MEMORANDUM

TO: Principal Officers, All Teamster Affiliates

FROM: James P. Hoffa, General President

DATE: October 5, 2018

RE: October Recess Push to Protect Pensions NOW

The Teamsters Union continues our aggressive push to demand that Congress deal with the pension crisis NOW. Since this fight began, we have rallied with thousands of workers and retirees, held town hall meetings, covered Capitol Hill with Teamster lobby visits and generated thousands of phone calls and emails to elected officials including thousands of personal stories submitted this month to the official record of the Joint Select Committee on Solvency of Multiemployer Pension Plans.

We need to do even more in October and we need your help.

The October Congressional recess is coming at a critical time. There are just two months left until the Joint Select Committee’s deadline to act. Over the month of October, we want to generate as many district meetings, phone calls and emails as possible to talk directly to elected officials. In addition, we need public attention on this issue.

Below are some specific things you and your members can do, and resources to assist you in that effort.

- Phone calls to elected officials - Every Wednesday in October will be a “National Call Day to Protect Pensions.” Please post and distribute
the attached flyer that has an easy 800 number that will allow members to connect directly to their member of Congress at no cost.

- District meetings with elected officials – We would encourage everyone to schedule district visits with their elected officials. Specifically, we would encourage meetings with Republicans who will be critical to a bipartisan solution. Attached are talking points on the issue. More detailed information has been previously sent to you and can be found here: http://ibt.io/BLAFieldKit. Please be sure to update the Department of Political and Legislative Action on any feedback from your meetings.

- Letters to elected officials – We encourage you to communicate in writing with all of your elected officials. Attached is a sample letter you can put on letterhead and send to your Congressional delegations.

- Op Eds and Letters to the Editor to highlight the issue – We need to highlight the issue publicly as much as possible. A sample Op Ed and a sample Letter to the Editor are attached. Please put on your own letterhead, personalize, and work to get placed in your local publications. If you would like assistance in placing them please contact Galen Munroe in our Communications Department at (202) 624-6904 or gmunroe@teamster.org.

Thank you for your assistance in this effort. If you have any questions please contact Megan Evans at (202) 624-8972 or mevans2@teamster.org.
Talking Points for In District Meetings

Summarize the Problem

- Some of the nation’s largest multiemployer pension plans are on the verge of collapse because they don’t have enough money to pay promised pensions to retirees and workers. They are paying out more money each year in pensions than they’re receiving through employer contributions and investment earnings.

- The largest of these financially troubled funds is the Teamsters Central States, Southeast and Southwest Areas Pension Plan which covers approximately 400,000 active and retired truckers. It expects to run out of money in eight years. Central States and other financially troubled pension plans are considered to be in “critical and declining” condition.

- To make matters worse, the Pension Benefit Guarantee Corporation is expected to be insolvent in 2025 and does not currently have the funds to pay out owed benefits if the Centrals States Pension Plan is permitted to fail.

Personalize and Localize the Issue

- There are millions of retirees in desperate need of quick action to save the retirement nest eggs they spent decades contributing to. There are more than 300 multiemployer plans across the country that are in danger of failing.

- If these plans fail, it will not only impact the retirees receiving the benefit. There will be a broader impact on the economy - adverse effects on economic growth and tax losses to state, local and federal Governments.

- [Tell your own story of impact here. How will the loss of pension benefits impact you and your community?]

Solution – The Butch Lewis Act H.R. 4444/S.2147

- The Joint Select Committee on Solvency of Multiemployer Pension Plans (JSC) is a bipartisan and bicameral committee charged with finding a solution for the multiemployer pension funding crisis by November 30 of this year. [See toolkit at http://ibt.io/BLAFieldKit for additional resources on JSC process. These resources can be left behind with the office.]
• We are now just 2 months away from that deadline. It’s time for Democrats and Republicans on the Committee to come together and pass a bipartisan solution that will make workers and retirees whole.

• There is currently only one piece of bipartisan legislation introduced in Congress that provides a mechanism for critical and declining multiemployer pension plans to address their serious underfunding problem – H.R. 4444/S.2147: The Butch Lewis Act. [See toolkit at http://ibt.io/BLAFieldKit for additional resources summarizing the Butch Lewis Act and FAQ. Both resources can be left behind with the office]. The Butch Lewis Act will:

  o Strengthen these plans and provide a path forward for financial health.

  o Avoid retiree benefit cuts.

  o Lessen financial pressure on the Pension Benefit Guaranty Corporation

Economic Impact and CBO Score

• Many Congressional offices have stated an interest in the “cost” of the Butch Lewis Act and the need for a “score” of the bill from the Congressional Budget Office (CBO). We have updates and resources on both of those fronts.

• I want to share with you some updated analysis on the Butch Lewis Act prepared by Cheiron, Inc. and Quantria Strategies. [Both of these documents are included in the faxed toolkit. Additional copies may be found here http://ibt.io/BLAFieldKit. Both documents should be left behind with the office].

• The first document discusses the effect of the proposal on employers participating in troubled multiemployer plans and explains how the legislation minimizes the chance of loan defaults. The second document is an economic impact analysis comparing the estimated costs to the federal government of multiemployer plan options for plans in critical and declining status: the Butch Lewis Act, limited PBGC action, and PBGC insolvency. As seen in the second document, the Butch Lewis Act minimizes the total costs to the federal government of these three options. And, plan participants would not lose pension benefits.

• Applying current budget scoring rules, Quantria Strategies estimates the cost of the Butch Lewis Act at the $30.1 billion. The Congressional Budget Office has informed the Joint Select Committee on the Solvency of Multiemployer Pension Plans that it estimates the cost of the Butch Lewis Act, with proposed modifications, at $34 billion (for the 2019-2028 period) – which is a workable number and far lower than earlier estimates.

The “Ask”

• The Teamsters Union supports the Butch Lewis Act. We would like to see the JSC seriously consider and report out this legislation. If not the Butch Lewis Act specifically, then the Committee must report
out a bipartisan solution that solves the problems facing critical and declining plans without placing additional financial burdens on active and retired workers. Working families didn’t create this problem and it shouldn’t be on them to solve it. **Your member of congress can help by:**

- Adding their name to the Butch Lewis Act as a co-sponsor

- If they are already a cosponsor of the bill, then they can speak with or write a letter to the JSC members and to party leadership about the importance of meeting the November deadline and reporting out a bi-partisan solution that solves the problems facing critical and declining plans without placing additional financial burdens on active and retired workers. Working families didn’t create this problem and it shouldn’t be on them to solve it.

- If they are not a co-sponsor of the bill and are reluctant to co-sponsor but want to help, they can speak with or write a letter to the JSC members and to party leadership about the importance of meeting the November deadline and reporting out a bipartisan solution that solves the problem facing critical and declining plans without placing additional financial burdens on active and retired workers. Working families didn’t create this problem and it shouldn’t be on them to solve it.
Working men and women across the country are facing a national crisis as more than a hundred multiemployer pension plans face the threat of insolvency in the next 10 years. Congress must act now to help millions of Americans facing an uncertain future as their retirement security is threatened through no fault of their own.

The Teamsters Union supports the passage of the Butch Lewis Act of 2017 which has received bipartisan support. It is the only legislation that would fully protect your hard-earned pension.

PLEASE CALL 888-979-9806 NOW to let the members of the Joint Select Committee on Solvency and Multiemployer Pension Plans and your own representatives in Congress know that any legislative solution must keep pensions whole for both active and retired workers.

Let Congress know you support the Butch Lewis Act!

Text PENSION to 86466 to get involved in the fight to #protectourpensions
SAMPLE LETTER TO JSC MEMBER

Dear Senator/Representative:

Thank you for your work over the past several months to find a solution to the multiemployer pension funding crisis as a member of the Joint Select Committee on the Solvency of Multiemployer Pension Plans. The Committee now has just two months to meet its deadline. We have no time to lose. Committee members must put partisan politics aside and come together on a bipartisan solution that will make retirees and workers whole.

The work this committee performs and the legislative solution it ultimately chooses will have an immense impact on the lives of millions of retirees in this country and their families. I urge you to give your support to the Butch Lewis Act (H.R. 4444/ S. 2147). The Butch Lewis Act is the only proposed solution that will provide a path to financial health for troubled pension plans, alleviate pressure on the Pension Benefit Guaranty Corporation, and ensure that retirees and active Teamster members receive all of the benefits that they earned.

I know the Committee has a difficult mission, but the Butch Lewis Act is the best solution to the multiemployer pension crisis, and I sincerely hope that it will be the legislation that you ultimately adopt. If not the Butch Lewis Act, then the Committee must report out another bipartisan solution that solves the problem facing critical and declining plans without placing additional financial burdens on active and retired workers. Working families didn’t create this problem and it shouldn’t be on them to solve it.

Sincerely,
Dear Senator/ Representative:

The Joint Select Committee on the Solvency of Multiemployer Pension Plans has just two more months to complete its work and identify a solution to the multiemployer pension crisis that this country is currently facing. I know that the Committee is likely considering a number of proposals to achieve this goal.

The Butch Lewis Act (H.R. 4444 / S. 2147) is the only proposal that will provide a path to financial health for troubled pension plans, alleviate pressure on the Pension Benefit Guaranty Corporation, and ensure that retirees and active Teamster members receive all of the benefits that they earned. I hope that the committee will ultimately adopt this legislation as its proposed solution to the multiemployer pension crisis, but you can also help.

As their colleague, the members of the Committee are inclined to be persuaded by your support of the measure. This is why I am asking you to cosponsor the Butch Lewis Act. Your support for this legislation will mean so much to your constituents who depend on the pension benefits they earned through a lifetime of dedication and hard work. If you have already cosponsored the legislation, I want to express my gratitude for your endorsement. I hope you will continue supporting the Butch Lewis Act by urging your colleagues on the Joint Select Committee to seriously consider adoption of this legislation or come together around another bipartisan solution that solves the problem facing critical and declining plans without placing additional financial burdens on active and retired workers. Working families didn’t create this problem and it shouldn’t be on them to solve it.

Sincerely,
Sample Letter to the Editor

Congressional Committee Must Fulfill Pension Promise

Years of hard work by Teamsters, retirees, and other unions to reform the faltering multiemployer pension system finally are paying off. Earlier this year, congressional leaders announced the members of a bipartisan congressional pension committee tasked with finding a solution to the nation’s looming pension crisis by this November. With two months left until that deadline, it is time for Committee members to put partisan politics aside and come together on a real solution.

There’s no time to lose. There are about 1.5 million retirees in desperate need of quick action to save the retirement nest eggs they spent decades contributing to on the premise they would be financially secure in their golden years. There also are hundreds of thousands of workers who are enrolled in these pension plans who deserve assistance, too.

As it stands, there are more than 300 multiemployer plans across the country — including the Teamsters’ Central States Pension Fund — that are in danger of failing. The Joint Select Committee on Solvency of Multiemployer Pension Plans needs to find a vehicle that will deliver for these hard-working Americans who are paying, or have paid, into the pension pool and have played by the rules all their lives.

Fortunately, the Butch Lewis Act (H.R. 4444/S. 2147) will solve the problem. The measure would boost financially-troubled multiemployer pensions so they don’t fail. It would create an agency under the Treasury Department that would sell bonds in the open market to large investors such as financial firms. The agency, the Pension Rehabilitation Administration, would then lend money from the sale of the bonds to the financially-troubled pension plans.

Workers and retirees aren’t asking for a handout; they just want what is rightfully theirs. I urge the joint committee to work together and pass a bi-partisan solution that will make workers and retirees whole. They’ve waited long enough.
Congressional Committee Must Fulfill Pension Promise

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As it stands, there are more than 300 multiemployer plans across the country — including the Teamsters’ Central States Pension Fund — that are in danger of failing. The Joint Select Committee on Solvency of Multiemployer Pension Plans, co-chaired by pension reform advocate Sen. Sherrod Brown (D-Ohio), needs to find a vehicle that will deliver for these hard-working Americans who are paying, or have paid, into the pension pool and have played by the rules all their lives.

Fortunately, the Butch Lewis Act (H.R. 4444/S. 2147) will solve the problem. Brown is the lead sponsor in the Senate, while Rep. Richard Neal (D-Mass.) introduced the bill in the House, but this measure is not just a one-party plan. Thirteen House Republican co-sponsors understand the value of the bill and should be lauded for supporting this legislation.

The measure would boost financially-troubled multiemployer pensions so they don’t fail. It would create an agency under the Treasury Department that would sell bonds in the open market to large investors such as financial firms.

The agency, the Pension Rehabilitation Administration (PRA), would then lend money from the sale of the bonds to the financially-troubled pension plans. Plans that are deemed “critical and declining,” as well as recently insolvent but non-terminated plans, and those that have suspended benefits would be eligible to apply for the program.

Pension plans borrowing from PRA would be required to set aside the loan proceeds in separate, safe investments such as annuities or bonds that match the pension payments for retirees. For those plans needing additional help to meet retiree obligations, the Pension Benefit Guaranty Corporation would be available to make up the difference.

Those applying for loans to the PRA — which would be charged with approving all loans before they could be issued — would have to submit detailed financial projections. And, pension plans that have borrowed money would have to submit reports every three years to the PRA to show that the loans are working.
As of now, the Central States fund is facing an unfunded liability of $17.2 billion, the largest of all multiemployer plan shortfalls. The Bakery and Confectionary Union pension is second with a $3.2 billion shortfall, while the United Mine Workers are third at $2.4 billion. Other threatened multiemployer plans face a total shortfall of $13.6 billion. That’s why the Teamsters are stressing the importance of the joint pension committee to come up with a solution as soon as possible.

Workers and retirees aren’t asking for a handout; they just want what is rightfully theirs. We urge the joint committee to work together and pass a bi-partisan solution that will make workers and retirees whole. They’ve waited long enough.
ECONOMIC IMPACT

Multiemployer Plans in Critical and Critical and Declining Status

Multiemployer pension plans in critical and critical and declining status have very few viable options.¹ Multiemployer plans have endured two stock market crashes (between 2001 and 2009) and growing investment risk, changes in Federal laws and regulations, industry deregulation, and aging demographics. As a result, they face severe underfunding and are unable to meet their pension obligations. Currently, there are approximately 2.5 million plan participants facing the risk of losing hard-earned pension benefits.²

The Butch Lewis Act offers a way to preserve retiree pension benefits through a loan program funded with proceeds from Treasury bonds.³ In addition, the Butch Lewis Act prevents other economic losses (e.g., decreases in consumer spending, increases in public programs, decreases in tax revenues).

It is important to recognize the true costs of inaction or limited action, given the more favorable outcomes delivered by the Butch Lewis Act.⁴ As shown in the following table, the Butch Lewis Act would allow retirees to continue receiving their promised benefits, while maintaining their current living standards. These costs are significant and would reverberate throughout the economy, despite their absence in formal budgetary cost analysis.⁵

<table>
<thead>
<tr>
<th>Side-by-side effects of these three options</th>
<th>Butch Lewis Act</th>
<th>PBGC Rescue</th>
<th>PBGC Insolvency</th>
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<tbody>
<tr>
<td>Reductions to Pension Benefits</td>
<td>NO</td>
<td>YES (estimated 53% reduction)</td>
<td>YES (estimated 94% reduction)</td>
</tr>
<tr>
<td>Decreased Economic Activity</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
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<tr>
<td>Decreased Tax Revenues</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
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<tr>
<td>Increased Demand for Social Programs and Public Services</td>
<td>NO</td>
<td>YES</td>
<td>YES</td>
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¹ There are 130 multiemployer plans projected to be insolvent over the next 20 years, as well as, 200 plans in critical status.
² In total, there are approximately 3.5 million participants in underfunded plans. There are approximately 2.5 million participants in critical and critical and declining status plans.
³ Critical and Declining plans are allowed to apply for PRA loans for the defeasement of retiree pensions. The loans dedicated to pay off plan retiree liabilities are in a separately managed portfolio and borrowing costs are linked to 30-year Treasury rates. The legislation requires plans to set-aside the funds dedicated to meeting this fixed debt (defeasement). Refer to the Butch Lewis Act for a full description of the loan program.
⁴ PBGC Rescue means allow the PBGC to take over the insolvent plans and provide benefits at the PBGC guaranteed rates. PBGC insolvency would result if no action is taken – doing nothing – and participants risk losing nearly all the accrued benefits.
⁵ The formal budgetary analysis of these three options consider only the direct effects on the Federal budget. The economic effects and increased demand for public programs are considered ‘second-order’ effects or indirect effects.
The Butch Lewis Act minimizes the total costs of these three options, as shown in the graph below. Plan participants would not lose pension benefits, so there would be no reductions tax revenues or spending. In addition, the participant would not need additional public services to compensate for the loss of pension income.

**Estimated Costs to the Federal Government of Multiemployer Plan Options Plans in Critical and Critical and Declining Status, during the ten-year budget window**

*Dollar amounts in Billions*

Source: Quantria estimates, PBGC Projections

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<th>Butch Lewis Act</th>
<th>PBGC Rescue</th>
<th>PBGC Insolvency</th>
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<tr>
<td>Direct Spending, $30.1</td>
<td>Direct Spending, $58.8</td>
<td>Decrease in Tax Revenues from Pension Benefits, $14.0</td>
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<td>Decrease in Economic Activity due to Loss in Benefits, $137.9</td>
<td>Decrease in Economic Activity due to Loss in Benefits, $244.6</td>
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<tr>
<td>Decrease in Tax Revenues from Pension Benefits, $7.9</td>
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**About the Estimates:**

- Participants affected include those in critical plans (1.4 million) and critical and declining plans (1.1 million).
- The average defined benefit pension amount is approximately $17,000 per year.\(^6\)
- Direct spending estimates are amounts of Federal outlays that would be necessary to enact the Butch Lewis Act or to rescue PBGC.\(^7\)
- Decrease in economic activity estimates rely on RIMS multipliers that capture the economic activity generated by consumer spending.\(^8\) The multiplier captures the 'ripple' effect that occurs when a participant spends their pension income.
- Decreases in tax revenue estimates rely on current individual income tax rates, assuming the tax behavior of taxpayers with taxable retirement income.

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\(^6\) This amount represents the average across all plans. Some plans may have annual benefits of $35,000, however, the vast majority will have benefits considerably lower. Average annual benefit relies on data provided by Cheiron, Inc. actuaries.

\(^7\) The Butch Lewis Act estimates were prepared by Quantria Strategies (Judy Xanthopoulos) applying the current budget scoring rules. The estimate for the PBGC rescue relies on data from the PBGC annual report and PBGC projections of the program’s underfunding.

\(^8\) The RIMS (Regional Input-Output Multiplier Series) parameters were developed by the U.S. Department of Commerce. Their estimates were confirmed by independent research conducted by the Washington State Law Enforcement Officers’ and Fire Fighters’ Retirement Board.
Preventing Default Rates under the Butch Lewis Act

I. The Butch Lewis Act and its Effect on Employers Participating in Troubled Multiemployer Plans

One of the issues facing multiemployer plans in critical and declining status is the lack of options to delay or stave off insolvency. In many cases, the plans already have eliminated early retirement benefits as well as reduced future benefit accruals.\(^1\) Further, under current law, Pension Benefit Guaranty Corporation (PBGC) financial assistance to plans pays only enough to provide up to the PBGC guaranteed benefit levels established by law.\(^2\) In most cases, the guaranteed benefit would represent a significant benefit reduction compared to those promised by the plan.

The loan program in the Butch Lewis Act would mitigate these problems. Under the legislation, the plan would receive loans to fully fund the retired life liability based on risk-free interest rates. More importantly, three features – that are unique to the Butch Lewis Act – ensure that employers contributing to multiemployer plans will continue to meet their obligations, long after the multiemployer plan receives a loan from the Pension Rehabilitation Administration.

First, the Butch Lewis Act has a feature called defeasement. Defeasement, generally, means the set-aside of funds dedicated to meeting a fixed debt. Defeasement, as it applies to these multiemployer pension plans, means that loan proceeds shall be invested conservatively and managed separately to meet the current retiree liabilities. The retiree liabilities and the invested loan proceeds (necessary to satisfy the current retiree liabilities) will remain separate and apart from the multiemployer plan assets. The defeasement investment strategy utilizes lower risk investment grade corporate bonds that are cash matched to pay the retiree pension obligations.

Second, the Butch Lewis Act increases the withdrawal liability provisions over those contained in current law. Under current law, a partial withdrawal of an employer participating in a multiemployer pension plan requires the employer to satisfy its share of the unfunded vested benefits.\(^3\) However, much of these past withdrawal liabilities proved inadequate to meet the

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1. Therefore, the only option available to these financially troubled plans is to reduce benefits of participants in pay status. However, the anti-cutback provisions of ERISA make it difficult to eliminate benefits that have already been accrued, although plans in critical status can reduce certain benefits (e.g., early retirement benefits) without regard to the anti-cutback provisions. Under the Kline-Miller Act, multiemployer plans can apply to reduce or suspend accrued benefits, but the plan may not reduce benefits below 110 percent of the PBGC guaranteed benefit when applying to PBGC for benefit suspensions. Further, Treasury has approved only three applications for benefit reductions to date.
2. The proposal allows the PBGC to provide the minimum level of assistance that would prevent insolvency, but it may not exceed the PBGC guaranteed benefits. In some cases, while not likely, it is conceivable that the PBGC assistance may be less than the guaranteed benefits.
3. Under ERISA (ERISA Secs. 4201, 4202, 4206, 4209, 4211 and 4219), an employer's share of withdrawal liability is based on its share of the plan's unfunded vested benefits. The amount of the share will depend on the date or dates that the plan's assets and liabilities are valued, the actuarial assumptions and methods used to value the assets and benefits, and the allocation method chosen by the plan.
unfunded vested benefits. Further, some believe these withdrawal liabilities do not act as a
deterrent. The Butch Lewis Act addresses these inadequacies, imposing more stringent
withdrawal liabilities.\footnote{Under current law, withdrawal liability is often inadequate and those employees left behind when employers exit
tend to create a burden for remaining employers.}

Specifically, the Butch Lewis Act provides that, if any employer withdraws from a plan during
the 30-year period after the plan receives a loan from the PRA, the employer’s withdrawal
liability is determined as if a mass withdrawal has occurred and the interest rate assumptions that
apply in a mass withdrawal shall apply for purposes of determining the value of nonforfeitable
benefits under the plan.

Third, the Butch Lewis Act stabilizes the multiemployer plan (following defeasement) to the
point that the most at-risk plans can become solvent over time because the loan alleviates the
financial burden of the plan’s pre-loan negative cash flow. Allowing the plans to return to
financial stability will minimize the incentives for employers to withdraw; this is particularly
true for the largest multiemployer plans. Currently, employers in these large underfunded
multiemployer plans face increasing obligations as they contribute to plans that have no ability to
self-correct through superior investment returns.

Given the consequences of withdrawing from the plan during the loan term, it is unlikely that
any employers would do so during the budget scorekeeping window. This is particularly true
because the loans and potential financial assistance from PBGC will assist to shore up the plans
and allow the plans to continue to meet their obligations.

II. How Does the Butch Lewis Act Minimize the
Chance of Loan Defaults?

The following graphs capture the essence of the Butch Lewis Act and the benefits to employer
that contribute to the largest troubled multiemployer pension plans. The left graft displays the
current situation facing these multiemployer plans. They face retired participant liabilities that
far out-pace the active and terminated vested liabilities.

The PRA loans allow plans to use their resources to restore financial solvency, by segregating
the retired participants liability from the plan (and securing these obligations with separately
managed assets).

The following exhibit, prepared by Cheiron, Inc., provides the empirical evidence of the ability
of the multiemployer plans to (1) repay the loan; (2) return to solvency; and (3) satisfy the retired
liabilities. These figures rely on actual plan information provided to Cheiron.
Before the Butch Lewis Act
Pension Liability, Top Three Plans
(CSPF, UMWA, B&C dollar amounts in billions)

- $8.4, Active Liability
- $7.8, Terminated Vested Liability

After Butch Lewis Act
Pension Liability, Top Three Plans
(CSPF, UMWA, B&C dollar amounts in billions)

- $8.4, Active Liability

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<th>UNITED MINE WORKERS EXHIBIT 3</th>
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The pension liabilities (Benefit & Expenses column) decrease from $624,700,000 to $30,270,000, a **95.1 percent decrease in benefit payments**.

The loan repayments (PRA Loan Repayment column) shows an increase in payments of $116,096,293 for 30 years. Even with this increase in payments, the net effect (decrease in benefit payments and increase in loan payments) still represent a **76.6 percent decrease in plan payments**. Over the course of the loan repayment, the plans are able to accumulate adequate resources to meet the future balloon repayment of principle in 2049. **Assets increase from $2.9 billion to $4.2 billion** over the repayment period based on a 6.5 percent return on assets, allowing adequate resources for repayment.

In 2049, following repayment of the loan, benefit obligations remain roughly equal to the investment income, allowing the plan to continue growing after the conclusion of the loan program.

Overall, the projections reflect realistic and conservative assumptions, suggesting plan performance could meet or exceed expectations. The projections, prepared by Cheiron, Inc., also include assumptions regarding (1) the steady rate of employer contributions (the Butch Lewis Act requires employers to maintain the same rate of contributions to the plan throughout the repayment period) and (2) natural attrition or withdrawals from the plan (Contributions & WDL payments).

Regarding withdrawal payments (partial withdrawals from the plan), employers may withdraw voluntarily (partial withdrawal) or involuntarily (bankruptcy) from the plan.

Employers that withdraw voluntarily will face more stringent withdrawal liabilities under the Butch Lewis Act, compared to current law. In addition to this deterrent, the ability of the underlying plans to move toward solvency is an important incentive. Most of the benefits associated with these plans have been frozen previously, and new participants are no longer joining the plans. Removing the benefit payments for retired liabilities means that employers can meet their obligations and follow through on their past commitments, as most wish to do.

Historically, employers that withdrew involuntarily did so following industry deregulation and associated bankruptcies. Therefore, it is important to consider the probability of bankruptcies under the current and projected economic conditions. To evaluate accurately the risk associated with these employers, the analysis considers (1) current economic conditions (and projected growth rates from the Congressional Budget Office); (2) firm characteristics of employers participating in the multiemployer plans (e.g., years in business, industry); and (3) actual industry exit rates based on firm characteristics (from the Commerce Department, Longitudinal Business Database 1977-2014).

The current economic conditions (sustained economic growth, following the recent recession) do not present any additional factors that would make bankruptcy more or less likely. the three industries represented by these large multiemployer plans (Mining, Transportation, and Bakery
and Confectionary) have already undergone significant reorganization over the past 20 – 30 years. *In most cases, the surviving employers have been in the industry for a long period of time, employ large numbers of employees, and have modernized or diversified to allow for continued operations*. In addition, as mentioned, the defined benefit plans associated with these employers no longer provide variable or optional benefits to current or new workers, as they have been frozen to limit future liabilities.

The Longitudinal Business Data base provides a business exit rates, based on these characteristics (firm size and tenure in the industry). *Exit rates correlate inversely with firm size and tenure*. In other words, the longer a firm remains in business and the larger the firm grows, the less likely that firm is to exit the industry. For instance, consider a firm with 10,000 or more employees. *Firms with five years of tenure have an exit rate of 12.2 percent compared to 4.2 percent for firms that have been in business for 26 or more years*.

It is important to note that the Longitudinal Business Data for the 2014 year may contain some residual characteristics as firms regain solid footing following the recent recession and recovery. In other words, it is likely that these figures could either decrease (as the economy strengthens) or remain stable. Current budget projections forecast continued economic growth, which suggests that economic conditions will in the very least remain stable. Therefore, these figures tend to represent reasonable estimates of current exit rates.

It is important to raise two important points. First, the Butch Lewis Act budget scoring recognizes the uncertainty associated with predicting exit rates and treated conservatively this assumption, but more than doubling the likelihood of plans failing due to mass withdrawals (attributable to business failures).

Second, the Congressional Budget Office holds constant certain economic variables after ten years.\(^5\) So, consistent with this assumption (regarding the inability to predict accurately beyond the budget window), the scoring analysis relied on this convention.

Scoring of loan programs require analysis of the Butch Lewis Act over thirty years. Therefore, from a scoring perspective, there is no basis to assume more dire conditions will exist after the initial ten-year budget window. In light of the relief provided to the plans (refer to the graphs and table above), more stringent withdrawal liabilities, and favorable economic outlooks, larger default rates are not warranted. These multiemployer plans and employers supporting the plans have a fiduciary responsibility to provide the promised benefits. It is unrealistic to assume that, in light of the PRA program, this would diminish their desire to meet these promises.

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\(^5\) More clearly, the stochastic modeling done by the Congressional Budget Office considers the variability of economic conditions beyond the 10-year budget window. However, the economic parameters are expressed as an average, that reflect the probability of possible future economic conditions.
Joint Select Committee on the Solvency of Multiemployer Pension Plans: Membership & Process

On February 9th, Congress passed the Bipartisan Budget Act of 2018. This legislation, among other provisions, included language that created a joint select committee to develop a legislative solution to “improve the solvency of multiemployer plans.”

The Committee has a membership of 16 appointed by party leaders in each chamber. The Committee members are:

**Senate:**

**House:**

**Process:**
- The committee must hold at least five public meetings or hearings- the time, date and location of each must be noticed seven days in advance. The co-chairs of the committee are able to select an equal number of witnesses for each hearing.

- No later than November 30, 2018, the Joint Select Committee must vote on a report containing findings, conclusions, recommendations and legislation to support the recommendations. To move out of the Committee, the legislation must be approved by at least five Republican and five Democratic members of the Committee.

- Within 15 days of committee approval, the report must be sent to the President, Vice President, and Congressional leadership.
The House does not have any special procedures for consideration of what is reported out of the Joint Select Committee, so the legislation will likely be subject to consideration under a special rule and voted upon under the normal procedures that apply to other bills.

The Senate is subject to “expedited” consideration procedures:

✓ The Senate must vote on legislation before January 4, 2019.
✓ The legislation must be introduced in the Senate the day after it is received.
✓ The Senate Finance and Health, Education, Labor & Pension committees may take up the legislation to either report it out as favorable, unfavorable, or without recommendation, but may not amend it. This must be done within seven session days otherwise the legislation will be automatically discharged--that is to say, the bill is able to move to the floor without further committee consideration.
✓ Within two session days of committee action or automatic discharge, the majority leader may call up the bill for consideration, if no action is taken in this time frame, then any senator may make a motion to bring the bill to the floor.
✓ Once taken up by the Senate, the legislation will be amendable.
✓ The legislation may be debated for a maximum of 10 hours, evenly divided.
✓ Passage in the Senate will require a three-fifths vote.
An explanation of the Brown/Neal pension legislation

Brown/Neal: Pension Rehabilitation Administration

Summary

The problem:
Some of the nation’s largest multiemployer pension plans are on the verge of collapse because they don’t have enough money to pay promised pensions to retirees and workers. These multiemployer plans are paying out more money each year in pensions than they’re receiving through employer contributions and investment earnings.

Multiemployer pension plans are industry plans that cover unionized workers, pensioners, and their families. These pension plans are jointly run by employers and labor unions.

The biggest of these financially troubled pension funds is the Central States, Southeast and Southwest Areas Pension Plan which covers approximately 400,000 active and retired truckers. It expects to run out of money in eight years.

Central States and other financially troubled pension funds are considered to be in “critical and declining” condition.

The solution:
This legislation aims at financially supporting the pension plans so they don't fail. The bill would create the Pension Rehabilitation Administration as an agency within the U.S. Treasury Department. The PRA would sell Treasury-issued bonds in the open market to large investors such as financial firms. The PRA would then lend the money from the sale of the bonds to the financially troubled pension plans.

To ensure that the pension plans can afford to repay the loans, the PRA would lend them money for 30 years at low interest rates, around 3 percent. The 30-year loans would buy time for the pension plans so they may invest for the long term instead of worrying about coming up with money immediately to pay for the pensions of retired workers.

How does borrowing enable plans to swap away the retiree payments?
The pension plans borrowing from the PRA must set aside the money in separate investments that match the pension payments for retirees. The pension plans can do
this by buying annuities, cash matching with investment grade bonds, or duration
matching with a suitable bond portfolio.

*Whichever approach is taken retirees and their families are guaranteed their
promised benefits and the loan proceeds may never be invested in risky
investments.*

**How do active workers benefit?**
The legislation is a win-win for both retirees and active workers. The loans from the
PRA will not only enable plans to secure the pensions promised to retirees and their
families, but also free up remaining assets and all future contributions to fully protect
benefits for active workers.

**Will retirees get the full pensions they earned?**
Plans that received permission to cut benefits to pensioners will be able to restore full
benefits, and plans that have already failed will be able to use the PRA loans to become
financially stable and pay pensioners the benefits they earned.

**How much is borrowed and on what terms?**
Pension plans may borrow as much money as they need to pay current retiree and
beneficiary pensions over the next 30 years at low interest rates comparable to that on
30-year Treasury bonds. The interest rate the PRA will charge pension funds may be
slightly higher than the interest rate the Treasury will pay to investors so it can cover its
costs of operating the new agency.

- During the first 29 years of the 30-year loans, the pension plans will pay only fixed
  interest rates on the money they’ve borrowed. In the last year, the pension plans will
  pay interest on the loans and repay all the money they borrowed.

**Where does the money come from?**
The money comes from the sale of Treasury-issued bonds to financial institutions.
These PRA bonds will be fully backed by the Treasury. The PRA will not have trouble
raising the money because investors want long term bonds that carry little risk.

**Is there oversight?**
Pension plans applying for loans to the PRA must submit detailed financial projections.
The PRA will approve all the loans. Pension plans that have borrowed money must
submit reports every three years to the PRA to show that the loans and working and to
take steps if their financial condition begins to deteriorate.

**Will this work for all troubled plans?**
The loans will not be sufficient to help all the financially troubled pension plans. Some failing pension plans will need additional help from the government. The bill proposes that the Pension Benefit Guaranty Corporation would provide that help. The bill requires Treasury to appropriate the necessary funds needed for PBGC financial assistance. The PBGC would support part of the pension plans' payments for retired and terminated vested workers, up to its usual guaranteed cap on benefits for deeply troubled plans.

*The amount of assistance needed is less than would be required if the troubled plans were left to go insolvent thus addressing PBGC’s funding problem at a reduced cost. Our mathematical models demonstrate that the loans and PBGC assistance will save the deeply troubled Teamsters’ Central States plan.*
Overview of the Multiemployer Proposal

Establishing the PRA: The proposal establishes the Pension Rehabilitation Administration (PRA), a new agency within the Department of the Treasury authorized to issue bonds in order to finance loans to “critical and declining” status multiemployer pension plans, plans that have suspended benefits, and some recently insolvent plans currently receiving financial assistance from the PBGC. The PRA is headed by a Director appointed by the President. The term of office of the Director will be 5 years. The Director will have the power to appoint deputy directors, officers and employees. The Director may contract for financial and actuarial services. In general, the PRA shall be funded from within Treasury’s appropriated budget including administrative and operating expenses.

PRA Bonds: The Secretary of the Treasury is authorized to issue bonds and use the proceeds to make loans to multiemployer defined benefit plans that have been approved to receive a PRA loan. The PRA is authorized to issue bonds in such amounts as it anticipates are needed to fund loans in a given twelve-month period. Bond proceeds will be kept in a separate Treasury fund, the Pension Rehabilitation Trust Fund (PRTF), and eligible uses for the bond proceeds include funding PRA loans. Loan repayments and interest paid on the loans by the pension funds will also go into the fund, from which payments on the bonds will be made. PRTF funds may also be used for PRA operating expenses.

PRA Loans: The PRA is authorized to make loans from the PRTF to multiemployer DB plans in “critical and declining” status as defined in IRC section 432(b)(6), plans that have suspended benefits under MPRA, and insolvent ongoing plans already receiving financial assistance from the PBGC (“plan”). The loan terms will require the plan to make interest payments for 29 years with final interest and principal repayment due in year 30.

The amount of the loan is the amount of cash needed to fund the plan’s obligations for the benefits of participants and beneficiaries in pay status at the time the loan is made, as identified in the loan application. Plans that receive a loan must fund the plan’s obligations to those in pay status in one of the following ways:

1. Annuity purchase: purchase commercial annuity contracts to provide the identified benefits from an insurance company with a credit rating of A or better by a nationally recognized statistical rating organization and the purchase must meet the fiduciary standards under Title I of ERISA and the pertinent Department of Labor regulations (“safest available”);
2. Cash Matching or Duration Matching Portfolio: must consist of fixed income investments (bonds) that are investment grade (as rated by a nationally recognized statistical rating organization) including U.S. dollar-denominated public or private debt obligations issued or guaranteed by the U.S. or foreign issuers, which are tradeable in U.S. currency and are issued at fixed or zero-coupon rates or
(3) Some other portfolio prescribed by the Secretary of the Treasury in regulations which has a similar risk profile as Cash Matching and Duration Matching and is equally protective of participants’ and beneficiaries’ interests.

If a portfolio described above is implemented, it must be maintained until all liabilities to retirees and beneficiaries in pay status at the time of the loan are satisfied.

**Portfolio Oversight:** Except in the case of annuity purchase, the PRA maintains oversight over all loan proceeds used to fund retiree liabilities. Such assets remain in the plan asset pool, but are segregated from all other plan assets in terms of accounting and investment performance measurement. Such oversight shall include a mandatory triennial review of the adequacy of the portfolio to fund retiree benefits. If such review determines that there is an inadequacy, the plan must take remedial actions to cure such deficiency within five years. Such oversight will also include approval (within a reasonable period of time) of the plan sponsor’s decision to change the investment manager overseeing the fixed income portfolio.

Current law (the fiduciary provisions of Title I of ERISA) will govern the plan sponsor and the investment managers, who must acknowledge that they are plan fiduciaries under ERISA.

The loan proceeds are considered plan assets and the retiree liabilities remain liabilities of the plan. The plan’s other assets will be available to satisfy the retiree liabilities in the event the dedicated portfolio does not generate sufficient income to satisfy the retiree liabilities due to adverse actuarial experience.

Retirees whose liabilities are covered by the dedicated portfolio or annuity purchase remain plan participants under ERISA. Such participants will have an Ombudsman, who shall be the Participant and Plan Sponsor Advocate appointed under Section 4004 of ERISA.

**PRA Loan Application:** In order to obtain a loan, the plan sponsor must apply to the PRA. The application must demonstrate that:

1. Receipt of the loan will enable the plan to avoid insolvency during the loan term; and

2. The plan is reasonably expected to be able to pay benefits and interest during the term of the loan and accumulate sufficient funds to repay the principal when due.

3. The plan will be able to meet these obligations while meeting the following obligations:
(1) Not increasing benefits or accepting a bargaining agreement that provides for reduced contribution rates during the term of the loan,

(2) Avoidance of Code/ERISA violations that result in large costs from plan assets, and

(3) Meeting such other conditions as the Administrator prescribes.

The PRA has 90 days to review and decide whether to approve any loan application or it is deemed approved.

Effect of PRA Loans on Funding and Withdrawal Liability: The annuity contracts and fixed income portfolios purchased with the loan proceeds and the benefits covered by the annuity contracts or portfolios are not taken into account in determining minimum required contributions, but remaining payments due on the loan (interest and principal) are, as well as benefits not covered by the annuity contracts or portfolios. The IRC and ERISA provisions relieving employers from liability for minimum required contributions (and the related excise tax) when a plan is in critical continue to apply. The annuity contracts and fixed income portfolios purchased with the loan proceeds are not taken into account in determining an employer’s withdrawal liability, but the benefits covered by the annuity contracts are (or, if greater, the remaining payments due on the loan are).

If an employer withdraws from the Plan during the term of the loan, withdrawal liability of such employer will be determined as if in the case of a mass withdrawal. Specifically, the provisions of ERISA section 4219(c)(1)(D) would apply, eliminating the 20-year cap on the number of withdrawal liability payments and requiring the withdrawing employer to pay its share of “reallocation” liability. Furthermore, PBGC single-employer plan termination actuarial assumptions should be used to value benefits as prescribed in regulations under section 4281 of ERISA.

PBGC Assistance for Retirees from Certain Critical and Declining Status Plans: A plan can apply for PBGC financial assistance in conjunction with a PRA loan only if that plan can demonstrate that a PRA loan alone will not allow the plan to maintain solvency or become solvent. A plan may apply for a PRA loan in conjunction with PBGC support. The application would demonstrate that with assistance from the PBGC would make a PRA loan viable, based on projections by the plan actuary. If these projections indicate that the plan will become insolvent within 30 years, then the actuary will determine what percentage of the plan liabilities, if covered by PBGC assistance payments, as opposed to the loan proceeds, would result in the plan maintaining solvency throughout the thirty years. PBGC financial assistance shall not exceed the value of PBGC guarantees for retirees and workers (including beneficiaries).
FAQs

QUICK SUMMARY: This legislation aims at financially supporting troubled multiemployer pension plans so they don’t fail. The bill would create the Pension Rehabilitation Administration as an agency within the U.S. Treasury Department. The PRA would sell Treasury-issued bonds in the open market to large investors such as financial firms. The PRA would then lend the money from the sale of the bonds to the financially troubled pension plans. For plans that need additional assistance, PBGC would provide financial assistance to make up the difference.

1. How does borrowing enable plans to ensure retirees get their full benefit?

The pension plans borrowing from the Pension Rehabilitation Administration (PRA) must set aside the money in separate investments that match the pension payments for retirees. The pension plans can do this by buying annuities, cash matching with investment grade bonds, or duration matching with a suitable bond portfolio. Whichever approach is taken retirees and their families are guaranteed their promised benefits and the loan proceeds may never be invested in risky investments.

2. How much is borrowed and on what terms?

Pension plans may borrow as much money as they need to pay current retiree and terminated vested participants for life at low interest rates comparable to that on a long term Treasury bonds as long as they can show they can remain solvent during the loan period and that they can reasonably pay it back (see question 5 for what happens if they can’t show this). The interest rate the PRA will charge pension funds may be slightly higher than the interest rate the Treasury will pay to investors, so it can cover its costs of operating the new agency.

During the first 29 years of the 30-year loans, the pension plans will pay only fixed interest rates on the money they’ve borrowed. In the last year, the pension plans will pay interest on the loans and repay all money they borrowed.

3. Is there oversight?

Pension plans applying for loans to the PRA must submit detailed financial projections. The PRA will have to approve all the loans before they can be issued. Pension plans that have borrowed money must submit reports every three years to the PRA to show that the loans are working and take steps if their financial condition begins to deteriorate.

4. Who can apply for the program?

The following types of plans may apply for PRA loans: Critical and Declining plans (within the meaning of section 305(b)(6)), recently insolvent but non-terminated plans, and plans that have suspended benefits under MPRA.
5. Will this work for all troubled plans?

The bill is meant to provide assistance to all plans covered by the program but the loans alone will not be sufficient to help all the financially troubled pension plans. Some plans will need additional help from the government. The bill proposes that the Pension Benefit Guaranty Corporation (PBGC) would provide that help and that would require Congress to provide funding to the PBGC. The PBGC would support part of the pension plans’ payments for retired and terminated vested workers, up to its statutory guaranteed cap on benefits for deeply troubled plans.

6. When would a plan get PBGC assistance?

When a plan is preparing their application for a PRA loan and has determined that it cannot maintain solvency with the loan alone, the plan would also apply to the PBGC for PBGC assistance. Plans cannot apply for PBGC assistance if they cannot demonstrate that they would need it in addition to a loan.

7. What happens to withdrawal liability?

There are two considerations for withdrawal liability: first, how to calculate withdrawal liability as it relates to the annuity purchases for participants in pay status and, second, how new withdrawal liability requirements under the bill affect total withdrawal liability amounts.

While some plan annuity purchases are akin to a partial termination and, therefore, are excluded from liability calculations, this is not the case with annuities purchased under the provisions of this bill. A plan participating in the PRA loan program must still count the benefits covered by the annuity contracts (or, if greater, the remaining payments due on the loan) when determining an employer’s withdrawal liability.

The bill also includes a new rule for calculating withdrawal liability. If an employer withdraws from the Plan during the term of the loan, withdrawal liability of that employer will be determined as if it were a mass withdrawal. Specifically, the plan must eliminate the 20-year cap on the number of withdrawal liability payments and require the withdrawing employer to pay its share of reallocation liability (see ERISA 4219(c)(1)(D)). Furthermore, PBGC single-employer plan termination actuarial assumptions must be used to value benefits when calculating withdrawal liability.

8. What happens if a plan cannot pay back the loan?

If a plan has difficulty paying back its loan, the PRA must negotiate revised terms for repayment. These terms may include installment payments over a reasonable period and, if the PRA deems necessary to avoid any suspension of the accrued benefits of participants, forgiveness of a portion of the loan principal.
9. What is the interest rate for the loan?
The interest rate on the loan is capped at 0.2% above the then applicable treasury rate.

10. What kind of annuity can be purchase?
While we think it is important to give plans the flexibility to choose the best vehicle for them, and the kinds of annuity vehicles grows every day, plans should purchase annuities that function similar to a fixed income annuity—that is a fixed (as opposed to variable) annuity that provides fixed payments over the term.

11. What is a cash-matching portfolio?
The bill permits plans to segregate PRA Loan proceeds into cash-matching portfolios. A cash matching investment portfolio allows an investor to invest in securities with a certain expected return so that the investor will be able to pay for future liabilities. Cash matching portfolios are often recommended for retirees living off the income they make from the portfolio because they guarantee stable continuous payments similar to a fixed income annuity.

12. What is the government guarantee of the loan?
The loans are paid for with the proceeds from the sale of Treasury Bonds. The bonds will be backed by the full faith and credit of the United States. The PRA will not have trouble raising the money because investors want long term bonds that carry little risk.

13. Do retirees lose PBGC protection?
No. The plan will still pay premiums to PBGC for all participants including retirees. And while the bill makes plan insolvency for non-terminated plans very difficult, if a plan were to go insolvent, PBGC would provide their guaranty for all participants in the plan.

14. How can the PBGC afford to provide financial assistance?
PBGC would not be required to pay financial assistance from its normal funding source. Instead, the bill includes a provision to provide PBGC with appropriated funds equal to the amounts as may be necessary for each fiscal year to provide the financial assistance described in the bill.

15. What are the criteria for approval?
To be approved for a PRA loan a plan must, at a minimum demonstrate that the loan will enable the plan to avoid (or emerge from) insolvency for at least the 30 year loan period and that the plan is reasonably expected to be able to pay benefits and the interest on the loan during such period and to accumulate sufficient funds to repay the principal when due. The PRA may request that the plan provide additional demonstrations prior to approval.
16. How long does the PRA have to review the applications?

The PRA must approve or deny an application within 90 days after the submission of such application. An application will be deemed approved unless, within those 90 days, the Director notifies the plan sponsor that the determinations or demonstrations in the application are clearly in error.