

# United States Senate

WASHINGTON, DC 20510-3704

September 27, 2005

The Honorable Charles E. Grassley  
Chairman  
Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Max Baucus  
Ranking Member  
Committee on Finance  
219 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Michael B. Enzi  
Chairman  
Committee on Health, Education, Labor and  
Pensions  
428 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Edward M. Kennedy  
Ranking Member  
Committee on Health, Education, Labor and  
Pensions  
317 Russell Senate Office Building  
Washington, DC 20510

Dear Chairman Grassley, Chairman Enzi, Ranking Member Baucus, Ranking Member Kennedy:

I am writing to applaud your hard work in seeking to reform the private pension system, and to request that the Committees on Finance and Health, Education, Labor and Pensions include proposals to strengthen multiemployer pension plans in final pension reform legislation.

Multiemployer pension plans provide valuable retirement benefits to millions of American workers and are a key part of our nation's private retirement system. These plans provide employees of small employers with the opportunity to be covered by a defined benefit plan as well as provide employees working in industries with mobile workforces with the "portability" to earn continuous benefits as they transfer jobs.

Moreover, multiemployer plans have a long history of sound, conservative funding and have never become a problem for the PBGC. This is because the separate multiemployer PBGC program requires contributing employers to these plans—*not the PBGC*—to assume the responsibilities of employers that go out of business or otherwise leave the plan.

I understand that, due to the decline in the equity markets earlier this decade, some multiemployer plans are in danger of incurring a technical "funding deficiency." However, for contributing employers of affected plans, such a deficiency would trigger mandatory and severe contributions (and excise taxes) in addition to the contributions they already pay to the plans pursuant to their collective bargaining agreements. The result could be to force employers to leave these plans—either voluntarily or through bankruptcy—and, ultimately, cause employers to transfer plan liabilities to the PBGC, thereby significantly reducing participant benefits.

I have heard from a number of constituents who have expressed the need to strengthen the multiemployer plan rules and provide multiemployer plans with the tools to solve their own problems. The multiemployer reforms included in the Defined Benefit Plan Security Act of 2005, as approved by the Committee on Health, Education, Labor, and Pensions on September 8, 2005, are an excellent start in this regard.

I do, however, have concerns about certain components of the multiemployer reform package in that bill. Among the more notable concerns are the following, with which I request your assistance in having addressed as pension reform legislation continues to move through the Senate:

- The benchmarks applicable to plans that are in "endangered status" but that do not face a funding deficiency in 7 years (i.e., those that are not "seriously endangered") pose the distinct possibility of creating a severe funding problem for their contributing employers where none would otherwise exist. Moreover, the failure to satisfy the benchmarks applicable to endangered status plans results in the imposition of punitive excise taxes on contributing employers.
- Plans in "critical status" are required to develop rehabilitation plans that are certain to enable the plans to cease to be in critical status, even though many of the factors that will determine whether this benchmark is satisfied – most notably the performance of the financial markets and economy – are outside the control of the trustees and bargaining parties.
- The legislation does not provide the bargaining parties and the trustees of a plan in critical status with the necessary tools to correct the plan's financial situation, nor does it provide a floor on reductions in future benefit accrual rates, which may result in an automatic freeze of benefit accruals for the active employees whose continued participation is essential to the continuation of these plans.

I look forward to working with you on this important matter. Thank you, in advance, for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "G. H. Smith", written in a cursive style.

Gordon H. Smith  
United States Senate