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Don't Trade the USMCA for a Private Union Pension Bailout

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KEY TAKEAWAYS

Free trade in North America is crucial for American families, workers, and businesses. Congress should consider the USMCA on its own merits.

To persuade lawmakers skeptical of the USMCA, Congress is flirting with idea of attaching a taxpayer bailout for private union pension plans to the agreement.

Tying an unrelated pension bailout to the USMCA harms American workers and rewards irresponsible pension managers.

Congressional approval of the United States–Mexico–Canada Agreement (USMCA) is a top priority for the Administration, which would like to see this trade agreement implemented within the next few months. In an effort to secure Democratic support for the House to take up the USMCA, Congress is flirting with the idea of attaching a taxpayer bailout for private union pension plans.

Maintaining a free trade area in North America is crucial for American families, workers, and businesses. The USMCA is a revised agreement to replace the quarter-century-old North American Free Trade Agreement (NAFTA). The merits of the USMCA stand on their own, and there is no merit in bailing out reckless union pension plans without reforming the broken system. Doing so would threaten passage of the USMCA.

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Pension managers who swindled unionized workers out of promised pension benefits with reckless plan management should face the consequences of their actions. A private union pension bailout would reward bad actors while punishing working Americans who are trying to save for their own retirement, as well as employers who played by the rules. Before even considering any bailout of private pension plans, Congress must first establish and enforce sound and consistent rules so that employers and unions cannot continue to rob workers of promised pension benefits by failing to set aside the funds to pay them.

Congress should consider the USMCA and underfunded pensions in isolation of one another. Using a private union pension bailout to persuade lawmakers who are skeptical of the USMCA to support the deal would be reckless policy and end up hurting working Americans.

The Threat

The USMCA was signed by the three countries in November 2018 to replace the existing NAFTA. Congress continues to await implementing legislation from the Administration for the USMCA, which must then proceed through the legislative process.[1] This is where a pension bailout could come in, as a way to secure support among certain Democrats who are looking for a must-pass vehicle to tack on to their obscure pension bailout. Attaching this unrelated pension bailout to the USMCA would be fiscally reckless and reward irresponsible pension managers without fixing the underlying issues driving the underfunding crisis.

Underfunded Multiemployer Pensions

Across the U.S., roughly 1,400 multiemployer pension plans are only 43 percent funded and have promised about 11 million workers and retirees $638 billion more than they have set aside to pay them.[2] The situation is so bleak that even the government entity that provides pension insurance—the Pension Benefit Guaranty Corporation (PBGC)—will be bankrupt within six years. When that happens, workers and retirees with insolvent union-run pension plans could end up with mere pennies on the dollar in promised pension benefits.

Although only about 10 percent of plans will run out of funds within the next decade or so, the multiemployer problem is pervasive. Fully 96 percent of all workers with multiemployer pensions are in plans that are less than 60 percent funded, and, it is only a matter of time before most multiemployer pension plans become insolvent.[3]

Congress's Proposed Pension Bailout Without Reform. The House passed a pension bailout without reform in July. Under H.R. 397, the Rehabilitation for Multiemployer Pensions Act[4] (and the similar Senate companion, the Butch Lewis Act),[5] a select group of the worst-funded pension plans would receive over $100 billion in taxpayer dollars. Bailout funds would include annual installments of direct cash (including $3 billion per year for one of the largest plans) as well as taxpayer-subsidized, 30-year, interest-only balloon payment loans to invest in the stock market in hopes of earning higher returns than their low-interest loans.[6] Such stock market arbitrage is wholly inappropriate for taxpayer funds.

In a letter responding to Senator Enzi's inquiry on the bill's costs, the Congressional Budget Office cautioned that even an estimated $100 billion provided to 139 select plans[7] would not make those plans solvent: "About one-quarter of the affected pension plans would become insolvent in the 30-year loan period and would not fully repay their loans.... Most of the other plans would become insolvent in the decade following their repayment of their loans."[8]

That is because the proposed "solution" does absolutely nothing to address the problems that allowed employers and unions to effectively steal $638 billion in compensation from workers. On the contrary, by transferring broken pension promises to taxpayers without consequence, and without requiring unions and employers to fund their plans in the future, the proposal encourages even more reckless underfunding.[9]

In addition to H.R. 397, Congress also held a hearing in July on another, more selective, pension bailout. H.R. 935, the Miner's Pension Protection Act, would provide one single pension plan—the United Mine Workers of America's (UMWA's)—with hundreds of millions of dollars each year (up to $750 million total, including its unfunded health benefits) to make good on its broken pension promises.[10] H.R. 935 would do nothing, however, to solve the problems that contributed to the UMWA's unfunded pension and nothing to help or fix the more than 1,300 other significantly underfunded multiemployer pension plans.

The federal government should not be in the business of picking winners and losers among pension plans—that is unfair and destructive. Congress would implicitly put taxpayers on the hook to bail out all $638 billion of multiemployer pension plans' broken promises as well as an estimated $4 trillion to $6 trillion in unfunded state and local pension promises. Policymakers should not open the door to any pension bailouts.

A full-scale pension bailout could cost every worker in the U.S. an extra $42,000 in new taxes throughout his career. While such a bailout would leave federal taxpayers on the hook for broken private, and state and local, pension promises, it would do nothing to help those taxpayers with Congress's failure to address the pension shortfall that will affect them—that is, Social Security's $16.8 trillion shortfall.[11]

Recommendations for Congress

Congress should address the multiemployer pension crisis immediately, as 83 percent of multiemployer pension plans are digging themselves into deeper holes each year.[12] The solutions are not easy or painless, but they are straightforward and commonsense.[13] Congress should:

- **Maintain the current pension safety net by preserving the PBGC's solvency.** This includes managing the PBGC more like a private insurance system and collecting additional revenues from multiemployer stakeholders. The PBGC is not a taxpayer-financed entity and Congress should not turn it into one.

- **Allow plans to minimize pension losses across participants.** By establishing options for pension plans to prolong their solvency, including potential changes in benefit accruals and allowing modest pension reductions, policymakers can help plans to prolong their solvency and preserve higher pension benefits for older and younger workers alike.

- **Fix the problems so this never happens again.** Broken pension promises are wrong, and workers should not lose out on the benefits they worked hard to earn while those who broke their promises walk away unscathed and wealthier. Multiemployer pension plans must be required to follow the same, sound funding rules as non-union pension plans, and employers and unions who promise pension benefits must be held accountable to pay them.

- **Establish a red line for pension bailouts.** Taxpayer funds are not necessary to minimize pension losses and fix the multiemployer system. If Congress does decide to use taxpayer dollars to bail out private union pensions, it must include meaningful repercussions. Any pension plan that receives taxpayer money should not be allowed to promise any new benefits, and the PBGC should take over its management. Moreover, pension managers must be held accountable for reckless mismanagement and breaches of fiduciary responsibility.

- **Consider the USMCA as a stand-alone bill and address unfunded pensions separately.** The consequences of a pension bailout without reform are so enormous—both in taxpayer costs and the moral hazard and bad precedent it would set—that no trade deal could overcome the repercussions. When implementing legislation for the USMCA reaches Congress, policymakers should consider it as a stand-alone bill, instead of threatening it with an unjust and reckless private union pension bailout.

Keep the Pension Bailout Off the USMCA

Promoting free trade has nothing to do with confronting broken pension promises. At best, tying an esoteric bailout of private pension plans could derail a potentially productive and pro-growth trade deal, and at worst, it could force taxpayers to pay more for other workers' pensions than they have in their own retirement accounts. Congress's current approach would reward reckless union pension managers while hurting working Americans who are trying to save for their own retirement, as well as employers who played by the rules. The USMCA and unfunded private union pension plans are two separate issues that Congress should consider separately.

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Endnotes

1. Trade agreements are generally considered under expedited procedures through Trade Promotion Authority. See Tori K. Whiting and Gabriella Beaumont Smith, "Next Steps for the USMCA: Congress Should Have Its Say to Ensure Free Trade," Heritage Foundation *Backgrounder* No. 3418, June 18, 2019, https://www.heritage.org/trade/report/next-steps-the-usmca-congress-should-have-its-say-ensure-free-trade.
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4. H.R. 397–Rehabilitation for Multiemployer Pensions Act of 2019, https://www.congress.gov/bill/116th-congress/house-bill/397 (accessed September 17, 2019).
5. S. 2254–Butch Lewis Act of 2019, https://www.congress.gov/bill/116th-congress/senate-bill/2254 (accessed September 17, 2019).
6. Rachel Greszler, "The Rehabilitation for Multiemployer Pensions Act of 2019: No Solution to America's Pension Crisis," Heritage Foundation *Issue Brief* No. 4983, July 25, 2019, https://www.heritage.org/sites/default/files/2019-07/IB4983.pdf.
7. Congressional Budget Office, "Cost Estimate for H.R. 397, The Rehabilitation for Multiemployer Pensions Act of 2019," July 23, 2019, https://www.cbo.gov/system/files/2019-07/hr397_2.pdf (accessed September 20, 2019).
8. Congressional Budget Office, letter to Senate Budget Chairman Enzi Re: Potential Effects of H.R. 397, the Rehabilitation for Multiemployer Pensions Act of 2019, September 6, 2019, https://www.cbo.gov/system/files/2019-09/Enzi_letter_hr397.pdf (accessed September 20, 2019).
9. Rachel Greszler, "Pension Bailout Bill Would Only Worsen the Underfunding Crisis," The Daily Signal, September 12, 2019, https://www.dailysignal.com/2019/09/12/proposed-pension-bailout-would-only-worsen-the-underfunding-crisis/.
10. Currently, the UMWA has access to up to $490 million per year to cover most of its unfunded health benefits. That money comes first from interest earned on the Abandoned Mine Land (AML) Trust Fund and then from taxpayers through general revenues. (Most recently, the AML Trust Fund provided $68 million in interest and taxpayers provided another $270 million.) Under H.R. 935, the UMWA could take up to $750 million per year to cover both its health and pension benefits. Because the UMWA already uses far more each year for its health benefits than the AML Trust Fund provides, the entirety of the pension funds would come from taxpayers.
11. Rachel Greszler, "What Social Security's Shortfall Means for You," The Daily Signal, April 23, 2019, https://www.dailysignal.com/2019/04/23/what-social-securitys-shortfall-means-for-you/.
12. Joshua D. Rauh, director of research and senior fellow, Hoover Institution, testimony before the Joint Select Committee on Solvency of Multiemployer Pension Plans, U.S. Congress, July 25, 2018, https://burypensions.files.wordpress.com/2018/07/rauh-written.pdf (accessed September 19, 2019).
13. Rachel Greszler, "Congress's Multiemployer Pension Committee Should Act Now: 12 Reforms to Protect Pensioners and Taxpayers," Heritage Foundation *Backgrounder* No. 3368, November 18, 2018, https://www.heritage.org/sites/default/files/2018-11/BG3368_0.pdf.