ISSUE BRIEF
No. 5011 | OCTOBER 30, 2019
GROVER M. HERMANN CENTER FOR THE FEDERAL BUDGET

# The Miners Pension Protection Act: A Pension Safeguard or a Taxpayer Bailout of One Private Union Pension Plan?

*Rachel Greszler*

## KEY TAKEAWAYS

Employee unions promised workers $638 billion more in pension benefits than they set aside to pay. Employers and unions—not taxpayers—must be accountable.

The Miners Pension Protection Act—a bailout without reform for just one out of nearly 1,400 union plans—would open the door to much larger bailouts.

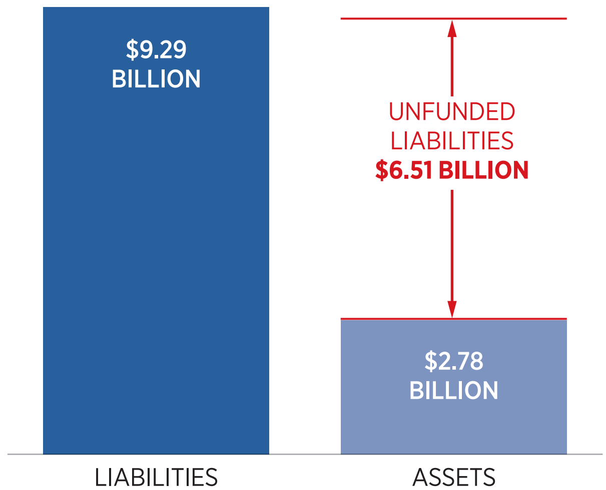
Congress can protect retirees and taxpayers by maintaining PBGC solvency, holding promisors accountable for their promises, and minimizing pension losses.

Sold as a bill to protect retired coal miners' pensions, the Miners Pension Protection Act (H.R. 935)[1] and the American Miners Act of 2019 (S. 27)[2] would force taxpayers to cover the entirety of $6.5 billion in bad pension promises made by one particular coal-mining union—without taking a single measure to fix the problems that allowed such reckless underfunding to occur. Besides the United Mine Workers of America's (UMWA) pension plan, nearly 1,400 other union, or multiemployer, pension plans across the U.S. have set aside only 42 cents on the dollar of their promised pension benefits. Bailing out one private pension plan would only lead to further requests for other private-sector and public-sector pension plans.

Bailouts reward bad actors and unfairly punish taxpayers, bailouts without reform encourage further recklessness, and selective bailouts that pick winners and losers are unjust. The Miners Pension Acts are all three of these.

CHART 1

**UMWA Pension Plan Promised $6.5 Billion More than It Can Pay**




**SOURCE:** January 16, 2019, form 5500 pension plan filings from the UMWA's "United Mine Workers of America 1974 Pension Plan," including data from the plan year ending in 2018 and available for download at freeerisa.com (accessed July 15, 2019).

IB5011 heritage.org

There are better ways to protect mineworkers along with 10 million other workers in underfunded multiemployer pension plans—and to do so *without* shifting the burden to the 150 million workers who do not have private union pensions. Those reforms include maintaining the Pension Benefit Guaranty Corporation's (PBGC) pension insurance safety net, enacting sound funding rules to prevent this problem from happening again, and protecting taxpayers who have their own retirements to finance.

## The UMWA Pension Plan

The UMWA is a union representing coal miners. Currently, it represents coal miners who account for about 10 percent of total coal production in the U.S. The UMWA, jointly with employer representatives, manages a deeply insolvent pension plan that includes about 96,000 participants. Only 3,500, or 3.6 percent of them, are active workers.[3] The plan has promised $6.5 billion more in benefits over the past seven decades than it will be able to pay—and that figure has been growing year by year.[4] In 2022, the plan will almost certainly run out of money, and the PBGC will begin making loans to the plan to pay PBGC-insured benefit levels.

Despite what those workers' union told them, the government had no role in their health and pension promises, nor in the insolvency of the health and pension plans. The responsibility for these broken promises lies *exclusively* with the union officials and employee representatives who mismanaged these plans over the past seven decades—including paying benefits to workers who had not earned them, consistently promising more than they set aside to pay, and failing to reduce benefit promises or increase contributions after shortfalls began.

The federal government never had a role in the UMWA's pension plan management, nor did it ever make a promise to UMWA members, as has been alleged by the UMWA and proponents of the Miners Protection Act.[5]

UMWA pensions are relatively modest. In general, workers are eligible for pension benefits after 10 years of service and upon reaching age 55, with full benefits available at age 62 and with 30 years of service.[6] A worker with 30 years of service who retires at age 62 in 2016 would receive $2,021 per month, or about $24,250 per year, in addition to his Social Security benefit.[7] Because many pension beneficiaries spent significantly fewer than 30 years working in the coal mines, the average pension under the UMWA is $530 per month.[8]

## Once a Pension Plan Becomes Insolvent, the PBGC Steps In

The UMWA pension plan is on track to run out of funds in 2022. As with other multiemployer pension plans that have become insolvent in the past, when the UMWA becomes insolvent, PBGC benefits will kick in. For some beneficiaries, that will mean smaller benefits.[9] An average UMWA retiree with a $530 per month pension would receive $50 less, or $480. A retiree with a 30-year work history and a $2,020 per month pension would receive a $950 reduction in his monthly benefit, to $1,070 per month.[10]

The PBGC is a government entity established in 1974 as a backstop against private pension plan losses. The PBGC does not have access to taxpayer funds but relies on the revenues it collects from participants to pay out insured benefits.

## What Would the Miners Pension Acts Do?

The American Miners Act (S. 27) along with two House bills, the Miners Pension Protection Act (H.R. 935) and the Health Benefits for Miners Act (H.R. 934), would provide the UMWA pension fund with taxpayer funds to cover its unfunded pension benefits (which the fund has less than 30 percent of the necessary funds to pay) and add yet another round of expansion to an existing taxpayer-financed bailout of the UMWA's unfunded health benefits. Under the proposals, the UMWA would have access to up to $750 million per year to cover both its broken health- and pension-benefit promises. Currently, the UMWA receives about $338 million per year, including $270 million from taxpayers and $68 million from the Abandoned Mine Land Reclamation Fund (AML), to cover its unfunded health benefits for certain workers.[11] These acts would prevent the UMWA plan from going to the PBGC, and instead maintain 100 percent of promised benefits.

## Money from Taxpayers—Not a Coal Fund

The process through which the UMWA would receive up to $750 million per year is confusing, leading many to believe the money is coming from a coal mine fund (the AML), but in reality, *100 percent of the funds for the UMWA's pension benefits would come from taxpayers*. That is because the entirety of the AML fund's interest—an estimated $68 million in 2019—already goes towards the UMWA's unfunded health benefits, and taxpayers are on the hook for the remaining $270 million of the UMWA's estimated $338 million shortfall.[12] Taxpayers have already paid nearly $2 billion to cover the UMWA's unfunded health benefits promises and this would add even more taxpayer money for its unfunded pensions.

Under S. 27 or H.R. 95, the UMWA would receive roughly $400 million in taxpayer dollars per year to use for its unfunded pension benefits. Providing taxpayer funds to a private pension plan would be unprecedented.

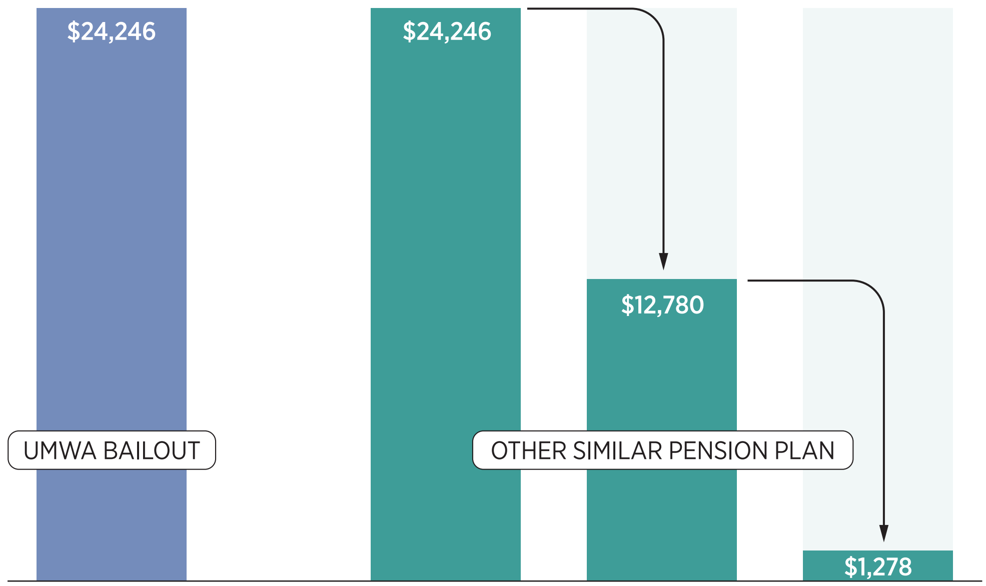
## Open the Door to Other Pension Bailouts

According to the Congressional Research Service, this would be the first time in history that the federal government provided financial assistance to a private pension fund. Unless Congress provides subsequent private pension bailouts or reforms the PBGC's multiemployer program to maintain insured benefits, UMWA members would receive 100 percent of their promised pension benefits—while all other plans that become insolvent would receive as little as 5 percent of their promised benefits.

If Congress does what it never has before—bail out a private union pension plan—other plans will expect the same. That means that up to 1,400 other multiemployer pension plans that are, on average, only 42 percent funded, as well as state and local pension plans, which are collectively only 35 percent funded, would soon be knocking on Congress's door for similar treatment. In total, multiemployer pensions have $638 billion in underfunded promises, while state and local pensions have between $4 trillion[13] and $6 trillion[14] in pension shortfalls.

CHART 2

## Mine Worker Bailout Would Unfairly Preserve UMWA Pensions While Other Pensions Face Massive Cuts




By bailing out the insolvent **UMWA pension plan**, the maximum 30-year benefit would remain intact at $24,246 per year.

However, **if another pension plan that offers similar benefits** becomes insolvent, the PBGC would take over payments and benefits would be cut to a maximum of $12,780 per year.

And if the PBGC itself becomes insolvent, as is projected to occur by 2025, pensions paid by the PBGC would be cut by an additional 90 percent or more, leaving only $1,278 per year.

**SOURCES:** Author's calculations based on the UMWA's pension benefits for a 62-year-old worker who retires in 2016 with 30 years of work history. Data on UMWA's pension eligibility are from UMWA Health and Retirement Funds, Pension Eligibility Requirements, http://www.umwafunds.org/Pension-Survivor-Health/Pages/Eligibility-Requirements.aspx (accessed March 9, 2019). Data on pension benefit cuts are based on PBGC's guaranteed level and U.S. Government Accountability Office, "Private Pensions: Multiemployer Plans and PBGC Face Urgent Challenges," testimony before the Subcommittee on Health, Employment, Labor and Pensions, Committee on Education and the Workforce, U.S. House of Representatives, March 5, 2013, http://www.gao.gov/assets/660/652687.pdf (accessed March 10, 2019).

IB5011 heritage.org

A broader pension bailout is what many lawmakers want. In July 2019, the House passed just that—a more expansive pension bailout—through the Rehabilitation for Multiemployer Pensions Act of 2019 (H.R. 397).[15] This bill would bail out the UMWA *and* 138 other underfunded plans at a cost of $100 billion.[16] The worst part of that bailout is that it would only kick the can down the road—without doing a single thing to prevent future underfunding.

Even the plans that would benefit from the $100 billion bailout would not be fixed: According to the Congressional Budget Office (CBO), one-quarter of the plans receiving bailouts would still become insolvent within 30 years (and before repaying their taxpayer-financed loans), and most of the others would become insolvent in the following decade.[17] Moreover, nearly 100 other deeply insolvent multiemployer pension plans that are left out of both the Miners Pension Protection Act and the Rehabilitation for Multiemployer Pension Plans would become insolvent within the next 30 years unless Congress passed subsequent bailouts for them.

## Bailouts Without Reform: Exacerbating Funding Shortfalls

The multiemployer pension system is broken and in need of reform. It is not just a matter of some declining industries or a few years of subpar stock market returns: The entire structure is flawed, and without reform, it will only get worse.

According to testimony from Dr. Joshua Rauh, more than 80 percent of plans are digging themselves deeper into debt each year, which means that the $638 billion in underfunding reported for 2016 is likely larger now and will continue to grow.[18] According to Dr. Rauh, these plans would have to increase their pension contributions by 55 percent to 60 percent just to stay afloat—and by significantly more to actually make good on their promises.[19]

A whack-a-mole approach to the massive multiemployer pension solvency crisis would be unfair, inadequate, and counterproductive. Unless Congress wants to hold hearings with up to 1,400 other multiemployer pension plans and separately consider 1,400 other so-called “pension protection” bills, it should address the entire multiemployer pension crisis at one time.

Congress should do this by maintaining workers’ PBGC-insured benefits, fixing the rules so that this never happens again, and minimizing pension losses. These objectives are all possible without requiring taxpayers to pay for private unions’ and employers’ broken promises.

## Conclusion

It is wrong for employers and unions to make pension promises and not set aside the funds to pay them, and it is unfair that nearly 100,000 coal miners and 10 million other workers and retirees with private union pensions across the U.S. stand to lose a significant portion of their pension benefits through no fault of their own. That is why it is crucial that Congress fixes the rules to make sure that this problem never happens again.

TEXT BOX 1

## How to Address the Entire Multiemployer Pension Crisis

### Maintain PBGC-Insured Benefits

- Increase the base PBGC premium at least threefold;
- Implement a variable-rate premium, applicable to all new unfunded liabilities;
- Enact a standard retirement age (with age-based premium options);
- Have the PBGC take over plans when they fail, as it does for single-employer plans; and
- Impose a stakeholder fee on employers, unions, and retirees, or a benefits-based premium.

### Correct Multiemployer Plan Rules So That This Never Happens Again

- Require multiemployer plans to gradually shift to reasonable discount-rate assumptions—the same required of single-employer plans—so they cannot promise more than they set aside to pay;
- Re-enact the excise tax when multiemployer plans do not make required contributions;
- Freeze dangerously insolvent plans;
- Prohibit collective bargaining from setting both contribution rates and accrual rates; and
- Require employers to recognize unfunded liabilities on their balance sheets.

### Minimize Pension Losses

- Enhance Multiemployer Pension Reform Act provisions to allow more plans to act now to minimize benefit cuts across workers, and
- Allow workers a buy-out option.

Employers and unions that promise pension benefits must be held liable to properly fund and fully pay those benefits. It is also essential that Congress not open the door to pension bailouts because that could unfairly force federal taxpayers to pay for up to $638 billion in private unions' and employers' broken pension promises—as well as between $4 trillion and $6 trillion in public-sector pension shortfalls. To protect workers and retirees and minimize pension losses, Congress should both maintain the PBGC's solvency and provide options for plans to act sooner, rather than later, to minimize pension losses across participants.

**Rachel Greszler** is Research Fellow in Economics, Budget, and Entitlements in the Grover M. Hermann Center for the Federal Budget, of the Institute for Economic Freedom, at The Heritage Foundation.

# Endnotes

1. Miners Pension Protection Act, H.R. 935, 116th Cong., 1st Sess., https://congress.gov/bill/116th-congress/house-bill/935 (accessed October 29, 2019).
2. American Miners Act of 2019, S. 27, 116th Cong., 1st Sess., https://www.congress.gov/bill/116th-congress/senate-bill/27 (accessed October 29, 2019). See also Health Benefits for Miners Act of 2019, H.R. 934, 116th Cong., 1st Sess., https://congress.gov/bill/116th-congress/house-bill/934 (accessed October 29, 2019).
3. According to the January 16, 2019, form 5500 plan filings from the UMWA's "United Mine Workers of America 1974 Pension Plan," and including data from the plan year ending in 2018, the UMWA had 95,990 participants, including 3,486 active participants, with the remaining 92,504 being retired, vested and separated, or beneficiaries of retired or vested participants. Search engine available at https://www.freeerisa.com (accessed October 29, 2019).
4. Ibid. The UMWA pension plan had $2.780 billion in assets and $9.285 billion in liabilities, creating an unfunded liability of $6.506 billion
5. Rachel Greszler, "Government Intervention in Coal Mining Seven Decades Ago No Justification for Pension Bailout Today," Heritage Foundation *Backgrounder* No. 3151, September 6, 2016, https://www.heritage.org/social-security/report/government-intervention-coal-mining-seven-decades-ago-no-justification.
6. United Mine Workers of America, "UMWA Health and Retirement Funds, Pension Eligibility Requirements," http://www.umwafunds.org/Pension-Survivor-Health/Pages/Eligibility-Requirements.aspx (accessed March 9, 2016).
7. United Mine Workers of America, "Summary Plan Description: UMWA 1974 Pension Plan," February 2014, http://www.umwafunds.org/Pension-Survivor- Health/Documents/2014_74PTSPD.pdf (accessed March 9, 2016).
8. Cecil E. Roberts, "On S. 1714, the Miners Protection Act," testimony before the Committee on Finance, U.S. Senate, March 1, 2016, http://umwa.org/video/president-roberts-testifying-u-s-senate-hearing/ (accessed July 22, 2019).
9. Currently, 21 percent of PBGC beneficiaries receive less than their full promised benefit, but this figure is projected to rise to 51 percent for future multiemployer pension failures because those plans have higher benefit levels. See Pension Benefit Guaranty Corporation, "PBGC's Multiemployer Guarantee," March 2015, https://www.pbgc.gov/documents/2015-ME-Guarantee-Study-Final.pdf (accessed November 15, 2018).
10. Author's calculations based on the UMWA's 1974 pension benefit summary plan description and the PBGC's benefit formula. The PBGC guarantees up to $12,870 per year for multiemployer plan pensions. For retirees with 30 years of service, the PBGC matches the first $3,960 per year at 100 percent and the next $11,760 per year at 75 percent. The current maximum has been in place since 2001. Calculations were based on a worker retiring in 2016.
11. The UMWA first received limited financial assistance for its unfunded retiree health benefits through the Energy Policy Act of 1992, which provided the UMWA with temporary access to the interest on the AML. But when the AML interest was not enough to cover the UMWA's unfunded retiree health benefits, Congress both ended the temporary nature of the AML access and also provided taxpayer dollars to cover shortfalls beyond what the AML interest provided. Then, again, through the Consolidated Appropriations Act of 2017, Congress *further* expanded taxpayer assistance to the fund by allowing another 22,000 retired coal miners access to the fund, bringing the total number of UMWA retirees receiving taxpayer-funded health benefits to nearly 45,000. The fact that the UMWA is asking for yet another expansion of its existing bailout—only two years later—reiterates the boundless nature of bailouts once the door is opened.
12. U.S. Department of the Interior, *Budget Justifications and Performance Information: Fiscal Year 2019*, Table 10, p. 93, https://www.doi.gov/sites/doi.gov/files/uploads/fy2019_os_budget_justification.pdf (accessed October 29, 2019).
13. Dr. Joshua Rauh, "How the Multiemployer Pension System Affects Stakeholders," 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 July 22, 2019).
14. American Legislative Exchange Council, "Unaccountable and Unaffordable: Unfunded Public Pension Liabilities Exceed $5.9 Trillion," https://www.alec.org/app/uploads/2019/03/Unaccountable-and-Unaffordable-WEB.pdf (accessed July 20, 2019)
15. Rehabilitation for Multiemployer Pensions Act of 2019, H.R. 397, 116th Cong., 1st Sess., https://www.congress.gov/bill/116th-congress/house-bill/397 (accessed October 29, 2019).
16. The $100 billion includes the CBO's projected financial assistance, including loan losses, over the 30-year window because plans' loans would not come due until 30 years after they were issued. Congressional Budget Office, "At a Glance: H.R. 397, Rehabilitation for Multiemployer Pensions Act of 2019," July 23, 2019, https://www.cbo.gov/system/files/2019-07/hr397_2.pdf (accessed October 27, 2019).
17. Congresional Budget Office, Letter to the Honorable Mike Enzi, September 6, 2019, https://www.cbo.gov/system/files/2019-09/Enzi_letter_hr397.pdf (accessed October 27, 2019).
18. Financial economist and professor Joshua Rauh testified that only 17 percent of plans contributed enough to avoid sinking further into debt in 2016. See Joshua D. Rauh, testimony before the Joint Select Committee on Solvency of Multiemployer Pension Plans, U.S. Congress, July 25, 2018, https://www.pensions.senate.gov/sites/default/files/25JUL2018RauhSTMNT.pdf (October 29, 2019).
19. Ibid.