



AMERICAN BENEFITS COUNCIL

September 12, 2018

The Honorable Kevin Brady
1011 Longworth House Office Building
Washington, DC 20515-4308

The Honorable Richard Neal
341 Cannon House Office Building
Washington, DC 20515-2101

Dear Chairman Brady and Ranking Member Neal:

I am writing on behalf of the American Benefits Council (Council) to offer assistance with respect to the Family Savings Act of 2018 (H.R. 6757). The measure includes some very valuable provisions. There are also a number of non-controversial bipartisan bicameral proposals that should be added and other provisions to be modified to strengthen retirement security.

The Council's members are primarily large, multi-state employer plan sponsors, as well as organizations that provide services to plan sponsors of all sizes. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans covering more than 100 million Americans.

We hope H.R. 6757, as modified in accordance with this letter, can move through the House of Representatives on a bipartisan basis and be conferenced with RESA – the Retirement Enhancement and Savings Act of 2018 (S. 2526) – in a House/Senate conference. There is a long and proud tradition of bipartisanship on retirement issues. That is how Congress has achieved so much in the past, and we believe that bipartisanship is the path to future success.

We are very pleased the bill includes nondiscrimination testing reform for defined benefit pension plans in which newly-hired employees do not participate. This issue is very important to our member companies, many of whom sponsor different retirement plans for employees hired after a certain date; but the companies have sought to protect older, longer-service employees by continuing to accrue benefits in a closed defined benefit pension plan until they retire. Under current law, because of the unintended effect of the nondiscrimination regulations, these companies will eventually be

compelled to freeze the plan completely, thereby ceasing the accrual of additional benefits. This is something neither the employer sponsor, nor the plan participants want to see happen. H.R. 6757 would allow employers in this situation to continue to accrue benefits for these older, longer-service employees.

We also thank you for including multiple employer plan (MEP) reforms, including permitting open MEPs and eliminating the punitive “one bad apple rule,” under which compliant employers in a MEP are penalized for violations by other employers participating in the MEP. We believe that facilitating the use of MEPs will create far greater economies of scale, thereby reducing the cost of plan participation and broadening coverage including for the so-called “gig” workforce.

However, a number of non-controversial bipartisan bicameral provisions are not included in the bill. Specifically, in 2014, Congress enacted funding legislation that clearly recognized that pension plans serving multiple charities or cooperatives (CSEC plans) pose very little risk to the Pension Benefit Guaranty Corporation (PBGC). In that context, there is no reason to continue charging these plans the generally applicable high level of premiums. RESA would address this issue very effectively by adjusting CSEC plan premiums to the levels in effect prior to 2006, before premiums were generally quadrupled over the last 12 years. This provision has been contained in several measures:

- The House version of RESA, with 43 Republican and 30 Democratic sponsors, including eight Ways and Means Republicans and nine Ways and Means Democrats.
- H.R. 3596, with 99 Republican and 39 Democratic sponsors, including 10 Ways and Means Republicans and three Ways and Means Democrats.
- The 2016 version of RESA, which passed the Senate Finance Committee 26-0.

We are very disappointed in the absence of this non-controversial bipartisan, bicameral provision from the bill.

We are also troubled by the study of PBGC premiums ordered by the bill. PBGC’s own very conservative calculations indicate that by 2027, it will have a large and growing surplus – over \$20 billion – in its single-employer termination insurance program. Moreover, the PBGC’s own Participant and Plan Sponsor Advocate issued a report stating that: “A reduction in future PBGC premiums would have a *significant beneficial impact* [emphasis added] on preserving the remaining plans in the defined benefit pension universe.”

In this context, we were disappointed to see a study that does not even inquire into whether premiums are too high, which they clearly are, but rather asks if they should be even higher. And the study raises issues that have been rejected sharply by Congress on numerous occasions, including:

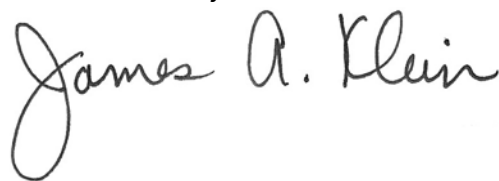
- Having the government judge the creditworthiness of pension plan sponsors,
- Having the government judge the appropriateness of pension plan investments, and
- Increasing premiums on companies least able to afford an increase.

Unduly high PBGC premiums are threatening the vitality of the defined benefit system and driving a large number of employers out of the system. This is the time to fix that issue, not study ideas that would make the situation worse. This proposal should be dropped.

While this letter focuses on the significant impact of the inclusion of the issues described above, there are other non-controversial bipartisan bicameral proposals, many included in RESA, about which we have communicated with committee members previously and which are not included in the bill. These proposals would advance retirement security. We ask that they be added and would be happy to provide more specific information.

Thank you for your consideration of these recommendations. We look forward to working with you to advance retirement security.

Sincerely,

A handwritten signature in black ink that reads "James A. Klein". The signature is written in a cursive style with a large, looping initial "J".

President
American Benefits Council