum has written and I quote that “it is not simply a choice of committing Federal or funds or not. For Congress, it is one of those pay me now or pay me later moments,” and I would ask that his article from December 2018 be placed in the record.

Chairwoman WILSON. Without objection. So ordered.

Mr. SCOTT. Thank you. Mr. Blahous, you have talked about the premium being insufficient and I want to put that, try to get that in context. You said it is only 1/6th of the private sector. About how much per person is the premium now?

Mr. BLAHOUS. It’s $29 per participant on the multiemployer side. Its 80—

Mr. SCOTT. Per what? $29 per what?

Mr. BLAHOUS. I’m sorry?

Mr. SCOTT. $29 per what?

Mr. BLAHOUS. Per participant.

Mr. SCOTT. Per what time period?

Mr. BLAHOUS. This is an annual.

Mr. SCOTT. $29 a year?

Mr. BLAHOUS. Right.

Mr. SCOTT. Now we have heard Ms. Moorkamp said that for new employees are you putting $15 a hour into the pension contribution for new employees?

Ms. MOORKAMP. If we are required to, yes, we are. But we are also paying $342 a week per teammate into our pension fund.

Mr. SCOTT. OK. And that is the contribution. We have had a little, we tend to conflate the premium to the PBGC and the contribution to the fund.
And so, Mr. Blahous, if you are putting, they are putting $300 some dollars a week, going from $29 to $2 or $300 a year for the premium shouldn’t—doesn’t seem like a problem, as big a problem as a sixfold increase would suggest, is that right?

Mr. BLAHOUS. Well, I think you make a very important point which is a distinction to be drawn between premium payments and funding requirements. And those are two different animals.

The premium assessments are what is required to keep the PBGC system solvent. The funding contributions are what is required to fund benefit payments to your workers.

Mr. SCOTT. But we can fix the premium, I mean, the cost to the employer would be negligible fixing the premium problem, compared to what they have to—what they are putting in?

Mr. BLAHOUS. I think this is such an important point that I would like to elaborate on it which is that you’re right that we could stabilize the PBGC insurance fund, that’s still going to leave a lot of workers with benefits that have been promised to them beyond the level PBGC guarantees that wouldn’t be funded.

Mr. SCOTT. Well, if I could get one more question then, Madame Chair? Because we have heard Mr. Naughton, you have heard the back and forth over the impact of changing the discount rate.

It seems to me that changing the discount rate to one that may be overly optimistic to one that is realistic or whatever, however you change it, doesn’t change the amount of money you have in bank and the amount of promises you have made.

What would be the effect of not going to a more realistic discount rate even though it may trigger additional contributions? What would happen if you don’t have a realistic discount rate?

Mr. NAUGHTON. If you don’t have a realistic discount rate, then what you are essentially building into the system is the ability to promise new benefits that you do not fund. And to have the growth in existing benefits grow more rapidly than what you have on hand.

So if you look at the last 10 years, we have had a couple hundred billion dollar increase in the deficit. If we were to leave the contributions as is, base them on an unrealistic rate, then I would expect that trend would continue.

So, you know, it’s obviously, you know, very important that we protect the Mr. Morgan’s of today but if we don’t change the discount rate, we are essentially going to have more people in this situation 10 years from now.

Chairwoman WILSON. Thank you. I remind my colleagues that pursuant to committee practice, materials for submission for the hearing record must be submitted to the committee clerk within 14 days following the last day of the hearing, preferably in Microsoft Word format.

The material submitted must address the subject matter of the hearing. Only a member of the committee or an invited witness may submit materials for inclusion in the hearing record. Documents are limited to 50 pages each. Documents longer than 50 pages will be incorporated into the record via an internet link that you must provide to the committee clerk within the required timeframe. But please recognize that years from now, that link may no longer work.
Again, I want to thank the witnesses for their participation today. Thank you so very much. What we have heard is very valuable. Members of the committee may have some additional questions for you and we ask the witnesses to please respond to those questions in writing. The hearing record will be open for 14 days in order to receive those responses.

I remind my colleagues that pursuant to committee practices, witness questions for the hearing record must be submitted to the majority committee staff or committee clerk within 7 days. The questions submitted must address the subject matter of the hearing.

Before recognizing the ranking member for his closing statement, I ask unanimous consent to enter the following materials into the record. A letter from the Horizon Actuarial Services, a letter from several construction employers, a statement from a participant in the Western Conference of Teamsters Plan, a letter from the Multi-employer Pension Alliance. A letter from several labor unions and retiree organizations, a letter from the Pension Rights Center, a report from CRS on the cost of inaction. Another report from CRS on selected histories of government assistance to private companies. Without objection so ordered.

I now recognize the distinguished ranking remember for his closing statement, Mr. Walberg.

Mr. WALBERG. I thank you, Madame Chairman, and thank you for scheduling and holding this hearing as the, as I said before, the first one of this subcommittee. It is extremely important.

I remember going back to 2007 and talking to leadership of this committee about what I was hearing from my district, from Teamsters and other workers as well as small business people concerned about this very issue of multiemployer pension problem. I didn’t know what it was back then.

Subsequent to looking into it, I began to see that this indeed was a ticking time bomb. I was told back then oh, we will get to it. It is not a real problem for 15, 20 years. Well, we are there. We are there.

And while I applaud the efforts that we undertook in 2014 and what was done, it was not complete. And we have seen that. And we know that there are some other things we should have done but that is water under the bridge or seeping out of the hole that we have dug.

But what we have now is a challenge. So I am glad that we had this hearing. And I would hope that it would be only one of many meetings that we have that are substantial on this issue. I also hope that it will include all hands on deck, and thank you to the panel for being here.

You have been very helpful with practical experience as well as practical advice and realistic depression producing comments as well. But that ought to indicate that we need to get down to work. And so I would hope that all hands would be on deck from the industry that looks into this, oversees it, as well as the business community that is involved with it and is ultimately being hurt by it. And certainly the employees that see at this point in time little reason for expecting much for the future and the retirees who don’t
have much chance or choice to make something different for their expectations.

I would also ask that officials like a number of union officials who aren’t on the same pension plan that their membership is on that they engage as well for the best interests of the membership.

And I certainly ask, Madame Chairperson, that we as members of this subcommittee and Members of Congress deal with this in a realistic fashion.

And so I would end it by saying that in all of our deliberations, I hope we will promote reality. No pie in the sky stuff. Actual figures. Actuarials will do their job, get that information to us as realistic as possible that will have reality in what the deficit truly is. What the funding necessary for premium as well as benefit payments, what the reality is for the liabilities that are out there and who is liable, including the tax payer. The reality for the shared pain needed. Because I don’t think we can talk about this without assuming there will be shared pain in getting this done. And then also, Madame Chairperson, reality about the urgency of proper action.

And I think you and I understand that is not defined as political posturing. But proper urgent action to not let this thing go because of turf, because of jurisdiction, you name it. But this is something that is important to people. We are talking about people. Numbers are connected but we were talking about people.

And so I thank you again for this hearing and you have my commitment to do whatever is possible to achieve success for the people that we represent. I yield back.

Chairwoman WILSON. Thank you, Mr. Walberg. I appreciate all of your remarks and I am sure that the audience does and especially our witnesses. I now recognize myself for the purpose of making my closing statement.

Thank you again to all of our witnesses for your testimonies today. Thank you very much. Today we heard how Congress’s failure to address the multiemployer pension crisis will cause millions of retirees like Mr. Morgan to lose nearly all of their hard-earned pensions.

It will also harm active workers and cost the Federal Government hundreds of billions in lost tax revenue and added social safety net spending. We heard from Ms. Moorkamp and Mr. Spencer that this is a crisis that is not years in the future, it’s impacting businesses right now.

As our witnesses have made clear, Congress cannot afford to wait any longer. We must put aside our differences and act on a bipartisan solution to this crisis. A bipartisan solution like H.R. 397, The Rehabilitation for Multiemployer Pensions Act, which would help rescue failing multiemployer pension plans without cutting back benefits that retirees earned. Workers, retirees, employers and taxpayers deserve action on this issue and we must deliver for them in the weeks and months ahead.

The price tag on any legislative solution is likely to be significantly less than the cost of doing nothing.

I thank my colleague for a constructive first HELP Subcommittee hearing and I yield back my time. And thank you for participating.
If there is no further business, without objection, the committee stands adjourned.
I am a retiree of Teamsters Local 707 Pension Fund. I have lost 70% of my pension to date. I was promised this pension and paid into it by taking pay cuts that were part of my wage package and by giving up pay raises to make sure my pension was secure. I'm asking that the Health, Employment, Labor, and Pensions please select the HR-397 as the solution for the pension crisis. The 4500 members of my pension fund Local 707 have been suffering for three plus years with drastic cuts. In February 2016 my pension was reduced 50% and then in February 2017 it was cut another 20% for a total of 70%. Please get the HR-397 Rehabilitation for Multiemployer Pensions Act (Butch Lewis Act) passed as written. The Butch Lewis Act is not a government bailout; it helps all multi-employer pension funds including the Coal Miners, Iron Workers, and Carpenters.

Many of the retirees from my pension fund are losing their homes and can’t afford food and health care insurance. Many of the retirees, including myself, are veterans and many are disabled and are 70 and 80 years of age. Please don’t turn your back on the workers and veterans who have help build this country by working all their lives.

I am going to have to sell my home that I worked my whole life for, I’m not able to support my wife, and I am unable to live my retirement years as a self-supporting member of my community. Without my pension I’m living below poverty. My pension has already been cut from $2800 per month to $900 per month. I cannot afford to pay my property taxes, my medical insurance, and my medications, heat my home and buy food. No one can live on $900 from PBGC after they had made plans to have their full pensions that were earned and promised. Please include Road Carriers Local 707 in the solution to the pension crisis solution.

I was drafted into the Army and then worked my entire life so that I could retire with dignity and enjoy my retirement. I am now disabled and cannot work to make up the 70% of my pension that I have lost. I cannot enjoy my retirement years and spend time with family and friends because of the pension cuts I have taken. My wife and I have worked and planned all our lives to live near family so that in our retirement years we could enjoy and have family nearby if needed for health issues, but this too is threatened with these cuts. The stress caused by these cuts is unbearable to us at a time we should be enjoying the fruits of our long labor.

Above are just some of the things impacting the lives and health of myself and many of the families of Local 707—we are a prime example of how devastating this pension crisis has been to us and will be to others if all our pensions are not saved.

Thank you,
Douglas Rumsey
Teamsters Local 707
March 18, 2019

The Honorable Frederica Wilson
Chairman
Subcommittee on Health, Education, Labor and Pensions
House Committee on Education and the Workforce
2181 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tim Walberg
Ranking Member
Subcommittee on Health, Education, Labor and Pensions
House Committee on Education and the Workforce
2266 Rayburn House Office Building
Washington, D.C. 20515

DHL is a global leader in express delivery, logistics and supply chain management with a commitment to the transport of goods across the globe in a safe, efficient and environmentally sustainable manner. Currently, DHL provides employment for some 42,000 individuals across the US and over 500,000 people in 220 countries and territories worldwide.

DHL and other employers around the United States participate in multiemployer pension plans to provide retirement income for their unionized work force. These plans are jointly administered by a board of trustees made up of contributing employers and the unions. Today, there are about 1,400 active multiemployer pension plans that cover over 10 million workers. DHL contributes to over a dozen multiemployer plans on behalf of US based employees within multiple divisions.

The multiemployer pension system is comprised of a number of plans that are significantly underfunded. Plans designated by the government as “Critical and Declining Status” have approximately $100 billion in pension liabilities and only around $40 billion in pension assets. The result is that these funds are projected to be insolvent within the next several years.

A collapse of the multiemployer pension system could be catastrophic for the US economy, the Federal government, employers, employees, and retirees. If these plans become insolvent, the economic responsibility ultimately falls to the Pension Benefit Guaranty Corporation (PBGC).

However, The PBGC lacks the resources to address the funding crisis – the PBGC projected a $68.9 billion deficit in the multiemployer insurance fund (in FY 2017, the most recent year for which data is available) and an estimated insolvency of the PBGC multiemployer fund by the end of 2026. This could ultimately leave retirees with little to no pension at all.
Employers worry about substantially increased contributions, fund collapse, and triggered withdrawal liabilities, which could all be quite costly. However, small and medium sized employers that participate in multiemployer pension plans could be hit the hardest, facing withdrawal liabilities that are actually larger than the value of their companies leading them to bankruptcy.

DHL worries about the direct impacts on our operations, employees, and retirees as well as those of our customers and suppliers who participate in any multiemployer pension plan. While the exact amount of withdrawal liability is not assessed until after the plans have become insolvent, there is already a negative impact on how creditors view the creditworthiness of companies that have these potential withdrawal liabilities.

Further, employers involved in multiemployer pension plans are also falling behind in terms of competitiveness. Companies with multiemployer pension plans must cover the obligations not only for their own active workers and retirees but also the obligations of those employers that have gone out of business. This leaves companies paying much larger contributions into the plans for a smaller benefit and in turn leaves them at a disadvantage when they compete against employers that are not involved in any multiemployer pension plan system. Employers outside of the multiemployer pension system can offer higher cash salaries as opposed to a compensation package that includes a cash salary and a benefits package. Further, employees are more likely to choose higher salaries without any pension benefits when the status of the multiemployer pension plan system is uncertain.

The status of several multiemployer pension plans is dire, and it continues to degrade every day that the situation is not addressed. Today, the negative impact may be contained to the employers, active employees and retirees involved in the system, but the problem could expand to the wider economy as retirees lose their pension benefits, state and local communities lose tax revenue, pensioner are forced to seek assistance from the government and some companies are forced to go out of business which would leave even their non-union workers unemployed. We are asking Congress to urgently craft a comprehensive solution that addresses the issues related to the funding of the PBGC, the structural deficiencies of the multiemployer pension plan system and the shortfall between the unfunded liabilities and the assets held by the funds before it is too late.

Sincerely,

Robert Whitaker
Senior Vice President Corporate Finance

Chairman Wilson, Ranking Member Walberg and members of the Subcommittee, thank you for this opportunity to submit a statement for the record on behalf of The ERISA Industry Committee (ERIC) regarding the multiemployer pension crisis.

ERIC, the only national association that advocates exclusively for large employers on health, retirement, and compensation public policies at the federal, state, and local levels, calls on the Subcommittee and Congress to take immediate action to provide comprehensive reform to the multiemployer pension system to protect retirees, workers, and jobs. ERIC’s members are leaders in every industry sector and provide comprehensive retirement benefits, including multiemployer pension plan benefits, to tens of millions of active and retired workers and their families across the country. As such, ERIC has a strong interest in policies that impact the ongoing viability of the private retirement system.

The multiemployer pension system is a looming crisis that Congress needs to address immediately and comprehensively. The multiemployer system is underfunded by $36 billion dollars with 1.3 million workers at risk of losing their retirement benefits. Moreover, the backstop for multiemployer plans, the Pension Benefit Guaranty Corporation (“PBGC”), is predicting its insolvency by 2025 resulting in the loss millions of dollars in retirement benefits.

This crisis does not impact just participants or retirees- there will also be an adverse impact on employers in these plans. Because of the current rules, employers cannot leave these plans without paying large sums or claiming bankruptcy. Both of these results negatively impact the ability to provide jobs, make capital investments, and increase salaries.

There will not be any easy solutions to this crisis but, if nothing is done, the consequences will be devastating. Retiree benefits, future jobs, and businesses are at stake if a solution is not found. Therefore, it is essential to find a solution that restores the solvency of the multiemployer pension system while protecting the U.S. economy as soon as possible.

We look forward to working with all interested parties and Congress to find a solution that minimizes the negative impact of this crisis. Thank you for your consideration of our comments.

If ERIC can be of further assistance, please do not hesitate to contact Aliya Robinson, Senior Vice President for Retirement and Compensation Policy, at arobinson@eric.org or (202) 789-1400.
U.S. CHAMBER OF COMMERCE
Enterprise & Policy Center

THE MULTIEMPLOYER PENSION PLAN CRISIS:
BUSINESSES AND JOBS AT RISK
EXECUTIVE SUMMARY

Employers that are contributing to multiemployer pension plans entered into these agreements with the goal of providing competitive benefits and a secure retirement to their workers. However, many of these plans are now in jeopardy, with insufficient resources to pay promised benefits. This is a threat both to retirees and employers.

At the end of 2017, the U.S. Chamber of Commerce issued a report detailing the many factors that have led to the current multiemployer pension plan crisis. With the Joint Select Committee on Solvency of Multiemployer Pension Plans now considering solutions, the Chamber is issuing this new report to inform the Committee, and others, of the issues facing contributing employers and the potential consequences likely to befall these businesses should the plans they are funding become insolvent.

In many ways, this crisis has put the multiemployer system into uncharted waters. Although 72 multiemployer plans have gone insolvent to date, the sheer number and size of plans headed toward this fate during the next decade present the system with challenges of a size and scope never seen before.

But the threat to businesses has already begun to hit home. The potential fate of the multiemployer system has already begun to impact how they operate. As the financial conditions of multiemployer plans have deteriorated, required contributions have increased—often doubling or tripling within a space of only a couple of years. Despite these increased contributions, active workers are seeing a decrease in the accrual of benefits, which reduces the ability of a business to retain talent. Some employers who may wish to exit the multiemployer system are trapped, because withdrawal liability exceeds the value of their business. In addition, the potential for withdrawal liability is beginning to impact the ability of some employers to get and maintain credit.

Plan insolvency will obviously exacerbate the problems faced by contributing employers. If a plan goes insolvent but does not terminate, businesses could be required to pay contributions in perpetuity—meaning a permanent strain on their finances. However, if an insolvent plan does terminate, the financial situation for employers becomes even more drastic. Contributing employers could be assessed with immediate withdrawal liability; could be part of a mass termination; and/or could be subjected to minimum funding rules which would require even higher contributions and possible excise taxes. Any one of these scenarios could drive an employer into bankruptcy.

In addition to the threat of an individual plan becoming insolvent, there is a significant concern that such an outcome will cause other plans to fail—what is known as the “Contagion Effect.” The financial solvency of a number of multiemployer plans is dependent upon only one or two contributing employers, and these businesses also contribute to several other plans. If one plan failure causes a major contributing employer to be unable to make continued contributions to other plans, those plans could fail as well. Again, this is uncharted territory; however, it is reasonable to foresee that if a contributing employer becomes financially distressed by one plan failure, it would have a detrimental effect on the other plans to which that employer contributes.

It is important for those charged with finding a solution for the multiemployer funding crisis to understand the very real threats facing employers as well as retirees and taxpayers. The U.S. Chamber presents this report to help all interested parties understand the serious risks that the multiemployer pension crisis present to businesses, jobs, and retirement security.
THE MULTIEMPLOYER PENSION PLAN CRISIS: 
BUSINESSES AND JOBS AT RISK

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INTRODUCTION

The multiemployer pension plan system is in crisis and its potential collapse will have a catastrophic effect on participants and beneficiaries of multiemployer pension plans, contributing employers to such plans, and the U.S. economy in general. Retirees face the prospect of severely reduced benefits; current workers face the prospect of accruing little or no benefit for the contributions being made on their behalf; and many contributing employers face liabilities that far exceed the net worth of their companies. Making matters worse, the Pension Benefit Guarantee Corporation (PBGC), the federal corporation that insures private multiemployer plans, is itself projected to go insolvent by 2025.

According to the PBGC, approximately 130 multiemployer pension plans—including two of the largest plans—are in Critical and Declining Status, which means that they are projected to become insolvent within 15 years. While it is true that the vast majority of multiemployer pension plans are Green Zone plans—meaning they are not in distress status—it is equally true that the contributing employers to those plans are often the same contributing employers to the 130 Critical and Declining plans. If only a handful of those 130 plans become insolvent within the next 3–5 years—a very likely scenario—the contributing employers will face severe consequences, including the ultimate price of bankruptcy.

In enacting the Multiemployer Pension Reform Act of 2014 (MPRA), Congress focused on providing tools to plan trustees to avoid insolvency. Left unanswered was the question of what happens when there are large-scale plan insolvencies. Multiemployer plans, participants, and contributing employers are in uncharted waters when it comes to the issues confronting them today. The funding problems that currently exist are unprecedented in the more than 70 years that these plans have been in existence. While most of the focus, and rightly so, has been on the catastrophic effect pension plan insolvencies will have on plan participants and the communities in which they live, the employers that employ these participants (and in many cases, that employ many more people than just the plan participants) are at extreme risk of being put out of business. Whether they are required to contribute at exorbitantly high contribution rates in perpetuity to stave off withdrawal liability or plan termination, or whether they are forced to withdrawal by trustees and/or the PBGC, or whether they become required to make up a minimum funding deficiency, American business are in a precarious position.

CRITICAL ISSUES CURRENTLY FACING EMPLOYERS

Even before a plan reaches insolvency, there are critical issues that can plague contributing employers—many of which are adversely affecting the ability of employers to grow their businesses, expand their workforces, or pass on businesses to family.

Potential Withdrawal Liability Negatively Impacts Business Decisions. Withdrawal liability is not “booked” until there is a termination, or partial termination, of the plan. However, the Financial Accounting Standards Board (FASB) requires contributing employers to disclose certain information about the multiemployer pension plans in which they participate. As the depth of the multiemployer pension crisis is increasing, employers are finding that ordinary business activities are being affected by the fear of the potential for withdrawal liability. Even though the employers have not been assessed a withdrawal liability, some banks and lenders are
questioning these employers' creditworthiness, leading to less optimal lending rates or even denial of credit.

In other situations, certain employers have lost the opportunity to expand their business operations through mergers because other companies do not want to be associated with the potential for future withdrawal liability. Small family businesses are deciding to shut their doors, rather than pass the business down to heirs for fear of leaving them to pay a future withdrawal liability. All of these events result in lost business opportunities and fewer jobs.

Employers Are Facing Unexpected Partial Withdrawal Liability. To ensure employers that gradually reduce their contributions to a multiemployer plan do not escape withdrawal liability, ERISA has rules under which a partial cessation of the employer's obligation to contribute could trigger liability. A partial withdrawal occurs when there is:

- A decline of 70% or more in the employer's contribution base units; or
- A partial cessation of the employer's obligation to contribute.

Due to the declining number of union workers, there are businesses that have a dwindling union workforce. If the number of those employees declines by 70% or more or if an employer ceases to contribute for those employees at a facility that continues to operate, the employer can be assessed a partial withdrawal liability. The amount of liability for a partial withdrawal is based on the liability for a complete withdrawal liability, calculated under a formula in the law. Because of the amount of some plans' unfunded liabilities, the partial withdrawal liability can be high enough to impact the ability of an employer to efficiently run a business and can put a small employer out of business completely.

High Contribution Rates Thwart Employee Retention. Owing to increased liabilities, employers are faced with increasing contributions. There are some employers paying $15.00 or more per hour to plans for every hour an employee works. Because of the unfunded liabilities associated with bankrupted contributing employers, employees understand that they are never going to receive a benefit that is commensurate with the contribution rate the employer is paying. This provides a disincentive for the employee to stay with the employer. Employee retention problems threaten an employer's competitiveness. Furthermore, if enough employees leave, and the employer cannot replace them, it can lead to a partial or complete withdrawal.

CRITICAL ISSUES FACING EMPLOYERS DURING A PLAN INSOLVENCY

Most of the discussion involving the consequences of multiemployer pension plan insolvency has focused on what will happen to retirees when some of the larger multiemployer plans become insolvent and can no longer pay promised benefits. While there is no doubt that widespread multiemployer pension plan insolvencies will have disastrous consequences for retirees and will negatively affect the communities in which they live, insolvencies also pose severe risks to the continued viability of contributing employers. Skyrocketing pension costs have already made it difficult for employers in some industries to compete. An onslaught of pension plan insolvencies would likely lead to employers filing bankruptcy and/or dissolving. Many of these companies employ union and nonunion workforces. When these employers shut down because of multiemployer pension plan costs, all employees' jobs are threatened—not just those employees who participate in multiemployer pension plans.
The Credit of Employers, Particularly Small Employers, Could Be Impacted by the Insolvency of a Systemically Important Plan. There are current consequences, short of bankruptcy, that contributing employers could face. Of primary concern are the consequences of the insolvency of a systemically important plan. For purposes of approving a benefit suspension, MPRA established a new category of multiemployer plans—systemically important—that was formally defined as those plans the PBGC determines as having a present value of projected financial assistance payments exceeding $1 billion if benefit suspensions were not implemented.6

Less formally, a systemically important plan is viewed as a plan that poses a system-wide risk if allowed to become insolvent. Since passage of MPRA, no systemically important plan has gone insolvent. Yet several plans—including Central States—are in Critical and Declining status, meaning that they are projected to become insolvent within 15 years. The financial markets and other lenders may be willing to accept withdrawal liability risk from relatively small multiemployer plans that are currently insolvent, but it is highly unlikely they will accept such risk from an insolvent systemically important plan like Central States.

Nine out of 10 contributing employers to Central States are small businesses with fewer than 50 employees. It is highly probable that the overwhelming majority of these businesses have lines of credit or other capital debt predicated on maintaining asset/liability ratios that would be violated following a Central States insolvency.

Ongoing Contributions to an Insolvent Pension Plan Can Impose Insurmountable Financial Burdens on Contributing Employers. A misconception exists on the part of some that when a multiemployer plan becomes insolvent, the PBGC takes over administration of the plan or that the plan is terminated. While the PBGC does take over insolvent single employer plans, it does not take over the administration of multiemployer plans. When a multiemployer plan becomes insolvent, the plan continues to operate and be administered by the plan’s trustees. If the plan is not terminated,7 it continues collecting employer contributions and paying pension benefits at a reduced level. After insolvency, employers will continue to have an obligation to contribute to the plan at the collectively bargained rate, consistent with the rehabilitation plan. Active employees of contributing employers will continue to earn pension credit. The PBGC provides financial assistance to the multiemployer plan in the form of a loan. The plan’s trustees are required to sign a promissory note and a security agreement giving the PBGC a security interest in all plan assets, which generally includes all employer contributions.

The continuation of employer contributions allows the employer to avoid paying withdrawal liability. Additionally, the contributions are usually being made consistent with the terms of the plan’s rehabilitation plan. This is important because so long as the plan’s trustees continue to comply with the rehabilitation plan, the minimum funding requirements of ERISA and the Internal Revenue Code (Code) do not apply.8 Avoiding minimum funding and withdrawal liability is critical for most employers if they have any hope of staying in business.

Nevertheless, the contribution rates that many employers are paying into multiemployer plans are exorbitantly high because the contribution rates for the last several years have been imposed by the plan’s trustees via rehabilitation plans. Rehabilitation plans are designed to have the plan emerge from critical status or forestall possible insolvency and therefore require significantly higher contributions than what had previously been required. Most current contribution rates for plans facing impending insolvency have not been established through traditional collective bargaining between the union and the employer. While most employers
would rather absorb the higher contribution rates than incur withdrawal liability in the near term, the long-term effect of the high rates is that they make the employer less competitive. For example, higher pension costs are ultimately passed on to customers, who may look elsewhere to do business.

Another problem for employers that contribute to insolvent plans is that the exorbitantly high contribution rates make it harder to retain employees. Employees know what the contribution rates are, and they know they are not receiving any additional benefit accruals because of those rates. In fact, the exorbitant pension contribution rates cause wage stagnation, or even reduction, because the employer cannot afford to pay both pension and wage increases. While active employees already are concerned about future benefit accruals, once a plan is insolvent, the maximum benefit the worker can receive is the PBGC guaranteed benefit. Employers are essentially paying contributions into a “black hole.” Employees understand that they are never going to receive a benefit that is commensurate with the contribution rate the employer is paying. Consequently, there is no incentive for the employee to stay with the employer.

While continuing to pay contributions in an insolvent plan may save an employer from short-term economic disaster, it is doubtful that employers can endure such high pension contribution rates over the long term. It is likely that plan insolvency will lead to employers going out of business, filing for bankruptcy, or both. It is just a matter of time.

Employers May Not Be Able to Avoid Withdrawal Liability. While continuing to contribute to an insolvent plan will generally allow an employer to avoid the imposition of withdrawal liability, there are scenarios where withdrawal liability can be imposed despite the employer’s intention to remain a contributing employer to the plan. The issue is problematic for employers because they have no control over the withdrawal.

To avoid bankruptcy and continue to retain and pay their employees, employers may try to negotiate lower contribution rates after the PBGC has begun to provide financial assistance. This would allow the employer to potentially reduce its pension costs and/or pay a portion of what otherwise would be paid into a “black hole” into another benefit plan for its employees or directly to the employee in the form of wages. Since employers are generally paying contributions pursuant to a rehabilitation plan even post-insolvency (complying with the terms of a rehabilitation plan likely prevents the employer from being subject to the minimum funding requirements), employers would have to get the plan’s trustees to agree to accept the lower rate. This would require the trustees to amend the rehabilitation plan in most cases. If the trustees reject the lower contribution rate, the employer must either continue contributing at the higher rehabilitation plan rate or risk the plan’s trustees rejecting the employer’s continued participation in the plan. If the trustees reject the employer’s continued participation, the employer will incur withdrawal liability. Given the choice between a forced withdrawal and the assessment of withdrawal liability, most employers will choose to continue to pay the higher contribution rate.

Even if the plan’s trustees are inclined to accept a lower contribution rate, it is possible that the PBGC would object to a decrease in the contribution rate. Although the PBGC does not get involved or weigh in on labor-management negotiations, the PBGC is a secured party in all assets of an insolvent plan. Because employer contributions are part of the plan’s assets, the PBGC could take the position that a reduction in the contribution rate constitutes a diminution in
the collateral in which it is secured. Additionally, the PBGC has the authority under the
insolvency provisions of ERISA to provide financial assistance under conditions the PBGC
determines are “equitable and are appropriate to prevent unreasonable loss to” the [PBGC] with
respect to the Plan.”10 Although the PBGC has not yet opined on a post-insolvency employer
collection rate decrease, the statutory language arguably gives the PBGC the authority to do so. If the PBGC advises plan trustees that PBGC-provided financial assistance will be withheld if
the trustees accept a lower contribution rate, it is an absolute certainty that the trustees will reject
the lower rate.

If an employer cannot negotiate a lower contribution rate but agrees to continue paying at
whatever exorbitant rate is in effect, the employer can still find itself subject to a withdrawal
liability assessment. As discussed earlier, an employer that is contributing to an insolvent
multiemployer plan is generally paying a fairly high contribution rate. The employees on whom
the employer is contributing are not earning any benefit or at least will not accrue more than the
PBGC guarantee. Employees who know that their employers are paying $15.00 or more per hour
into a pension plan for which the employee perceives they are not receiving any benefit is likely
to leave that employer. It will be hard for the employer to attract new employees to replace the
departing employee for the same reasons. If all the employees working under the collective
bargaining agreement leave, the employer will have essentially ceased operations under the plan,
and withdrawal liability, or at least a partial withdrawal liability, could be assessed.11

A Mass Withdrawal Substantially Increases Expected Withdrawal Liability and
Can Push an Employer Into Bankruptcy. The previous examples in this report describe
scenarios where an employer wants to stay in the plan but still incurs an unwanted or unplanned
withdrawal. Some employers may do a cost-benefit analysis and determine that exiting an
insolvent plan and paying their current withdrawal liability is less risky than remaining in the
plan and continuing to pay exorbitant contribution rates in perpetuity. However, employers that
leave an insolvent plan are exposed to a greater risk of unintentionally being part of a mass
withdrawal. In general, withdrawal liability payments are limited to 20 years; however, this cap
does not apply to mass withdrawal liability. And employers with mass withdrawal liability are
often required to pay withdrawal liability over a period that is longer than 20 years.12

A mass withdrawal occurs upon withdrawal of every employer from the plan, the
cessation of the obligation of all employers to contribute to the plan,13 or the withdrawal of
substantially all employers pursuant to an agreement or arrangement to withdraw from the plan.14
Employers that withdraw during a period of three consecutive years within which substantially
all employers that have an obligation to contribute to the plan are presumed to have withdrawn
due to an agreement or arrangement.15 Therefore, an employer that intentionally withdraws from
a plan and intends to pay its calculated withdrawal liability could become part of a mass
withdrawal if substantially all of the other employers that contribute to the plan withdraw within
the three-year period before or after the employer withdraws. The employer that intends to
withdraw has no control over what other employers do. The fact that the plan is insolvent and
participants are not receiving any benefit beyond the PBGC guaranteed amount makes it more
likely that a mass withdrawal may occur than if a planned withdrawal is made from a financially
healthy plan.

The danger of being part of a mass withdrawal is that it can require an employer to pay
much more in withdrawal liability than it would under a standard withdrawal. In a mass
withdrawal, employers are subject to reallocation liability. Reallocation liability means that the
plan’s full cost of all unfunded vested benefits is allocated among all withdrawing employers. In
a mass withdrawal, the withdrawal liability is calculated using PBGC interest rates that are often
lower than the rates used by the plan in a standard withdrawal, which results in a higher
liability. 16

Reallocation liability can significantly increase the amount of the plan’s unfunded liability that is allocated to an employer. In addition, the 20-year cap applicable in a standard withdrawal does not apply to mass withdrawal liability. This could result in some employers having to pay withdrawal liability for a period longer than 20 years. In situations where an employer’s annual payments are not high enough to amortize the full liability, the employer theoretically has to pay forever.

An employer that makes a business decision to withdraw from a plan and pay its withdrawal liability could end up in bankruptcy if a mass withdrawal occurs within the three-year period after the employer withdraws. For employers that make up a large percentage of a plan’s contribution base, the risk of a mass withdrawal occurring is greater because once smaller employers find out that the largest employer is leaving, the smaller employers might be incentivized to leave too so that they are not the "last man standing."17

Plan Termination Could Result in the Reinstatement of Minimum Funding Rules and Excise Taxes. Multi employer plans are generally subject to minimum funding standards. 18 If the employers do not make the contribution necessary to balance the funding standard account, the plan has a minimum funding deficiency, and contributing employers can be assessed excise taxes on top of having to make up the deficiency. The initial tax is 5% of the funding deficiency. 19 If the funding deficiency is not cured within the taxable period, the excise tax is 100% of the funding deficiency. 20

The Pension Protection Act of 2006 (PPA) changed the general funding rules for financially troubled multiemployer plans. Plans that are certified as being in critical status are allowed to have minimum funding deficiencies without the employers having to make up the deficiency within the taxable year or paying excise taxes if certain conditions are satisfied. 21 One such condition is that trustees of plans in critical status are required to adopt a rehabilitation plan. A rehabilitation plan is one that consists of a list of options, or range of options, for the trustees to propose to the bargaining parties, formulated to provide, based on anticipated experience and reasonable actuarial assumptions, for the plan to cease to be in critical status by the end of the rehabilitation period (generally 10 years). The rehabilitation plan may include reductions in plan expenditures, reductions in future benefit accruals, or increases in contributions, or any combination of such actions. The rehabilitation plan must be updated annually and the plan must show that it is making scheduled progress toward emerging from critical status. If the trustees determine that, based on reasonable actuarial assumptions, the plan cannot reasonably be expected to emerge from critical status by the end of the rehabilitation period, the plan must include reasonable measures to emerge from critical status at a later time or to forestall possible insolvency. 22

Thus far, plans that have become insolvent have not terminated, and because employers continue to contribute to the plan in accordance with the rehabilitation plan, the minimum funding rules do not appear to automatically apply just because a plan becomes insolvent. There are situations, nonetheless, where it appears that a contributing employer to an insolvent plan could be required to make up a plan’s minimum funding deficiency and/or be assessed an excise
tax. Although this has not happened yet, the risk of it happening increases as the insolvency date of the PBGC gets closer. An insolvent PBGC leaves insolvent plans with no other funding source other than contributing employers. When the PBGC can no longer pay the guaranteed benefit, employers could be required to fund the benefits that PBGC previously paid.

One scenario that poses a risk to employers as plans and the PBGC go insolvent is the requirement that a plan’s rehabilitation plan must satisfy certain Code provisions. If a multiemployer plan fails to make scheduled progress under the rehabilitation plan for three consecutive plan years or fails to meet the requirements applicable to plans in critical status by the end of the rehabilitation period, for excise tax purposes, the plan is treated as having a funding deficiency equal to (1) the amount of the contributions necessary to leave critical status or make scheduled progress or (2) the plan’s actual funding deficiency if any.23

It is possible that the IRS could take a more aggressive approach in assessing excise taxes when the PBGC can no longer provide a backstop for insolvent plans. This is troubling because employers have no control over whether the rehabilitation plan satisfies the requirements of the Internal Revenue Code. Nor do they have any control over the actuarial certification. This means that an employer that continues to make contributions in accordance with its rehabilitation plan post-insolvency can still be required to make up a funding deficiency and pay an assessed excise tax. Because the funding deficiencies of most insolvent plans are large, this requirement would effectively put the employer out of business.

Another complication for employers is the broad authority that the PBGC wields over an insolvent plan. As noted previously, PBGC has the authority under the insolvency provisions of ERISA to provide financial assistance under conditions that the PBGC determines are “equitable and are appropriate to prevent unreasonable loss” to the [PBGC] with respect to the plan.24 Accordingly, if the PBGC determines that the continued operation of the plan somehow poses a financial risk to it, the PBGC could impose as a condition of providing financial assistance that the plan be terminated. There are three ways a multiemployer plan can be terminated: (1) by mass withdrawal, (2) by converting the plan to an individual account plan, (3) or by amending the plan to provide that participants will not receive credit for any purpose under the plan for service with any employer after the date specified in the amendment. While ERISA provides that minimum funding does not apply to a plan that terminates by mass withdrawal, there is no such provision relating to termination by plan amendment. While the PBGC has opined that insolvent plans will continue to operate, there appears to be at least a statutory mechanism through which a plan can be terminated without consent of the employer or even the trustees. If such a scenario were to arise, many employers would be forced out of business.

THE CONTAGION EFFECT

Many employers contribute to more than one multiemployer plan. That is because they have regional or national operations, or because they employ people who work in multiple industries or trades. There is a valid concern that the failure of a multiemployer plan, particularly a large plan, could cause other plans to go insolvent. For example, if any of the scenarios described in this paper were to come to fruition, and employers were assessed withdrawal liability, a minimum funding deficiency and/or an excise tax, it could cause the employer to go out of business. If such an employer contributes to one or more other plans, then it would likely be unable to continue contributing to the other plans. If the employer is the major contributing
employer to these plans, all the plans to which the employer contributes would be in jeopardy. To date, no extremely large plan has gone insolvent, but there are several that are projected to go insolvent within the next 5 to 10 years.

Moreover, many Critical and Declining Status plans are dependent on a very small number of employers to provide a disproportionate share of the contributions being made to the plans. For instance, in the UMW 1974 Pension Plan, there are currently 10 contributing employers with approximately 97% of the contributions derived from two controlled groups of signatory companies. For the New York State Teamsters Conference Pension and Retirement Fund, there are 156 contributing employers with approximately 83% of the contributions derived from two companies. For the Local 707 Teamster Pension Fund, there are 8 remaining contributing entities with 84% of the contributions coming from 2 companies. For the Tri-State Pension Plan, there are 9 contributing employers with one controlled group entity accounting for 95% of the contributions.

Taken together, these factors pose a dual risk. If a large, systemically important plan were to become insolvent, it has the potential to adversely impact the contributing employers and their participation in other plans. Conversely, if one of the large employers were to exit one of the plans mentioned here, it would significantly and negatively impact the plan, the remaining contributing employers, and ultimately the beneficiaries.

CONCLUSION

The multiemployer pension plan crisis puts businesses and jobs at significant risk. Under current rules, employers cannot leave these plans without paying large sums or claiming bankruptcy. At the same time, ongoing contributions to plans that are not able to provide promised benefits is an untenable financial situation for many employers, and plan terminations threaten to bankrupt many contributing employers. All these situations negatively impact the ability to provide jobs, make capital investments, and increase salaries. Congress must find a solution to avoid the most devastating effects of this multiemployer pension crisis.
1. The amount of employer contributions made to each significant plan and to all plans in the aggregate.
2. An indication of whether the employer’s contributions represent more than five percent of total contributions to the plan.
3. An indication of which plans, if any, are subject to a funding improvement plan.
4. The expiration date(s) of collective bargaining agreement(s) and any minimum funding arrangements.
5. The most recent certified funded status of the plan, as determined by the plan’s so-called “zone status,” which is required by the Pension Protection Act of 2006.
6. A description of the nature and effect of any changes affecting comparability for each period in which a statement of income is presented.


6 IRC § 432.
7 A discussion of plan termination upon insolvency is discussed later in the paper.
8 Although the general funding rules do not apply to plans that have adopted and comply with the terms of a rehabilitation plan, there are differing interpretations of how insolvency affects the ability to comply with a rehabilitation plan.
9 Negotiating lower contribution rates is not always possible because doing so would likely require the approval of entities other than the employer and the union.
10 ERISA § 4261(b)(1).
11 ERISA § 4203(a)(2).
12 ERISA § 4219.
13 ERISA § 4041A(a)(1)(2).
14 29 C.F.R. § 4001.2.
15 The presumption can be rebutted by the employer.
16 ERISA § 4219.
17 Every employer in a multiemployer pension plan is responsible for all pension liabilities of every other employer in the plan. Thus, employers that withdraw from the plan without paying their withdrawal liability leave their liabilities behind for those still left in the plan—thus, this is referred to as the “last man standing.”
18 ERISA and the Code’s minimum funding rules require multiemployer plans to maintain a funding standard account. The funding standard account gets debited for charges related to benefit accruals, investment losses and other negative plan experience. Credits are given for employer contributions, investment gains, and other positive plan experience. The minimum required contribution to a multiemployer plan is the amount needed, if any, to balance the accumulated credits and accumulated debits to the funding standard account. If the debits exceed the credits, there is a negative balance, and
contributing employers must pay the amount necessary to balance the account. ERISA §§ 302 and 304; IRC §§ 412 and 431.

IRC §4971(b)(2). A multiemployer plan can apply for a minimum funding waiver from the IRS. However, the IRS cannot waive the minimum funding standard for more than 5 of any 15 consecutive plan years. There are also procedures for employers to apply for a waiver of the 100% excise tax, but the IRS will not appear to waive the 5% excise tax. ERISA § 302(c).

ERISA §302(a)(3). A plan is in critical status if it (1) is less than 65% funded and will either have a minimum funding deficiency in five years or be insolvent in 7 years; or (2) will have a funding deficiency in four years; or (3) will be insolvent in five years; or (4) liabilities for inactive participants is greater than the liability for active participants, contributions are less than the plan’s normal cost, and there is an expected funding deficiency in five years. ERISA §305(b)(2).

IRC §432.

Plans may apply for a waiver if the failure is due to reasonable cause and not willful neglect. ERISA §4261(b).
The U.S. Chamber of Commerce is the world's largest business federation representing the interests of more than 3 million businesses of all sizes, sectors, and regions, as well as state and local chambers and industry associations.

The Chamber appreciates the contribution of Morgan, Lewis, & Bockius, LLP in the writing of this report.
March 20, 2019

Ms. Mariah Becker
Director of Research and Education
National Coordinating Committee for Multiemployer Plans (NCCMP)
815 16th Street, NW
Washington, D.C. 20006

Dear Ms. Becker:

I would like to thank you for testifying at the March 7, 2019, Subcommittee on Health, Education, Labor, and Pensions hearing on "The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis."

Please find enclosed additional questions submitted by Committee members following the hearing. Please provide a written response no later than Friday, March 29, 2019, for inclusion in the official hearing record. Your responses should be sent to Kevin McDermott of the Committee staff. He can be contacted at the main number 202-225-3725 should you have any questions.

We appreciate your time and continued contribution to the work of the Committee.

Sincerely,

ROBERT C. "BOBBY" SCOTT
Chairman

Enclosure
Chairwoman Frederica S. Wilson (FL)

1. Have the changes to single employer plan funding rules, including the use of corporate bond rates to discount liabilities, under the Pension Protection Act of 2006 resulted in greater retirement security for participants of single employer plans?

2. Are the funding and measurement rules adequate for multiemployer plans?

3. Some have suggested that the expected rate of return for investments by multiemployer plans is unrealistic. Is this true? What is the historical performance of a balanced portfolio of equities and fixed income?

4. What is the argument to use the Treasury rate to discount the liabilities of multiemployer pensions?

5. Please explain how federal laws, regulations, and policies have impacted the financial condition of multiemployer plans today and whether these impacted single employer plans differently.

6. Is it common for pension funds, mutual funds, IRA’s, 401K’s, private equity funds, insurance companies, and other investment funds to invest in equities and other “risky” assets as part of diversified portfolios?

7. How do asset allocations in multiemployer pension plans compare to 401(k) allocations? How do they compare to allocations in “target date funds”?

8. What is the actual performance of 401K’s as a provider of lifetime retirement income?

9. Would a variable rate PBGC premium be appropriate for multiemployer pension plans?

10. Dr. Naughton recommends that multiemployer plans should purchase annuity contracts for their participants to provide retirement benefits. Please discuss this concept and its implications, where it has been adopted and successful, and the support that this idea has in the financial markets and among investment professionals.

11. Is the market for group annuities deep and liquid? What are the principal reasons for defined benefit pensions to annuitize their obligations?

12. Are the insurance companies that sell annuities risk-free?

13. How are the level of contributions to multiemployer plans determined? Is it typical for bargaining parties to contribute only the minimum required contribution?

14. Dr. Blahous testified that “Ergo, a payment that is fully guaranteed and risk-free should be discounted at a Treasury bond rate” and that “economists broadly agree that payment obligations should be discounted according to their risk of non-payment.” What are the logical implications of his testimony for multiemployer pension liabilities?
March 20, 2019

Mr. Charles Blahous, Ph.D.
J. Fish and Lillian F. Smith Chair and Senior Research Strategist
Mercatus Center at George Mason University
434 Washington Blvd, 4th Floor
Arlington, VA 22201

Dear Dr. Blahous:

I would like to thank you for testifying at the March 7, 2019, Health, Employment, Labor, and Pensions Subcommittee Hearing “Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis.”

Please find enclosed additional questions submitted by Committee members following the hearing. Please provide a written response no later Friday, March 29, 2019, for inclusion in the official hearing record. Your response should be sent to Daniel Foster or Carrie Hughes of the Committee staff. They can be contacted at 202-225-3725 should you have any questions.

We appreciate your time and continued contribution to the work of the Committee.

Sincerely,

ROBERT C. “BOBBY” SCOTT
Chairman

Enclosure
Health, Employment, Labor, and Pensions Subcommittee Hearing
“Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis”
Wednesday, March 7, 2019
10:15 a.m.

Ranking Member Virginia Foxx (NC)

1. Dr. Blahous, it is clear that federal action is needed to shore up the Pension Benefit Guaranty Corporation and to support stable plans that will provide secure retirement benefits to multiemployer plan participants in the future. Following up on your answer to my last question, what government interventions, other than requiring a taxpayer financed loan program, would be appropriate for Congress to consider in addressing the dire predicament facing the multiemployer pension system?

2. Dr. Blahous, is there a history of providing loans to failed plans in the multiemployer system? If so, what types of loans have been offered and has this approach been effective at promoting healthy and self-sufficient plans?

3. Dr. Blahous and Dr. Naughton, we heard from Ms. Becker that requiring multiemployer plans to use more realistic actuarial assumptions, like those used by single-employer plans, would “drive many of the plans that are currently in good financial health into one of the [hazard] zones, and into poor financial health.” Do you agree that changing actuarial assumptions used by multiemployer plans would make the problem worse?
March 20, 2019

Mr. James Naughton, Ph.D.
Assistant Professor of Accounting Information & Management
Kellogg School of Management at Northwestern University
2211 Campus Drive, Room 4445
Evanston, IL 60208

Dear Professor Naughton:

I would like to thank you for testifying at the March 7, 2019, Health, Employment, Labor, and Pensions Subcommittee Hearing “Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis.”

Please find enclosed additional questions submitted by Committee members following the hearing. Please provide a written response no later Friday, March 29, 2019, for inclusion in the official hearing record. Your response should be sent to Kevin McDermott of the Committee staff. They can be contacted at 202-225-3725 should you have any questions.

We appreciate your time and continued contribution to the work of the Committee.

Sincerely,

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ROBERT C. “BOBBY” SCOTT
Chairman

Enclosure
1. Dr. Blahous and Dr. Naughton, we heard from Ms. Becker that requiring multiemployer plans to use more realistic actuarial assumptions, like those used by single-employer plans, would “drive many of the plans that are currently in good financial health into one of the [hazard] zones, and into poor financial health.” Do you agree that changing actuarial assumptions used by multiemployer plans would make the problem worse?
March 20, 2019

Mr. Joshua Shapiro
Vice President, Pensions
American Academy of Actuaries
1850 M Street, NW, Suite 300
Washington D.C. 20036

Dear Mr. Shapiro:

I would like to thank you for testifying at the March 7, 2019, Subcommittee on Health, Education, Labor, and Pensions hearing on “The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis.”

Please find enclosed additional questions submitted by Committee members following the hearing. Please provide a written response no later Friday, March 29, 2019, for inclusion in the official hearing record. Your responses should be sent to Kevin McDermott of the Committee staff. He can be contacted at the main number 202-225-3725 should you have any questions.

We appreciate your time and continued contribution to the work of the Committee.

Sincerely,

[Signature]

ROBERT C. “BOBBY” SCOTT
Chairman

Enclosure
Chairwoman Frederica S. Wilson (FL)

1. Have the changes to single employer plan funding rules, including the use of market rates to discount liabilities, under the Pension Protection Act of 2006 resulted in greater retirement security for participants of single employer plans?

2. How do multiemployer actuaries set the discount rate for multiemployer plan liabilities for funding purposes?
   a. What goes into that determination?
   b. Does that approach comply with actuarial standards of practice in the US?

3. Dr. Naughton indicated that multiemployer plans have not collected “actuarially sound” contributions from contributing employers.
   a. What does that mean?
   b. Is the system itself sound?
   c. What should Congress consider to improve the viability of the system?
1. Have the changes to single employer plan funding rules, including the use of corporate bond rates to discount liabilities, under the Pension Protection Act of 2006 resulted in greater retirement security for participants of single employer plans?

No. The changes to single employer funding rules under the Pension Protection Act of 2006 (PPA '06) have not resulted in greater retirement security for participants. In fact, while the funded level of the few single-employer plans remaining today is strong, the number of plans and the amount of retirement security they afford their participants has fallen precipitously. The laws, regulations, Pension Benefit Guaranty Corporation (PBGC) premiums, and funding requirements established for single employer plans by the PPA'06 as well as the numerous changes that Financial Accounting Standards Board (FASB) has made to pension accounting standards since the mid-1980’s have had a significant negative impact on the economic viability of single-employer defined benefit pension plans for employers. The PBGC data shows that since the passage of the Employee Retirement Income Security Act of 1974 (ERISA), 87% of single employer defined benefit plans no longer exist, either through standard terminations or distressed trustee terminations. Additionally, 8,285 plans have accrual or participation freezes, leaving 14,048 open insured single-employer plans. The laws, regulations and rules governing single-employer defined benefit plans have clearly incented employers to terminate their defined benefit plans, discouraged employers from offering a defined benefit pension, and has led to weakening of the retirement security for working Americans.
2. Are the funding and measurement rules adequate for multiemployer plans?

Yes. For the vast majority of multiemployer plans today that are healthy and are succeeding in their mission to provide secure and reliable lifetime income to their participants, the current funding and measurement rules for multiemployer plans are adequate. Currently 90% of multiemployer plans are not in critical and declining status. 65% of plans are currently in the Green Zone, and 28% of plans are currently funded at more than 100%\(^1\). As this crisis is addressed, it is vitally important that care is taken to preserve and protect the majority of plans that are currently in solid financial health. Multiemployer plans play a vital role in providing modest but essential lifetime retirement income to approximately 10.4 million American workers. These pension benefits, in combination with personal savings and Social Security, allow these working-class Americans to retire with dignity.

If multiemployer funding rules are to be modified, it would be appropriate to add additional tools that would allow multiemployer plan Trustees to further proactively manage their plans to address any funding challenges that should arise. Multiemployer plans have always managed plan funding through a combination of negotiating additional contributions and adjusting future accruals. The PPA’06 introduced new tools for plans that were in critical status. Since PPA’06, Trustees have used those tools, in combination with negotiating yet further increases in contributions, to respond to the market crash in 2008 and the Great Recession that followed.

According to Segal Consulting’s fall “2018 Study of Multiemployer Plans in the Red Zone,” multiemployer plans in critical status have increased their contributions by more than 75% in the last 10 years\(^2\). Trustees have also used the additional tools granted by PPA’06 as part of rehabilitation plans to improve plan funding. According to the same data study, adjustable benefits for non-retired participants of most critical status plans were reduced by 10%-14%. Adjustable benefits of critical and declining status plans were reduced by 15%-20%. When Trustees have had tools available to them, they have used them. Additional tools earlier in the process will allow Trustees to manage plans even more proactively.

3. Some have suggested that the expected rate of return for investments by multiemployer plans is unrealistic. Is this true? What is the historical performance of a balanced portfolio of equities and fixed income?

No, it is not true that the expected rate of return for investments is unrealistic. Actuaries are guided by Actuarial Standards that relate to consideration of investment return expectations for each component of a plan’s asset allocation, looking to long-term forecasts of investment professionals, as well as past experience.

For multiemployer pension plans, the actuarial valuation interest rate assumption usually represents the expected annualized investment return based on the plan’s asset allocation. For purposes of determining funding requirements for an ongoing, healthy plan, actuaries generally...
use a long-term horizon in developing this assumption; for example, the assumption represents the forward-looking expected return on plan assets over the lifetime of the plan, taking into account the timing of when benefits are expected to be paid.

Typically, this means that actuaries consider the expected rate of return over next 20 or 30 years, as investment professionals are unable to supply capital market expectations over longer timeframes. Based on publicly-available data from the U.S. Department of Labor’s Form 5500, in approximately 75% of multiemployer plans, the actuary’s used an investment return assumption between 7.0% and 7.5%. As the chart below demonstrates, the actual investment returns over rolling 30-year periods have consistently exceeded the high-end benchmark investment return assumption of 7.5%. For simplicity, these returns are based on a 50/50 blend of S&P 500 and bond market indices. When focused on a shorter-term, rolling 10-year periods, actual returns have exceeded a 7.5% benchmark except in the years following 2008. The 10-year return for the period from 1/1/2008 through 12/31/2017 was 6.5%. However, as noted earlier, actuaries for ongoing, healthy plans look to longer investment horizons when developing the actuarial rate of return assumption. If these projections change or the asset allocation changes, the discount rate used will also change.

Annualized Investment Returns
Based on 50/50 S&P 500 and Bond Market Indexed Returns

3 Form 5500 data for plan years ending in 2016.
4. What is the argument to use the Treasury rate to discount the liabilities of multiemployer pensions?

The purpose of discounting in finance is to value an asset or liability based on the level of risk involved in that asset or liability. For example, if a beneficiary is expected to receive a stream of risk-free payments from the U.S. Government, which could be in the form of cash received from redeemed Treasury securities or Social Security payments, then the appropriate discount rate would be the relevant Treasury rate for a given maturity.

However, as we know, multiemployer pensions are not risk-free obligations of the PBGC, the U.S. Government, or of plan sponsors, and therefore there is no fact-based rationale or credible investment theory to use the Treasury rate to discount these liabilities.

Those who have advocated for the Treasury rate often cite the financial economist Jeremy Gold for their position. However, in his article “Fair Value of Liabilities: The Financial Economics Perspective”⁴, Gold says that

“there are at least three theoretically correct methods for estimating the value of a series of (potentially risky) future cash flows. (1) Discount the true probability-weighted future cash flows using discount rates that are the sum of a risk-free rate and a risk premium. (2) Modify the probabilities of the risky future cash flows to account for risk and discount at risk-free rates. (3) Modify the risky cash flows to account for risk and discount at risk-free rates.” [Emphasis added]

In order to translate the practical meaning of Gold’s position, one must understand the actual payment risk involved in multiemployer pensions. Here, we must examine the current risk of non-payment inherent in multiemployer pension plans and to their participants under current law.

For those plans heading toward insolvency, the Multiemployer Pension Reform Act of 2014 (“MPRA”) provided plans with the statutory authority to seek approval from the U.S. Department of Treasury to suspend accrued benefits, if this is the only course of action that would enable the plan to restore solvency. Based on a review of MPRA applications, the average benefit reduction was 36%.

However, if the Trustees of plans heading toward insolvency are either statutorily barred from seeking a MPRA benefit suspension, or do not do so, when the plan goes insolvent, it receives financial assistance from PBGC in an amount up to the PBGC maximum guarantee benefit amount as applied to each participant and beneficiary. Participants’ and beneficiaries’ contractual benefits are reduced to conform to the PBGC maximum guarantee amount, which in the multiemployer program will result in an average reduction of 53% from their contractual

benefit, until the PBGC itself becomes insolvent. At PBGC insolvency, the average reduction will be between 94% and 98% of contractual benefits payable.

Therefore, under current law the benefit reductions coming to participants in plans heading toward insolvency range from 36% to 98%, which suggests that the payment risk in multiemployer plans is actually very high, and should not be discounted at the Treasury rate, unless the cash flows of the plan’s liabilities are adjusted for risk or a risk premium is added to the risk-free rate that is reflective of the risk in the cash flows. In any environment where there is the potential for at least a 36% loss of benefit, the discount rate that is reflective of this benefit reduction suggests a very high discount rate, which only gets higher at a 53% benefit reduction, and even higher at a 98% benefit reduction. The riskiness of these cash flows is not reflective of Treasury rates or high-grade corporate bond rates, and therefore these are not appropriate to use to discount multiemployer pension liabilities.

5. Please explain how federal laws, regulations, and policies have impacted the financial condition of multiemployer plans today and whether these impacted single employer plans differently.

The current crisis is predominantly the product of the unintended consequences of 44 years of federal laws, regulations, rules, policies, the unwillingness of the previous Administration’s Treasury Department to implement the Multiemployer Pension Reform Act of 2014 (MPRA) in a statutorily faithful manner, and the most severe market crash since the Great Depression which led to the Great Recession.

The specific federal laws that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to preserve plan solvency presented by the anti-cutback rule under ERISA, the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980, the deregulation of the trucking industry through the Motor Carrier Act of 1980, and the excise tax on contributions of fully funded plans as part of the Tax Reform Act of 1986. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries. Further, it is also important to consider that since 2008, the monetary policy of the Federal Reserve has crushed both short-term and long-term Treasury rates, which serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. These lower-than-market rates have caused long-term pension liabilities to be overstated and have also reduced investment earnings on plan assets.

The excise tax on contributions of fully funded plans resulted in significantly different outcomes for multiemployer plans and single employer defined benefit plans, which in turn explains much of the current crisis in multiemployer plans as well as the criticism that single employer plans received prior to the PPA ’06.

Specifically, when single employer plans became well-funded, particularly due to market gains, the employers often took contribution holidays which in many instances included multiple years. However, in the late 1980’s and the 1990’s well-funded multiemployer plans did NOT have the luxury of taking contribution holidays. This is because multiemployer plans
are collectively bargained, and those bargained contributions are required to be made under federal law. This meant that unlike single employer plans, the principal tool that multiemployer pension Trustees had to ensure that the contributing employers would not be subject to an excise tax was to increase benefits to participants and therefore increase plan liabilities. The “anti-cutback” rule then prevented these increased benefits from being reduced, even in low or negative return years.

Even with these impediments, multiemployer plans have made changes where they could to ensure plan solvency, which has principally been to the detriment of the active workforce through the lowering of future accruals or changes to ancillary benefits authorized under the PPA ’06. After the 2008 financial crisis and the resulting Great Recession, the multiemployer community actively sought new tools to fix those plans experiencing financial distress without federal assistance, which resulted in the passage of MPRA. MPRA could have effectively managed the solvency problems facing plans if Treasury had faithfully implemented the law in 2016. MPRA was designed to be, and still could be, a very powerful tool for plan Trustees to restore plan solvency. MPRA also protects participants in critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and become subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent.

Further, MPRA provided the U.S. Government with the best dial to ensure that plans do not come to the PBGC in the first place, because every approved MPRA application removes that plan from the list of plans that comprise the PBGC’s deficit, thereby improving the finances of the PBGC’s multiemployer program. Unfortunately, in May 2016, the Treasury Department did not approve the MPRA application of the largest and most systemically important plan, the Central States Pension Fund, among others, which now means that a new tool is needed to address those plans where MPRA is no longer an option.

The bottom line is that the current state of financially distressed multiemployer pension plans can be directly traced back to the actions and inactions of the U.S. Government.

6. Is it common for pension funds, mutual funds, IRA’s, 401K’s, private equity funds, insurance companies, and other investment funds to invest in equities and other “risky” assets as part of diversified portfolios?

Yes, these types of investors are typically invested in a diverse portfolio of securities depending on their time horizon and risk appetite. According to the Federal Reserve Board of Governors and as shown in the table below, with the sole exception of the defined benefit pension plan provided to certain employees of the U.S. Government, households, public and private defined benefit pensions, as well as public and private defined contribution plans invest in a wide variety of assets, but particularly equities.

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Separately, the table below summarizes the data from the Investment Company Institute’s 2018 Investment Company Fact Book, which shows that asset diversification for insurance company provided variable annuities, defined contribution plans, and IRA’s is both the norm and heavily weighted toward equities.

<table>
<thead>
<tr>
<th>($ Trillions)</th>
<th>Investable Assets</th>
<th>Unfunded Liability of Plan Sponsor</th>
</tr>
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<tbody>
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<td>$59.40</td>
<td>$2.85</td>
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</tr>
<tr>
<td>$0.55</td>
<td>$0.00</td>
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</tr>
<tr>
<td>$0.57</td>
<td>$0.07</td>
<td>$4.72</td>
</tr>
<tr>
<td>$3.81</td>
<td>$0.48</td>
<td>$0.00</td>
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**Asset Allocation**

| Cash & Cash Equivalents | 21.67% | 2.18% | 2.41% | 0.07% | 0.00% | 1.93% | 0.79% |
| Bonds | 10.69% | 32.43% | 6.96% | 99.15% | 94.18% | 26.63% | 0.00% |
| Equities | 62.30% | 50.42% | 74.62% | 0.77% | 50.82% | 66.31% | 47.17% |
| Other Assets | 5.33% | 14.98% | 16.01% | 0.00% | 0.00% | 5.14% | 52.04% |
| 100.00% | 100.00% | 100.00% | 99.99% | 100.00% | 100.00% | 100.00% | 100.00% |

What is also interesting is that of the $3 trillion in annuity assets in the market, more than $1.8 trillion are in variable annuities which had 72.6% of their 2017 assets invested in equities.

Given the very long-time horizons of most pension funds and the historical investment performance of pension funds and the markets generally, it would be inconsistent with well-developed investment theories and practices in the United States, the intent of many of the securities laws enforced by the U.S. Securities and Exchange Commission, as well as the fiduciary duty of Trustees under ERISA to limit long-duration retirement investments to annuities.

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*Thrift Savings Plan*
In fact, even the U.S. Government’s Defined Contribution plan for federal employees, the Thrift Savings Plan, is invested at 51% equities, 49% fixed income, and zero percent annuities.

7. How do asset allocations in multiemployer pension plans compare to 401(k) allocations?
How do they compare to allocations in “target date funds”?

As shown in the Federal Reserve’s Z.1 data chart in question 6, private sector defined benefit pension plans, which includes multiemployer defined benefit pension plans, invest more conservatively (lower equity allocation) than private sector defined contribution plans, which includes 401(k) accounts. Specifically, defined benefit pension plans have slightly more than 50% of their assets invested in equities, whereas 401(k) accounts invest almost 75% of their assets in equities.

Target date funds, also known as lifecycle funds, diversify across asset classes (equities, fixed income, cash). The specific allocation varies by the fund provider and the years to retirement, but in general will have equity allocations upwards of 90% at 40-years to retirement then decreasing in increments through retirement, although even at 30-years into retirement the equity asset allocation is above 20% in most funds.

8. What is the actual performance of 401K’s as a provider of lifetime retirement income?

Despite the fact that 401(k) accounts been available since 1978 and have supplanted defined benefit pensions as the principal retirement income vehicle for U.S. workers, the simple fact is that they have not enabled workers to retire with enough assets and income to maintain their lifestyle. In 2016, 55 million U.S. workers were active 401(k) participants with assets of $4.76 trillion. The EBRI/ICI Participant-Directed Retirement Plan Data Collection Project showed that the average account balance in 2016 was $75,358, while the median account balance was $16,836. Neither amount represents enough assets to provide meaningful lifetime income.

These numbers logically confirm the substantive details of the “Report on the Economic Well-Being of U.S. Households in 2017” by the Board of Governors of the Federal Reserve. This report noted that (1) less than 40% of non-retired adults think that their retirement savings are on track, (2) 25% of non-retired adults have no retirement savings or pension whatsoever, and (3) 40% of adults would either borrow, sell something, or not be able to pay if faced with a $400 emergency expense.

As telling, the report indicated that among non-retirees in their 50’s and 60’s, 12.5% do not have any retirement savings and less than 50% think that their retirement savings are on track.

8 Ibid, 5.
10 Ibid.
11 Ibid, 21.
12 Ibid, 47.
Finally, 60% of non-retirees with self-directed retirement savings accounts, such as a 401(k) or IRA, have little or no comfort in managing their investments. This last observation supports the importance of professional management of retirement assets, which is what occurs in multiemployer defined benefit plans.

9. Would a variable rate PBGC premium be appropriate for multiemployer pension plans?

No. Variable rate PBGC premiums are not appropriate for multiemployer pension plans. Some have argued that variable premiums in the single employer system have resulted in higher funding levels in plans and a significantly improved funded position of the PBGC’s single employer fund. It is certainly true that many single employer funds determine contribution levels to avoid variable premiums. However we argue, as we have elsewhere in these remarks, that much of the apparent improvement in single employer funding is due to the excise tax on well-funded plans causing different decisions in multiemployer pensions as well as the termination of the majority of single employer plans.

A variable premium would have a far different effect for multiemployer plans. Unlike single employer plans where the plan is considered part of the employer’s legal entity, multiemployer plans are separate legal entities from their contributing employers. In single employer plans, employers are incentivized to make additional contributions when the plan would otherwise be subject to a variable premium. Because the plan and the employer are the same legal entity, the effect of the premium would be a loss of assets reported on the employer’s financial statements. In multiemployer plans, the effect of a variable premium would be far less direct, because the plan is a separate entity from the contributing employers.

This is not to say that employers participating in multiemployer plans will not feel the impact of variable premiums, but rather that there is not the direct incentive to improve plan funding seen in single employer plans. Because multiemployer contributions are set through collective bargaining, the variable premium or some portion of the variable premium may be incorporated into the bargained contribution rates. The extent to which the cost of the new premium is added to contributions will vary by plan and will depend on the strength of the bargaining relationships. If new funds are not available, the funding will be diverted from the wages of active workers, who have already seen their accrual rates drop significantly over the past 15 years in order to pay for plan underfunding. If additional funds are not available to be allocated to fund the plan and avoid the premium, the remaining premium will be paid out of the assets of the plans that are least able to afford it.

10. Dr. Naughton recommends that multiemployer plans should purchase annuity contracts for their participants to provide retirement benefits. Please discuss this concept and its implications, where it has been adopted and successful, and the support that this idea has in the financial markets and among investment professionals.

Dr. Naughton position that defined benefit pension plans should be solely invested in fixed annuity contracts is an extreme outlier among financial market participants, professional

13 Ibid, 3.
investment managers, government regulators, and virtually anyone who is even passingly familiar with investments.

Today, the entire market for annuities is $3 trillion, which includes $2.1 trillion in variable annuities, $454 billion in fixed annuities, and $409 billion in indexed annuities. The market for fixed annuities (group or individual) is not deep or liquid, and the product is burdened with very high expenses and pricing that heavily favors the insurer.

Variable and indexed annuities, which comprise nearly 85% of the annuity market, can result in the loss of money because they are investing in equities and fixed income products or indexes based on equities and fixed income. The underlying annuities themselves are considered illiquid investments.

The laws, regulations, funding rules, accounting rules, and PBGC premiums required primarily by the Omnibus Budget Reconciliation Act of 1987 and PPA ‘06 have had a significant negative impact on the economic viability of single-employer defined benefit pension plans for employers. They have clearly incented employers to terminate their defined benefit plans, discouraged employers from offering a defined benefit pension, and led to the weakening of retirement security for working Americans.

In fact, while the funded level of the few single-employer plans remaining today is strong, the number of plans and the amount of retirement security they afford their participants has fallen precipitously. The PBGC data shows that since the passage of ERISA, 87%\(^\text{14}\) of single employer defined benefit plans no longer exist, either through standard terminations or distressed trusteed terminations. Additionally, 8,285 plans have accrual or participation freezes, leaving just 14,048 open insured single-employer plans.

The changes driving the termination of single employer defined benefit pension plans has opened the door to group fixed annuity transactions, although those that have taken place in the single employer market are often driven by economic, regulatory, and market factors that are unique to the company and its shareholders, which are principally focused on reducing balance sheet liabilities and income statement volatility. In short, employers have been willing to pay whatever it costs to terminate their defined benefit pension plan, but that decision has little to do with the actual economics of the underlying transaction itself.

As has been documented in the response to question 6, the professional and individual investors that manage the more than more than $80 trillion of investable assets from households, defined benefit plans, defined contribution plans, or other retirement assets, have allocated their investments to a diversified portfolio of market assets. Fixed annuities are not an asset class that most investors desire, particularly given their very low returns, high cost, illiquidity, small market size, and capacity. Further, U.S. workers already have a significant exposure to a


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significantly higher quality fixed annuity through Social Security, which is the foundational retirement asset for all U.S. workers.

Given the very long-time horizons of most pension funds and the historical investment performance of pension funds and the markets generally, it would be inconsistent with well-developed investment theories and practices in the United States, the intent of many of the securities laws enforced by the U.S. Securities and Exchange Commission, as well as the fiduciary duty of Trustees under ERISA to limit long-duration retirement investments to fixed annuities.

One aspect of the “Report on the Economic Well-Being of U.S. Households in 2017” by the Board of Governors of the Federal Reserve was financial literacy test in which only 20% of respondents got all five questions correct. One particular question asked by the Federal Reserve was “Considering a long time period (for example, 10 or 20 years), which asset described below normally gives the highest returns? [Stocks, Bonds, Savings accounts, Precious metals].” According to the data of the Federal Reserve, the correct answer is stocks.

The actual asset allocation decisions of investors as supported by the Federal Reserve’s data shown in response to question 6, suggests that market participants understand the role of equities (stocks) in a diversified portfolio, and select the appropriate asset allocation for their individual circumstances and risk tolerances.

While converting multiemployer defined benefits pensions into fixed annuities is absurd, if this was required by the U.S. Government, the benefits payable under the fixed annuity contracts would need to be reduced upwards of 50% to 60% from their current contractual levels.

11. Is the market for group annuities deep and liquid? What are the principal reasons for defined benefit pensions to annuitize their obligations?

Today, the entire market for annuities is $3 trillion, which includes $2.1 trillion in variable annuities, $454 billion in fixed annuities, $409 billion in indexed annuities. The market for fixed annuities (group or individual) is not deep or liquid, and the product is burdened with very high expenses and pricing that heavily favors the insurer.

Variable and indexed annuities, which comprise nearly 85% of the annuity market, can result in the loss of money because they are investing in equities and fixed income products or indexes based on equities and fixed income. The underlying annuities themselves are considered illiquid investments.

As has been documented in the response to question 6, the professional and individual investors that manage the more than more than $80 trillion of investable assets from households, defined benefit plans, defined contribution plans, or other retirement assets, have allocated their

investments to a diversified portfolio of market assets. Fixed annuities are not an asset class that most investors desire, particularly given their very low returns, high cost, illiquidity, small market size, and capacity. Further, U.S. workers already have a significant exposure to a significantly higher quality fixed annuity through Social Security, which is the foundational retirement asset for all U.S. workers.

The laws, regulations, funding rules, accounting rules, and PBGC premiums required primarily by the Omnibus Budget Reconciliation Act of 1987 and PPA '06 have had a significant negative impact on the economic viability of single-employer defined benefit pension plans for employers. They have clearly incented employers to terminate their defined benefit plans, discouraged employers from offering a defined benefit pension, and led to the weakening of retirement security for working Americans.

In fact, while the funded level of the few single-employer plans remaining today is strong, the number of plans and the amount of retirement security they afford their participants has fallen precipitously. The PBGC data shows that since the passage of ERISA, 87%\(^{16}\) of single employer defined benefit plans no longer exist, either through standard terminations or distressed trustees terminations. Additionally, 8,285 plans have accrual or participation freezes, leaving just 14,048 open insured single-employer plans.

The changes driving the termination of single employer defined benefit pension plans has opened the door to group fixed annuity transactions, although those that have taken place in the single employer market are often driven by economic, regulatory, and market factors that are unique to the company and its shareholders, which are principally focused on reducing balance sheet liabilities and income statement volatility. In short, employers have been willing to pay whatever it costs to terminate their defined benefit pension plan, but that decision has little to do with the actual economics of the underlying transaction itself.

12. Are the insurance companies that sell annuities risk-free?

No, insurance companies are not risk-free. While most insurance companies enjoy investment grade ratings, and certain annuities have support from state regulators, variable and indexed annuities which comprise nearly 85% of the annuity market can result in losses. Further, even the highest rated insurance companies are not immune from downgrades or adverse markets that impair or impede their ability to honor their commitments. These include the previously “AAA” rated entities of American International Group, Executive Life Insurance Company, and Mutual Benefit Life Insurance Company.


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13. How are the level of contributions to multiemployer plans determined? Is it typical for bargaining parties in contribute only the minimum required contribution?

Contributions to multiemployer plans are set as part of the collective bargaining process between the contributing employers and the unions representing the employees. The bargaining process is informed by recommended or required contributions as set by the Board of Trustees of the pension fund. The contributions recommended or required by the Board are informed by actuarial analysis performed by the plan’s actuaries.

The level of contributions required by the Board of Trustees is determined based on a number of factors, including the minimum required contribution, Trustees’ formal or informal funding policies, requirements of Rehabilitation or Funding improvement plans, and Trustees’ desire to remain in the Green Zone or out of a lower Zone. The minimum required contribution rarely controls in this determination, and many Trustees have strong funding policies requiring contributions well above that level.

If the bargaining process results in lower contributions than are required, for example by the operation of a Rehabilitation or Funding improvement plan or the minimum required contribution, the Trustees pursue payment of the required contributions or terminate the employer triggering withdrawal liability. Alternatively, if the recommendation was a result of a funding policy, Trustees sometimes adjust the plan to be supported by the bargained contributions.

Once contributions are set during collective bargaining, and the agreement is accepted by the fund, plans vigorously pursue any contributions that are delinquent.

14. Dr. Blahous testified that “Ergo, a payment that is fully guaranteed and risk-free should be discounted at a Treasury bond rate” and that “economists broadly agree that payment obligations should be discounted according to their risk of non-payment”. What are the logical implications of his testimony for multiemployer pension liabilities?

Dr. Blahous’s first statement seems to suggest that multiemployer pension payments are “fully guaranteed and risk-free” and therefore should be discounted at a Treasury bond rate. It is only by discounting multiemployer pension liabilities at a Treasury bond rate that he can say that “there is more than $600 billion of underfunding in multiemployer pensions nationwide” and that the “crisis arises from multiemployer plan sponsors’ funding contributions being far inadequate to finance the benefits they have promised.” Dr. Blahous’s error in understanding the actual legal characteristics of multiemployer defined benefit leads him to place the blame for the crisis on the discount rates used to discount the liabilities and inform employer contribution requirements.

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18 Ibid. 1.
Unfortunately, Dr. Blahous either wittingly or unwittingly omits the material fact that multiemployer pension payments are not fully guaranteed by the PBGC, the U.S. Government, or the plan sponsors. How do we know this?

This is evidenced by the fact that the PBGC is not a full faith and credit obligation of the U.S. Government, with the statutory terms of ERISA explicitly rejecting any such liability. Also supporting this fact is that the U.S. Government disavows any obligation for the PBGC by denying plaintiffs against the PBGC access to the Judgment Fund. Finally, when the PBGC’s multiemployer fund is exhausted, the PBGC can only pay out what it takes in from premium income. This reduces the current PBGC guarantee to a level that is supported solely by premium income.

The very terms of the PBGC’s multiemployer guarantee establishes a maximum limit of $12,870 annually (at 30-years of service). This means that when a plan goes insolvent, it will receive financial assistance from PBGC in an amount up to the PBGC maximum guarantee benefit amount as applied to each participant and beneficiary. Today, the participants’ and beneficiaries’ contractual benefits are reduced to conform to the PBGC maximum guarantee amount, which in the multiemployer program will result in an average benefit reduction of 53% from their contractual benefit. When the PBGC itself becomes insolvent, the average benefit reduction will be between 94% and 98% of contractual benefits payable. The simple legal fact is clear, multiemployer pension benefits are not “fully guaranteed and risk-free,” nor do they look like the expected payouts of high-grade corporate bonds.

Dr. Blahous goes on to say that “economists broadly agree that payment obligations should be discounted according to their risk of non-payment.” As we have established above, the risk of non-payment is actually very high in multiemployer pensions. This makes his recommendation that pension liabilities should be discounted “at rates no greater than those reflected in a yield curve of high-quality corporate bonds” at odds with his belief that payment obligations should be discounted according to their risk of non-payment.

In trying to square his view of the success of the single employer system, and the recommended use of high-quality corporate bonds to discount liabilities and drive funding changes, it is actually instructive to look at the PBGC’s single employer program.

For instance, the PBGC’s single-employer program provides a guaranty of $67,295 at age 65, regardless of the participant’s years of service. This effectively guarantees 95.5% of the contractual benefits of a retiree in a trusteed plan and we have no reason to doubt the PBGC’s ability to continue to do so. The principal reason that the effective guarantee of the single-

19 29 U.S.C §1302(g)(2).
employer program is not closer to 100% is the spate of the airline bankruptcies between 2001 and 2011. A 95.5% guarantee is the rough equivalent of a BBB- bond, so while there is a significant difference between the “A”, “AA”, and “AAA” rated corporate bonds that are used to discount single-employer liabilities, it is at least tangentially tethered to a basis considering the actual riskiness of the cash flows.

As has been discussed above as well as in the response to question 4, the risk of non-payment is dramatically different in multiemployer pension plans than in single employer pension plans, which demonstrates that Dr. Balhous’s discounting regime is not only inappropriate but also inconsistent with his stated rationale.

Dr. Blahous has had opportunities to implement his theory as a Public Trustee for the Social Security Trust Fund. Social Security benefits are actually full faith and credit obligations of the U.S. Government, yet during Dr. Blahous’s tenure as a Public Trustee he supported discounting the liabilities of Social Security at 5.7% or 5.6%, which was between 1.36% and 2.85% higher than the 30-year Treasury rate in each of his years of service as a Public Trustee. Obviously if Social Security had used the risk-free Treasury rate to discount its liabilities, the reported liabilities would have been trillions of dollars higher over both the 75-year and infinite horizons.

Dr. Blahous’s focus on the discount rate ignores the actual reasons for this crisis, which was discussed in the response to question 5. In summary, it is the product of the unintended consequences of 44 years of federal laws, regulations, rules, and policies which impacted multiemployer plans very differently than single employer plans. Additionally, the unwillingness of the previous Administration’s Treasury Department to implement MPRA in a statutorily faithful manner limited the ability of plans like the Central States Pension Fund to restore plan solvency, protect their retirees from the even higher benefit reductions that they will see when their plan is insolvent and subject to the PGBC guarantee, and protect the PBGC from insolvent plans.

Dr. Blahous’s assertion that the defined contribution system is performing comparatively better than the multiemployer pension system and represents a solution to the multiemployer crisis is inconsistent with the facts discussed in our response to question 10.
Ranking Member Virginia Foxx (NC)

Q1: Dr. Blahous, it is clear that federal action is needed to shore up the Pension Benefit Guaranty Corporation and to support stable plans that will provide secure retirement benefits to multiemployer plan participants in the future. Following up on your answer to my last question, what government interventions, other than requiring a taxpayer financed loan program, would be appropriate for Congress to consider in addressing the dire predicament facing the multiemployer pension system?

A1: As stated in my testimony, I believe that no solution is likely to be lastingly effective unless it includes reforms to the pension valuation rules that currently permit multiemployer plans to inaccurately measure both their assets and their liabilities for funding purposes. Without such reforms, multiemployer plans’ unfunded liabilities will continue to go unrecognized and underfunding will continue to worsen. Lawmakers should consider increasing PBGC premium assessments as well as restructuring them to establish a variable rate premium, as multiemployer plan premiums are currently inadequate to finance PBGC pension insurance and do not recognize the insurance risks posed by underfunded multiemployer plans. Lawmakers may also wish to consider extending limitations on unfunded benefit increases, accruals, and lump sum payments, which currently apply to underfunded single-employer plans, to underfunded multiemployer plans as well, to prevent funding inadequacies from worsening. Loopholes in funding rules should be closed and plans should be required to progress toward full funding via a single, simple amortization schedule. Creative solutions should be considered for plans that simply cannot meet their current funding obligations due to their facing significant orphan worker benefit obligations. These options could include authorizing PBGC to partition plans to relieve them of their orphan liabilities, contingent upon the remaining plan being amended to eliminate projected future claims on the insurance system, and to reduce the PBGC’s projected shortfall net of any costs PBGC bears for orphan liability relief. My paper published with the Mercatus Center, “Averting the Multiemployer Pension Solvency Crisis,” provides more details about these policy options.
Q2: Dr. Blahous, is there a history of providing loans to failed plans in the multiemployer system? If so, what types of loans have been offered and has this approach been effective at promoting healthy and self-sufficient plans?

A2: Yes, there is such a history and no, the approach has not been effective at promoting healthy, self-sufficient plans. As noted in the PBGC’s 2018 annual report, “PBGC provides insolvent multiemployer plans with financial assistance, in the statutorily-required form of loans.” As the report also states, “these loans are rarely repaid” because the provision of loans does not typically transform an insolvent plan into a healthy one. In fiscal year 2018, PBGC “paid $153 million in financial assistance to 81 insolvent multiemployer plans.” Loans by themselves do not address the fundamental drivers of multiemployer pension underfunding, which my written testimony describes as flawed valuation methods, premium assessments, funding rules, and withdrawal liability requirements, as well as the unfunded orphan worker benefit liabilities that arise from them. Loans are the primary tool under current law for providing financial assistance to insolvent multiemployer plans, and they have not prevented multiemployer pension underfunding from growing nationwide.

Q3: Dr. Blahous and Dr. Naughton, we heard from Ms. Becker that requiring multiemployer plans to use more realistic actuarial assumptions, like those used by single-employer plans, would “drive many of the plans that are currently in good financial health into one of the [hazard] zones, and into poor financial health.” Do you agree that changing actuarial assumptions used by multiemployer plans would make the problem worse?

A3: I respectfully disagree with that view. Changing the actuarial assumptions used by a plan does not change its actual funding status, for better or for worse. Using accurate discounting merely enables the true extent of plan underfunding to be seen. Such underfunding, if it exists, would still be there whether the actuarial methodology recognizes it or not. If a plan’s adoption of more accurate discounting reveals it to be badly underfunded, then the plan was already not in good financial health. That said, it would be prudent for federal law to combine accurate valuation measures with funding rules that limit the volatility of employers’ annual required contributions, so as not to trigger undesired terminations of otherwise healthy plans.
Ranking Member Virginia Foxx (NC)

I. Dr. Blahous and Dr. Naughton, we heard from Ms. Becker that requiring multiemployer plans to use more realistic actuarial assumptions, like those used by single-employer plans, would “drive many of the plans that are currently in good financial health into one of the [hazard] zones, and into poor financial health.” Do you agree that changing actuarial assumptions used by multiemployer plans would make the problem worse?

Response

The use of more realistic assumptions would indeed “drive many of the plans that are currently in good financial health into one of the [hazard] zones,” but this would certainly not change the underlying financial health of these plans. Multiemployer plans are promising their members a guaranteed annuity benefit. Therefore, a multiemployer plan should only be considered in good financial health if it has sufficient resources to meet this promise. The value of this promise is the cost of purchasing a guaranteed annuity contract, which entails discounting expected future benefit payments using an Aa corporate bond rate. Assuming guaranteed investment returns of 7 percent or more, which is what multiemployer plans currently do to establish the value of their obligations, is totally unrealistic, and results in contributions that are inadequate relative to the promised benefits.

To use the analogy from the hearing: The ability to pay an unrealistically low minimum payment on credit card debt does not mean that you are in good financial health; rather, good financial health suggests that you have the ability to pay the entire balance on your credit card account.
Introduction
On behalf of the Pension Practice Council of the American Academy of Actuaries, I appreciate the opportunity to provide the following responses for the record to questions provided to us pursuant to the United States House Committee on Education and Labor, Subcommittee on Health, Employment Labor, and Pensions hearing, “The Cost of Inaction: Why Congress Must Address the Multiemployer Pension Crisis,” on March 7, 2019. It was evident to me that all the witnesses believe that the cost of inaction is significant.

Thank you again for the opportunity to provide input to the subcommittee. The Pension Practice Council of the American Academy of Actuaries looks forward to continuing to provide objective and unbiased actuarial analysis to Members of Congress and their staffs as they work to address these difficult challenges.

Sincerely,
Josh Shapiro, MAAA, FSA, EA
Vice President, Pensions
American Academy of Actuaries

Questions submitted on March 20, 2019:

Question #1

Have the changes to single employer plan funding rules, including the use of market rates to discount liabilities, under the Pension Protection Act of 2006 resulted in greater retirement security for participants of single employer plans?

The use of market rates to measure the liabilities of single-employer defined benefit pension plans has contributed to the fact that funding levels in these plans are higher than in multiemployer plans, enhancing the security of single-employer pension benefits. However, those same funding rules have made traditional pension plans more expensive and created volatility in the contribution requirements. Pension Benefit Guaranty Corporation (PBGC) premiums for single-employer plans have also increased dramatically under a series of legislative
changes. These factors may have contributed to a trend away from employer sponsorship of these plans. This trend has continued even though the market discount rate requirements of the Pension Protection Act (based on high-grade corporate bond yields) have not been fully implemented, as various rounds of legislative interest rate “stabilization” efforts, as well as other relief provisions, have been in effect since 2010.

As a result of the trend away from traditional single-employer defined benefit plans, many of these plans are either closed to new entrants, are frozen (meaning that employees are not earning any new benefits), or have been terminated. 401(k) and similar benefit programs, which have become increasingly prevalent in recent years, routinely expose employees to the possibility of accumulating insufficient assets for a secure retirement. Retirees from these plans—who may be ill-equipped to manage their assets effectively in retirement—are at risk of fully exhausting their assets and being left in poverty.

Market-related discount rates have increased the security of single-employer pension plans relative to multiemployer plans. However, any examination of this issue needs to consider the effects on continued plan sponsorship, which could potentially offset the retirement income security improvements attributable to market-related discount rates.

Question #2

How do multiemployer actuaries set the discount rate for multiemployer plan liabilities for funding purposes?

a. What goes into that determination?

b. Does that approach comply with actuarial standards of practice in the US?

For minimum funding purposes, the Employee Retirement Income Security Act (ERISA) §304(c) requires the use of “reasonable actuarial assumptions that take into account the experience of the plan and reasonable expectations and offer the actuary’s best estimate of anticipated experience under the plan.” The actuary’s best estimate of anticipated investment return experience is generally based on the plan’s asset allocation (reflecting the plan sponsor’s risk preferences) and the current capital market outlook for each asset class provided by either the plan’s actuary or its investment advisor, taking into account volatility and correlations among the asset classes—as well as historical performance over extended periods.

The Actuarial Standards Board (ASB) promulgates actuarial standards of practice (ASOPs) for use by actuaries when rendering actuarial services in the United States. ASOP No. 27 is the standard used when selecting economic assumptions, including the discount rate, for various measurement purposes. ASOP No. 27 states that the actuary should consider the purpose of the measurement when selecting a discount rate, and consistent with the statutory requirements, the standard specifically lists contribution budgeting as an instance where the rate of anticipated investment return may be an appropriate discount rate. Accordingly, for funding purposes, in our experience multiemployer plan actuaries generally use expected long-term rates of investment earnings to discount liabilities, which they believe complies with the applicable standard of practice.
Dr. Naughton indicated that multiemployer plans have not collected “actuarially sound” contributions from contributing employers.

a. What does that mean?
b. Is the system itself sound?
c. What should Congress consider to improve the viability of the system?

There is no universally accepted definition of the phrase “actuarial soundness.” In fact ASOP No. 1 states:

“...actuarial soundness’ has different meanings in different contexts and might be dictated or imposed by an outside entity. In rendering actuarial services, if the actuary identifies the process or result as ‘actuarially sound,’ the actuary should define the meaning of “actuarially sound” in that context.”

The multiemployer pension system covers more than 10 million participants nationwide. Although the majority of these participants are in plans that do not currently face funding distress, roughly 1.3 million participants are in plans that are projected to exhaust their assets in the coming 20 years.

Many stakeholders have traditionally viewed these benefits as being promises not subject to a meaningful risk of reduction. These benefits have been perceived to be more secure than they actually are, since in fact more than 10 percent of participants are in plans that will be unable to pay all the benefits participants have earned. As Congress works to resolve this disconnect, it is important to understand the relationship that exists between benefit security and benefit adequacy. Any measure that makes benefits more secure will tend to make them smaller. As with all financial systems, it is necessary to balance predictability against the potential for gains.

There are multiple approaches that Congress might consider to better align the actual and perceived security of multiemployer pension benefits. For example, benefit security could be strengthened by implementing stricter funding and withdrawal liability rules, or by requiring that investment gains be retained as a cushion against future losses (rather than being used to fund benefit increases). Alternatively, improved mechanisms for adjusting benefits incrementally as necessary could prevent catastrophic reductions, while enhanced participant disclosures would help raise awareness of the risks. In weighing these alternatives, Congress should consider the need for balance between improving benefit security and ensuring that employers and employees are willing and able to sustain retirement plans that provide lifetime income.

[Whereupon, at 12:50 p.m., the subcommittee was adjourned.]