

2019 SENATE GOVERNMENT AND VETERANS AFFAIRS

SCR 4012

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Sheyenne River Room, State Capitol

SCR4012
2/7/2019
32340

- Subcommittee
 Conference Committee

Committee Clerk Signature : Pam Dever

Explanation or reason for introduction of bill/resolution:

Urging Congress and the President of the US to pass the Butch Lewis Act.

Minutes:

Att # 1 – Sen. Oban; Att #2 – Dennis Kooren; Att #3 –
Waylon Hedegaard;

Chairman Davison: Take the roll: Attendance was taken and all were present. Let's open SCR4012.

Sen. Erin Oban: I am here to introduce and discuss SCR4012. This was introduced in the 2015 Congress as SB2147 and H.R.4444. (see att #1). (.44—5.00) I have a letter I want to read from Dennis Kooren. (see att #2)

Chairman Davison: What are the biggest employers of the 2000 are in N.D.?

Sen. Erin Oban: UPS was mentioned.

Waylon Hedegaard, N.D. AFL-CIO: We support this resolution. (see att #3) There are many reasons for the problems of impending insolvency. But none of the reasons are the fault of the retirees. They will suffer the most. It is unintended government regulations is the main reason. My pension plan lost 30% of its assets in a few months. The boilermakers went into action mode. We put our raises into the pension plan to help it. We wanted to keep our plan solvent. (11.0) If we were allowed to over fund our plan through the good years, the housing crisis would have been a bump in the road only. These people are our friends and neighbors.

Jeff Hofstad, retired from Super Value: I am here to support SCR4012. I was with the Super Value warehouse for 25 years. I am representing some people from Fargo and Grand Forks who could not get here because of weather. It is very important to understand how distressed people are because of the pension crises. Whether it is a single employer or multi-employer plan, solutions need to be found now before the plans become insolvent. The PBGC will not survive and it is \$54 billion underfunded. Their assets are \$14.8 billion but lost \$172 million. Pensions are not a gift. It is a negotiated part of our wages that we set aside. Most times these are less than we get from social security. They are designed to be a supplement to keep us off of welfare. I don't know if the politicians want us to stand in front of the capital and beg for food and shelter. These are blue collar workers. To watch Wall

street and the department of labor neglect their responsibility to safe guarding these pension is just wrong. I find it ironic that the Dept. of Justice fined Goldman Sacs \$5.6 billion for investment strategy in 2008. When they had control over that fund, they lost \$11 billion in 15 months. If we do nothing, that is wrong, and it will get worse. Let's please try the Butch Lewis. (18.42)

Chairman Davison: Thank you. You did fine. Any more in support? Any against? Any agency? Hearing is closed. (19.13)

2019 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Sheyenne River Room, State Capitol

SCR4012
2/7/2019
32392

- Subcommittee
 Conference Committee

Committee Clerk Signature : Pam Dever

Explanation or reason for introduction of bill/resolution:

Relating to the Butch Lewis Act.

Minutes:

Chairman Davison: Take out SCR4012.

Sen. Erin Oban: I move a DO PASS.

Sen. Richard Marcellais: I second.

Chairman Davison: Any discussion? Take roll: **YES -- 7 NO -- 0 -0-absent**
PASSED. Sen. Erin Oban will carry the bill.

2/7/19

Date:
Roll Call Vote #:

1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4012

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Sen. Oban Seconded By Sen. Marcellais

Senators	Yes	No	Senators	Yes	No
Chairman Davison	/		Sen. Oban	/	
Vice Chair Meyer	/		Sen. Marcellais	/	
Sen. Elkin	/				
Sen. K. Roers	/				
Sen. Vedaa	/				

Total (Yes) 7 No 0

Absent -0-

Floor Assignment Sen. Oban

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SCR 4012: Government and Veterans Affairs Committee (Sen. Davison, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SCR 4012 was placed on the Eleventh order on the calendar.

2019 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SCR 4012

2019 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union Room, State Capitol

SCR 4012
3/14/2019
33766

- Subcommittee
 Conference Committee

Committee Clerk: Carmen Hart

Explanation or reason for introduction of bill/resolution:

Urging congress and the president of the US to pass the Butch Lewis Act

Minutes:

Attachments 1-7

Chairman Kasper opened the hearing on SCR 4012.

Senator Erin Oban appeared in support. Attachment 1. Attachment 2 was submitted from **Dennis Kooren, ND Fargo Pension Committee Chair**. (:14-5:12)

Rep. B. Koppelman: I understand this plan is calling for the federal government to loan money to the pensions until they can get back on track. How much does the federal government have in savings right now to be able to borrow?

Senator Oban: I don't know what the federal government has in savings. What I know is that there was an agency set up to protect pensions just like this that has also failed to protect them. This would allow them to borrow money from the treasury to be able to not only help with the responsibilities of the PBGC but specific multi-employer pension programs like this one.

Rep. B. Koppelman: Are these promises that the federal government made for a certain return on investment, or are these private industries' pensions that the government was asked to come in and supervise so that they didn't get mishandled?

Senator Oban: I will direct you to Dennis Kooren's testimony. She read starting with Paragraph 3. (7:13-8:45)

Chairman Kasper: Do you know who these employees were employed by?

Senator Oban: It is my understanding it is mostly miners, truckers, and private sector.

Rep. Schauer: Do you have an update on where the Lewis Act is right now?

Senator Oban: I believe it has been reintroduced. I am not sure if it still has the name Butch Lewis or deemed Butch Lewis.

Attachment 3-4 was handed out by the law intern.

Waylon Hedegaard, President of AFL-CIO, appeared in support. Attachment 5. (10:54-16:02)

Chairman Kasper: You made a lot of statements about what has happened in the past. Do you have documentation you could provide?

Mr. Hedegaard: There are articles out there detailing this exact same thing that I can mail to the committee. When you are undergoing your own pension plan, you tend to think that everybody is the same, but when you get a position like mine, you realize there are a 100 different plans and they are all undergoing similar but different problems.

Chairman Kasper: I would assume they are all defined benefit plans?

Mr. Hedegaard: That I know of, they are all defined benefit plans.

Chairman Kasper: A defined contribution plan cannot be underfunded, because there is no guaranteed benefit.

Mr. Hedegaard: There is no guaranteed benefit. Attachment 6 was submitted a little later.

Jed Gilbertson, Bismarck, appeared. Attachment 7. (17:33-22:05)

Jeff Hofstad, Bismarck, appeared. He also worked at SuperValu for 34 years. In 2018 a bipartisan committee was formed to come up with a solution for the funding crisis faced by Central States which is one of the largest multi-employer pension funds in the United States. The goal of that committee was to come up with an agreement on a plan and take action on that plan by the end of 2018. At that time the Butch Lewis Act was presented to the committee with positive research indicating that it could be a viable solution. At the end of the year, nothing had been agreed upon, and the committee was dissolved. The bill authored by Senator Heidtkamp at that time is still out there with two senators from Ohio vowing to continue the fight for the pensions retirees have earned. There are 2,000 retirees in North Dakota on the Central State pension fund and there are 400,000 Americans that have set part of their wages aside for this time of their lives. If Central States collapses, the Pension Benefit Guarantee Corporation would also collapse. The Dept. of Labor took control of that fund in 1982. They had that fund audited twice. From 2007-2009 Goldman Sachs who had control of the investment strategies of that fund lost \$11 billion in 15 months. I find it ironic that the Dept. of Justice fined Goldman Sachs \$5.6 billion for misleading investors with mortgage backed securities over that same period of time. Goldman Sachs gave up their control of the investment strategies of that fund in 2010. There are a lot of articles out there about how Wall Street destroyed the Central States Pension Fund, and it was all done under the watchful eye of the Dept. of Labor. Our hope is that action will be taken on the Butch Lewis Act and that it would be a success and would be the cornerstone of pension reform.

Chairman Kasper closed the hearing.

Rep. Vetter made a motion for a DO PASS.

Rep. P. Anderson seconded the motion.

Rep. Laning: There are a lot of pensions in this condition. This one especially irritates me because we set up a federal agency to watch and make sure this doesn't happen, and they are the biggest bunch of failures that you could imagine. I feel sorry for the people that kicked money into this, but I think there are going to be a lot more companies and agencies that are going to be in the same fix. I am not sure how the government is going to be able to handle it all.

Rep. Hoverson: Are we in for a cascade of pension issues from one group after another down the road? It seems to me the real cause is the expansion of the money supply which causes inflation. Isn't the underlying issue the decrease of the value of the dollar?

Chairman Kasper: No. You heard testimony on action when their fund was overfunded. My personal opinion is it is ridiculous that if you have a fund overfunded, you make them spend down the money. The government shouldn't interfere when it is the people's money that was putting it in. A lot of these pension funds had unrealistic interest rate assumptions. A defined benefit plan guarantees the retirement benefit 20 or 30 years down the road for another 20 or 30 years, and the actuaries give you dollar amounts that they assume you should fund to be able to provide the benefit as well. I think this resolution might work short term, but, unfortunately, I don't believe it will work long term. We need to address the people who are living it right now, and I think that is what this resolution does.

Rep. Schneider: I think the resolution coming to us allows us an unique opportunity to support the 2,000 North Dakotans who are retirees and worked hard for that money and the other folks that are suffering under other multi-employer pension plans while at the same time supporting our congressional delegation, both past and present, who have worked hard to be a voice for those folks. I would be supportive of the do pass.

Rep. Schauer: We are a people of action. This doesn't fix anything, but it does send a message that we care about what has happened to these people. We know there is a problem at the federal level, so I will be supporting it.

Rep. B. Koppelman: The plan to give out loans to be repaid with a diminishing size of workforce in some of these areas doesn't seem like that plan is setting anybody up for success. In its current form, I am not going to support the resolution, because I don't know enough about the Butch Lewis Act.

A roll call vote was taken. 9-5, 0 absent.

Rep. Vetter will carry the bill.

Date: 3-14-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 4012**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Vetter Seconded By Rep. P. Anderson

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Pamela Anderson	X	
Vice Chair Vicky Steiner	X		Rep. Mary Schneider	X	
Rep. Jeff Hoverson		X			
Rep. Craig Johnson		X			
Rep. Daniel Johnston		X			
Rep. Karen Karls		X			
Rep. Ben Koppelman		X			
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Karen Rohr	X				
Rep. Austen Schauer	X				
Rep. Steve Vetter	X				

Total (Yes) 9 No 5

Absent _____

Floor Assignment Rep. Vetter

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SCR 4012: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO PASS** (9 YEAS, 5 NAYS, 0 ABSENT AND NOT VOTING).
SCR 4012 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SCR 4012

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2-7-19
Att #1
pg 1

SCR 4012

Senate Government and Veterans Affairs Committee

Hearing: Thursday, February 7, 2019 | 9:00 am

Testimony provided by Sen. Erin Oban

Mr. Chairman, members of the Committee, for the record, I'm Erin Oban, Senator for Bismarck's District 35. I'm here to introduce and discuss SCR 4012, a resolution encouraging Congress and the President to reintroduce, pass, and sign into law what's been known as the "Butch Lewis Act." This bill was introduced in the 115th Congress (2017-18) as S. 2147 and H.R. 4444 (Rehabilitation for Multiemployer Pensions Act). Both former Representative, now Senator Kevin Cramer and former Senator Heidi Heitkamp were cosponsors of this legislation. Whether it goes by that name or not, our hope as sponsors and cosponsors is that the content and ultimate goal remains the same - securing retirees' pension plans and getting them on the right track to solvency.

As this committee probably well knows, multiemployer pension plans in this country are facing a financial crisis. These plans provide longtime workers from a variety of industries, mostly blue-collar industries like trucking and mining, with the retirement security they earned. These individuals have worked their entire lives with the promise that when they retire, their pensions will be there. Unfortunately, many of these plans are on the verge of failing, meaning current retirees will see dramatic cuts in benefits. More than 1.5 million retirees nationwide, including more than 2,000 North Dakotans, are affected by this crisis. Last year, a joint select committee on pensions was created within Congress to craft legislation ensuring the solvency of these plans. Unfortunately, a solution was not reached before the last Congress adjourned.

The Pensions Benefit Guarantee Corporation (PBGC) is the federal agency charged with insuring pension plans and is supposed to step in to keep beneficiaries whole when plans are in trouble. However, the PBGC's multiemployer program is running out of funding itself. If something isn't done to address the pension crisis, not only will retirees and current employees lose their retirement, but taxpayers will be on the hook for billions of dollars we do not have to shore up these plans.

The Butch Lewis Act is one solution. If passed into law, it would allow multiemployer plans to take out 30-year loans from the U.S. Treasury providing them with the funds and, just as importantly, the time necessary to get back on sound financial footing. These loans would be repaid to the Treasury with interest. The bill also creates an oversight mechanism to ensure that pension plans do not take financial risks with these loans and that they don't borrow more than they would be able to repay. It protects retirees' benefits and taxpayers alike.

It also would allow the PBGC to make up the difference between money borrowed and any additional funding needed to pay benefits owed to current retirees while the plans get back on track. The amount of funding provided for this program is a fraction of what it (the PBGC and, thus, the taxpayers) would otherwise be on the hook for if Congress fails to act.

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AH #1
pg 2

Mr. Chairman, it's understandable, I suppose, for some to feel no obligation or responsibility to fixing this crisis. And you won't be surprised that I'm someone who thinks we all do better when we all do better. However, I firmly believe that where we can agree is that not one of us would ever want people in their latest years to have to turn to government assistance like SNAP or LIHEAP or similar programs, especially when they worked and saved their entire lives for financial security.

Mr. Chairman, I want to close by adding another bit of a side note - my recognition of the cynicism that the legislature often expresses about resolutions in general. But first off, if we don't like them that much, we should just not be able to introduce them at all then. But also, based on some of the resolutions I've seen introduced this session and in the past, I thought it was important for the North Dakotans most impacted by this to know their legislators are educated about and aware of both the crisis at hand and the solutions being debated to address it. And, for that matter, whether or not their legislators support fixing it.

We as a legislature can lend our support for these efforts, thank and encourage our own Congressional delegation to be (or continue to be) leaders on the issue, and send a message to our fellow North Dakotans by approving SCR 4012.

Thank you, and I'll stand for any questions or, better yet, would invite others to share their personal experience and feelings about this issue.

Who is Butch Lewis?

Estil "Butch" Lewis was a Vietnam War veteran who returned home and worked for 40 years as a trucker and Teamster. He was the retired head of Teamsters Local 100 in Evendale, Ohio. Butch led the fight to preserve his fellow Teamsters' pensions, and passed away due to a stroke on New Year's Eve in 2015. Doctors attributed his stroke, at least in part, to the stress he faced fighting the proposed pension cuts. His wife, Rita Lewis, has continued her late husband's fight for the retirement security these workers earned over a lifetime of hard work.

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2-7-19
AH # 2
psl

Submitted in support of SCR 4012 – Dennis Kooren

In our Pension Protection meeting yesterday, we honored the passing of 2 of our Pension Fighters. Both were former UPS drivers who were threatened with losing most of their hard earned Pension, and fought alongside me to protect it. We are in the midst of a fight for our lives at the end of our lives.

I was blessed to be able to testify at Treasury with Butch Lewis in Dec of 2015. He died of a massive stroke 2 weeks later on New Years Eve. Doctors attributed the stroke to the stress of his fighting for the lives and dignity of both himself and others that were threatened with losing everything they had. It is impossible to describe the pain I feel each time a fellow Pension Fighter passes on with his or her family not knowing if they will have enough money to survive.

We did everything right, paying into a Pension Fund overseen by the Federal Government since 1982. (Over \$300 a week for me with UPS the last few years, less before that.) We were told we were safe because our pensions could not be reduced unless the Pension fund went totally insolvent. If that happened, then the Federal Insurance called the Pension Benefit Guarantee Corporation (PBGC) would kick in to protect us. All of that vanished with the passage of the Multiemployer Pension Reform Act (MPRA) Dec of 2014. It was attached onto the Omnibus and the legislators who voted for it were deceived into thinking that nobody was going to get hurt much. It was pure deception.

This law destroyed that crucial leg of Protection that the Employee Retirement Income Security Act (ERISA) had given us since 1974. The government decided that to save money, we would become the insurance that was to protect us, since they did not collect enough in premiums to cover our insolvency (projected by 2026). Both Senator Heitkamp and then Representative Cramer signed onto the Butch Lewis Act in the Senate and House versions. Senator Hoeven gave much support behind the scenes.

I would be there in person testifying on Thursday, except I am presently trapped in Fargo with Winter Storm and blizzard warnings. Weather permitting, I am more than willing to address anyone in the legislature on this issue. I also need to give thanks to then Lt Gov Drew Wrigley who, when he found out about this issue, pushed the issue with our US Congressional staff about this injustice happening to us. I have great respect for him doing that.

In our meeting with Treasury Secretary Mnuchin on this issue, he described this as a tsunami, one that could take down the entire Multiemployer Pension System if not fixed, which then in turn would take down the entire US economy, causing tremendous damage into the tens or even hundreds of trillions of dollars.

The Butch Lewis Act is the most cost-effective means of addressing this issue. I ask that our legislature send a clear message to Washington that this needs to get fixed now.

With Love in Christ,

Dennis Kooren
ND Fargo Pension Committee Chair
geoconn@usa.net

SCR 4012
2-7-19
att #3
p81

Testimony for 2019 SCR - 4012
Senate Government and Veterans Affairs Committee
Presented by Waylon Hedegaard
President of the North Dakota AFL-CIO
February 7th

Chair, Members of the Committee:

My name is Waylon Hedegaard, and I'm the President of the North Dakota AFL-CIO. I stand in support of SCR-4012.

American faces a pension crisis. It's seldom acknowledged or discussed but it's there and growing larger. It's growing larger because we keep ignoring it. Millions of Americans face losing a substantial amount of their retirement when they can least afford it, and most of these are not "Cadillac" pensions. There are currently pensioners making \$3000 a month facing cuts to \$1500 or even lower in some cases.

And though there are many reasons as to why some plans are approaching insolvency, the key thing to remember is that none of these reasons are the fault of those retirees who are going to suffer most. Our aging population is going to bear the brunt of these burdens.

Much of reason for decline has been the unintended consequences of governmental actions. For instance, a major issue for the Central States Pension was the deregulation of the trucking industry in the 1970's which led to increased competition and the bankrupting of the majority of employer participants in the plan. Another example governmental interference that affected all private plans was that until 2006, American pension plans were prohibited by law from overfunding.

I'm a boilermaker. I've worked extensively on every power plant in the state. Because of the prohibition on overfunding, my own pension plan was forced to offer more benefits to retirees and lower the age of retirement repeatedly. I know that's hard to believe, but in the 1980's and 90's because of our high

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att #3
pg 2

funding amounts, we were forced to lower our retirement age from 62 to 61 to 60 and eventually to 58.

What this meant was that pension directors could not plan for future leaner times or for when a large number of people retired in a short time, as happened with us when the baby boomers started to retire. I'm sure these regulations were well meaning but they and other factors are having a huge effect on pensions now.

Then add in crises like the housing collapse of 2008 and the situation becomes even more dire. My own pension lost 30% of its assets in just a few months, while still maintaining the monthly liabilities. This pushed it from being completely funded into the danger area.

There's a common misperception that the plans themselves have not taken action to help themselves. This is far from the truth. Boilermakers went into emergency mode and took every raise we negotiated for five years and put every dime into stabilizing our pension. Our wages were actually lower in 2014 than they had been in 2008 because of the actions we took.

Understand that had we been allowed to overfund our plan in the good times, the housing crisis would have been no more than a bump in the road. As it was, it was devastating to all plans.

Right now, if pensions fail, they are guaranteed by the Pension Benefit Guaranty Corporation, a woefully underfunded federal agency. The idea of the Butch Lewis Act is to catch pensions before they get to collapse and help them over some bad times so they can recover. It's a middle option to just allowing them to continue in a death spiral.

Both then Representative Cramer and then Senator Heitkamp signed on as sponsors last year. I've heard Cramer tell of when his counterparts asked why he would sign on to this, and his explanation is spot on.

I paraphrase but what he said was that We are going to deal with this issue whether we take action or not. We can either ignore the problem and deal

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2-7-19

add #3
pg 3

with a much bigger issue later, or we can take action and deal with a smaller problem now.

The people affected by this issue are not strangers. They are our friends and neighbors. You likely know many of them. Coal country is filled with people relying on a pension as is Bismarck, Mandan, Fargo and Grand Forks

I urge this committee to support the resolution.



NORTH DAKOTA SENATE

STATE CAPITOL
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BISMARCK, ND 58505-0360



Senator Erin Oban

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COMMITTEES:

Education
Government and Veterans Affairs

SCR 4012

House Government and Veterans Affairs Committee

Hearing: Thursday, March 14, 2019 | 2:30 pm

Testimony provided by Sen. Erin Oban

Mr. Chairman, members of the Committee, for the record, I'm Erin Oban, Senator for Bismarck's District 35. I'm here to introduce and discuss SCR 4012, a resolution encouraging Congress and the President to reintroduce, pass, and sign into law what's been known as the "Butch Lewis Act." This bill was introduced in the 115th Congress (2017-18) as S. 2147 and H.R. 4444 (Rehabilitation for Multiemployer Pensions Act). Both former Representative, now Senator Kevin Cramer and former Senator Heidi Heitkamp were cosponsors of this legislation. Whether it goes by that name or not, our hope as sponsors and cosponsors is that the content and ultimate goal remains the same - securing retirees' pension plans and getting them on the right track to solvency.

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Mr. Chairman, I know sometimes we roll our eyes about resolutions, but I felt using this opportunity was important for the North Dakotans most impacted by this crisis to know their legislators are educated about and aware of both the situation they're in and the solutions being debated to address it. And, for that matter, whether their legislators support fixing it.

We as a legislature can lend our support for these efforts, thank and encourage our own Congressional delegation to be (or continue to be) leaders on the issue, and send a message to our fellow North Dakotans by approving SCR 4012.

Thank you, and I'll stand for any questions or, better yet, would invite others (if they were able to travel here today) to share their personal experience and feelings about this issue.

Who is Butch Lewis?

Estil "Butch" Lewis was a Vietnam War veteran who returned home and worked for 40 years as a trucker and Teamster. He was the retired head of Teamsters Local 100 in Evendale, Ohio. Butch led the fight to preserve his fellow Teamsters' pensions, and passed away due to a stroke on New Year's Eve in 2015. Doctors attributed his stroke, at least in part, to the stress he faced fighting the proposed pension cuts. His wife, Rita Lewis, has continued her late husband's fight for the retirement security these workers earned over a lifetime of hard work.

#2
SCR 4012
3-14-19

Submitted in support of SCR 4012 – Dennis Kooren

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With Love in Christ,

Dennis Kooren
ND Fargo Pension Committee Chair
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HOUSE COMMITTEE ON WAYS & MEANS CHAIRMAN RICHARD E. NEAL

*Prepared by Ways & Means, Democratic Staff
January 8, 2019*

THE REHABILITATION FOR MULTIEMPLOYER PENSIONS ACT (BUTCH LEWIS ACT) OVERVIEW

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 Treasury Secretary 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)(2) and (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:

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- (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.

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(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. PBGC financial assistance shall not exceed the value of PBGC guarantees for retirees and workers (including beneficiaries).

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H.R.397 - Rehabilitation for Multiemployer Pensions Act

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Summary(1) Text(1) **Actions(4)** Titles(2) Amendments(0) Cosponsors(73) Committees(3) Related Bills(0)

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Date All Actions

- 01/09/2019 Referred to the Committee on Education and Labor, and in addition to the Committees on Ways and Means, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
Action By: House of Representatives
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Action By: House of Representatives
- 01/09/2019 **Introduced in House**
Action By: House of Representatives

Actions Overview [1] All Actions Except Amendments [4] All Actions [4]

Action By

House [4]

House Committees

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Testimony for 2019 SCR - 4012
Senate Government and Veterans Affairs Committee
Presented by Waylon Hedegaard
President of the North Dakota AFL-CIO
February 7th

Chair, Members of the Committee:

My name is Waylon Hedegaard, and I'm the President of the North Dakota AFL-CIO. I stand in support of SCR-4012.

American faces a pension crisis. It's seldom acknowledged or discussed but it's there and growing larger. It's growing larger because we keep ignoring it. Millions of Americans face losing a substantial amount of their retirement when they can least afford it, and most of these are not "Cadillac" pensions. There are currently pensioners making \$3000 a month facing cuts to \$1500 or even lower in some cases.

And though there are many reasons as to why some plans are approaching insolvency, the key thing to remember is that none of these reasons are the fault of those retirees who are going to suffer most. Our aging population is going to bear the brunt of these burdens.

Much of reason for decline has been the unintended consequences of governmental actions. For instance, a major issue for the Central States Pension was the deregulation of the trucking industry in the 1970's which led to increased competition and the bankrupting of the majority of employer participants in the plan. Another example governmental interference that affected all private plans was that until 2006, American pension plans were prohibited by law from overfunding.

I'm a boilermaker. I've worked extensively on every power plant in the state. Because of the prohibition on overfunding, my own pension plan was forced to offer more benefits to retirees and lower the age of retirement repeatedly. I know that's hard to believe, but in the 1980's and 90's because of our high

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funding amounts, we were forced to lower our retirement age from 62 to 61 to 60 and eventually to 58.

What this meant was that pension directors could not plan for future leaner times or for when a large number of people retired in a short time, as happened with us when the baby boomers started to retire. I'm sure these regulations were well meaning but they and other factors are having a huge effect on pensions now.

Then add in crises like the housing collapse of 2008 and the situation becomes even more dire. My own pension lost 30% of its assets in just a few months, while still maintaining the monthly liabilities. This pushed it from being completely funded into the danger area.

There's a common misperception that the plans themselves have not taken action to help themselves. This is far from the truth. Boilermakers went into emergency mode and took every raise we negotiated for five years and put every dime into stabilizing our pension. Our wages were actually lower in 2014 than they had been in 2008 because of the actions we took.

Understand that had we been allowed to overfund our plan in the good times, the housing crisis would have been no more than a bump in the road. As it was, it was devastating to all plans.

Right now, if pensions fail, they are guaranteed by the Pension Benefit Guaranty Corporation, a woefully underfunded federal agency. The idea of the Butch Lewis Act is to catch pensions before they get to collapse and help them over some bad times so they can recover. It's a middle option to just allowing them to continue in a death spiral.

Both then Representative Cramer and then Senator Heitkamp signed on as sponsors last year. I've heard Cramer tell of when his counterparts asked why he would sign on to this, and his explanation is spot on.

I paraphrase but what he said was that We are going to deal with this issue whether we take action or not. We can either ignore the problem and deal

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with a much bigger issue later, or we can take action and deal with a smaller problem now.

The people affected by this issue are not strangers. They are our friends and neighbors. You likely know many of them. Coal country is filled with people relying on a pension as is Bismarck, Mandan, Fargo and Grand Forks

I urge this committee to support the resolution.

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Here are a series of articles detail the governmental overregulation of pensions leading to their issues.

<https://www.thedailybeast.com/how-the-irs-wrecked-your-pension>

<https://vanwiefinancial.com/blog/how-the-irs-helped-destroy-pension-funds>

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Good afternoon,

My name is Jed Gilbertson and I'm from Bismarck. I worked at SuperValu, Inc. for nearly 37 years and contributed to the Central States Health and Welfare Fund for over 34 years.

As most of you know, the Multiemployer Pension Funds in the United States are in financial turmoil. With fewer participants paying in and more people retiring the funds are draining rapidly. That, along with the Stock Market crash of 2008 has devastated nearly all multiemployer pensions. The deregulation of the trucking industry back in the 1980's also plays a major role in the defecate. Many trucking companies that were paying into the pension funds went bankrupt. But the workers that retired from these trucking companies, called "orphans" are still drawing off the pension, even though there is no one contributing from these pre-existing employers. This makes the premiums higher for the companies that are still in business. This is not a good combination! Central States Health and Welfare Fund is projected to become insolvent by 2025 if nothing is done.

When I started my career at SuperValu in 1982 I was young, in shape, full of energy and I thought this would be a great career for me, and it was! A Union job with good pay, good benefits, and the big one... a GREAT Pension! For many years, through union negotiations, we gave up raises to assure a solid retirement. One of the incentives to pursue a very physically demanding job, working many long shifts, weekends, nights and holidays, with the idea of retiring at the age of 52 if I had at least 30 years of service. Great incentive! I could draw a pension and pursue a short 2nd career! Well when I was 50, I could almost taste that carrot. That was, until we all received that letter from Central States, telling us that our pension was in declining status and we would not be able to draw from it until we reached the age of 57. Well I made the best of it and stayed on the job until I was 57, hoping that another letter would not come, stating that the age would be changed to 62! They did make another change though – if I started drawing from my fund at 57, I would have to take a 6% cut off my payment until I reach the age of 62. Central States assumed that this would help the fund. For me, when I was 52, as part of my wage, SuperValu paid in \$976.00 each month into the pension fund on my behalf. Besides that, I was not receiving the \$2500.00 per month I had been promised if I could have retired then. That is nearly \$3500.00 per month Central State was saving just from me alone!

I hope this can be resolved soon – the longer we wait the tougher the solution will be. There are millions of retirees who will be affected by this. All our dues have been paid, so to speak, and we have all worked hard for our Pension, never expecting to need help from anyone else. We have raised our families, purchased our homes, contributed to our churches and community, and of course, paid our federal, state and local taxes. The anxiety that goes along with not knowing the future of this Pension is tough for all involved. And the economic loss could have a trickle-down effect that could potentially cause an economic slump that would be everyone's problem in the near future.

The Butch Lewis Act, also known as the Rehabilitation for Multiemployer Pensions Act has been created by the House Committee on Ways and Means. It's a long-term loan program that Pension Funds that are in critical status can draw from to help get them back on their feet. A loan – not a hand-out. Millions of American workers and retirees need to have the Butch Lewis Act put into place. We are not looking for a hand-out or a bail-out – but a solution.

One last thought – As North Dakotans and Americans, we support many worthy causes. When disasters strike, we step up and do what we can to help. The Government assists those affected by disasters like floods, hurricanes, tornados, etc. – things that are not our fault. To me, this is no different – this is a true disaster. Please support this legislation!

Thank you for letting me share my story.

Jed Gilbertson 701-426-9208