April 2006

The Pension Coalition

April Congressional Recess
Grassroots Packet

1. Pension Reform Myth v. Reality
2. Pension Coalition Principles for Reform
   - Defined Benefit Principles
   - Defined Contribution Principles
3. Talking Points on the need for pension reform
4. How the Bills add additional Funding requirements on plan sponsors
5. List of Conferees
6. Instructions for grassroots tool for pension coalition website
7. Recent policy materials

For more information visit:
www.thepensioncoalition.org

This is the first in a series of informational pieces to be circulated by the Pension Coalition
as current pension reform legislation continues to take shape.

The Pension Coalition
advancing retirement security through
voluntary employer-sponsored plans

April 2006

Pension Reform: Myth v. Reality

Reforming our nation's pension system – a vital pillar of retirement security – will impact how trillions of dollars in pension assets are allocated, accounted and protected on behalf of millions of Americans. The Pension Coalition, representing employers, service providers and trade associations, wants Congress to ensure that the final legislation is balanced – so that it protects pension plans without hurting the economy and job creation. The legislation is complicated, but it is critically important for Congress to get it right. All parties need to separate myth from reality.

Myth:
According to recent media reports, Congress is preparing to weaken existing pension funding rules and allow companies to underfund their pension plans.

Reality:
For the majority of companies with defined benefit plans, the new legislation will require significantly increased funding in several ways.

The Pension Coalition recognizes the following:

1. **The funding target will increase from the current law of 90 percent to 100 percent.** This represents a 10 percent increase in liabilities for many companies and is the first time in history that **defined benefit plans will be required to be 100 percent funded.**
2. **PBGC premiums have already increased** from $19 per enrollee to $30 per enrollee, a significant and immediate increase.
3. **The discount rate used to calculate liabilities goes from the corporate bond rate to a Treasury Department-derived yield curve**, which will increase liability calculations, and administrative costs to the plan.
4. **Amortization of gains and losses will change from the current 30 years to seven years**, causing companies to make up funding shortfalls faster.
5. **Smoothing periods will be shortened** regardless of bill from four years on the discount rate and five years on assets to a shorter period. This change will lead to less predictability and greater volatility in cost and for sponsoring employers.

1. **Credit balances will be marked-to-market** to reflect the actual performance of the assets in the trust. The Pension Coalition has been united in acknowledging existing law needs to be strengthened in this area.

For more information visit:
www.thepensioncoalition.org

The Pension Coalition
advancing retirement security through
voluntary employer-sponsored plans

This is the first in a series of informational pieces to be circulated by the Pension Coalition as current pension reform legislation continues to take shape.

The Pension Coalition
advancing retirement security through
voluntary employer-sponsored plans

April 2006

Essential Principles for Defined Benefit Pension Law Reform

Congress' primary responsibility in passing a pension reform bill should be to foster a legal and economic framework that encourages employers to maintain and increase the number of workers who have an opportunity to earn the retirement security of a defined benefit pension plan.

To Accomplish this Goal, Congress Should:

- **Retain Predictability in Future Pension Costs**:
  - In order to make multi-year business planning decisions and manage the long-term liability related to their voluntary pension programs, employers need to average interest rates and asset values when calculating contributions.
- **Provide Reasonable Transition Timetables**:
  - If employers are asked to make substantial additional contributions to their plans, they need adequate time to implement the new requirements.
- **Confirm Legal Certainty of Pension Plans**:
  - Comprehensive clarification of the basic age discrimination standard for defined benefit plans will provide legal certainty for all existing and future cash balance and other hybrid pension plans.
- **Encourage Employers to Pre-Fund Their Plans**:
  - Preserving the use of credit balances, especially those earned prior to any new law, will enable employers to pre-fund their plans with higher tax-deductible limits and give them meaningful access to pre-funded contributions.
- **Strengthen Disclosure Rules**:
  - Timely, consistent, workable and accurate information will give employees and retirees a better understanding of their plans.
- **Recognize the unique structure of rural co-op "multiple-employer" plans**:
  - Funding rules for rural co-op "multiple-employer" plans should recognize their unique nature and structure.

To Avoid Weakening the Defined Benefit System, Congress Should Not:

- **Use a Company's Credit Rating Status to determine plan funding or for any other purpose**. The government should not impose new burdens that are due to temporary downturns in the business cycle.
- **Excessively Increase PBGC Premiums (both flat and variable rate) to lower the federal budget deficit**. The premium structure should weigh the overall health of the defined benefit system and not the status of the federal budget deficit.
- **Link Design Clarification of Hybrid Plans to Burdensome New Mandates** on how a company transitions from one type of defined benefit plan to another, nor to litigation carve-outs.

For more information visit:
www.thepensioncoalition.org

The Pension Coalition
advancing retirement security through
voluntary employer-sponsored plans

This is the first in a series of informational pieces to be circulated by the Pension Coalition
as current pension reform legislation continues to take shape.

April 2006

Issues: Defined Contribution: Essential Principles for Defined Contribution Plan Legislation

Congress should pass legislation that fosters a legal and economic framework that encourages employers to establish, maintain and expand defined contribution plans in ways that will enhance employee retirement security. Legislative initiatives should work to increase both the number of employees participating in these plans and the level of benefits the employees or their beneficiaries will ultimately receive from them.

To Accomplish these Goals, Congress Should:

- **Make Retirement Savings Opportunities Permanent**:
  - It is vital to the retirees of tomorrow that Congress make permanent the retirement savings provisions in Title VI of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) – including catch-up contributions, small business pension incentives, the Saver's Credit, and expanded IRAs and 401(k)s – be made permanent.
- **Encourage Pension Portability**:
  - Title VI of EGTRRA removed existing barriers that prevented employees from being able to take their retirement savings with them when they switched jobs, whether through a merger (same desk rule) or when moving between different employment sectors. EGTRRA permanence would allow employees changing jobs in the future to continue to keep their retirement savings intact.
  - Provisions that facilitate transfers of after-tax retirement savings, transfers to Roth IRAs, and transfers by non-spouse beneficiaries will result in greater retirement security savings.
- **Encourage Flexible Automated Plan Features**:
  - Legislation that promotes automated plan features such as automatic enrollment, automatic contribution increases (over time and upon certain events) and default investments will encourage employers to implement defined contribution plans with these features, thus increasing participation and savings levels.
  - Flexible safe harbors will reduce administrative costs and encourage implementation by smaller and medium-sized employers.
  - All types of employers need certainty that state wage withholding laws will not prohibit or otherwise interfere with automatic enrollment.
  - Legislation that promotes default investments in automated plans should encourage the use of a wider range of investments that promote long-term growth and overall retirement preparedness.
- **Provide Rational Rules for Plan Administration**:
  - Provisions of EGTRRA that rationalize complex and outmoded administrative rules should be retained, encouraging more employers to establish and maintain plans; and providing for ESOP dividend reinvestment is keeping money in the retirement system.
  - Promotion of voluntary compliance programs protects employees by encouraging rapid correction of errors.
  - Legislation should avoid mandates and provisions that restrict plan design.
  - Legislation should clarify that normal prudence standards apply to the selection of an annuity provided under a defined contribution plan, not the "safest available annuity" standard.
- **Encourage Investment Advice**:
  - Current law discourages employers from providing or offering advice to participants regarding investment decisions inside the plan. Legislation is needed to remove these barriers to advice.

For more information visit:
www.thepensioncoalition.org

This is the first in a series of informational pieces to be circulated by the Pension Coalition
as current pension reform legislation continues to take shape.

The Pension Coalition
advancing retirement security through voluntary employer-sponsored plans

April 2006

The Pension Coalition

Talking Points on the Need for Common Sense Reform

We're Counting on Congress to Get this Right:

- Congress is in the final stages of drafting legislation that will dramatically impact all aspects of the private retirement security in America. The legislation will affect millions of Americans and direct how trillions of dollars are allocated, invested and protected for workers and retirees. In other words, the pension legislation is a big deal, and Congress needs to get it right.

The goal of Pension reform should be to strengthen the Defined Benefit and the Defined Contribution systems:

- The goal of pension reform legislation should be to strengthen the private retirement security system by enacting policies that encourage employers to maintain traditional defined benefit plans and encourage employees to save more through improvements to the defined contribution system. If pension reform legislation discourages employers from maintaining DB plans, Congress will have weakened rather than strengthened the retirement security system. If Congress does not provide permanency to tax laws that encourage savings in the DC system, Congress will have weakened rather than strengthened the retirement security system.

The system is voluntary:

- Employers sponsor defined benefit pension plans voluntarily. Employers offer the plans if they make sense for their business model, their employees and their shareholders. The decisions Congress makes will have a direct impact on a company's decision about the value of these plans to employees, and shareholders.

These are long-term obligations:

- A plan sponsor puts money away for decades to provide for a worker's benefits in retirement. Over the course of decades of a worker's career, interest rates are going to fluctuate, and the stock market is going to be volatile – and the business is likely to have some ups and downs. For companies operating in a highly competitive global market, the ability to make multi-year business planning decisions is critical to success.

For more information visit:
www.thepensioncoalition.org

The Pension Coalition
advancing retirement security through voluntary employer-sponsored plans

This is the first in a series of informational pieces to be circulated by the Pension Coalition
as current pension reform legislation continues to take shape.

Congress needs to Provide plan sponsors with legal clarity and certainty:

- ü Congress cannot expect companies to maintain plans if doing so leaves the company open the company to unwarranted litigation.

The Critical Elements of Common Sense Reform:

- ü **Retain Predictability in Future Pension Costs**
- ü **Provide Reasonable Transition Timetables**
- ü **Confirm Legal Certainty of Pension Plans**
- ü **Encourage Employers to Pre-Fund Their Plans**
- ü **Do Not a Company's Credit Rating Status to determine pension obligations**
- ü **Do Not link Design Clarification of Hybrid Plans to Burdensome New Mandates**

April 2006

How the Bills add additional Funding requirements On plan sponsors

The new legislation will significantly increase funding in several ways for the overwhelming majority of companies with defined benefit plans:

1. The funding target will increase from the current law 90 percent to 100 percent. This represents a 10 percent increase in liabilities for many companies and is the first time in history that all defined benefit plans will be required to be 100 percent funded at all times.

2. PBGC premiums have already increased from $19 per enrollee to $31 per enrollee, a significant and immediate increase.

3. The discount rate used to calculate liabilities goes from the corporate bond rate to a Treasury Department-derived yield curve, which will increase liability calculations, and therefore funding requirements.

4. Amortization of gains and losses will change from the current 30 years to seven years, causing companies to make-up funding shortfalls faster.

5. Smoothing periods will be shortened regardless of bill from four years on the discount rate and five years on assets to a shorter period. This change will lead to less predictability and greater volatility in cost for sponsoring employers.

6. Credit balances will be marked-to-market to reflect the actual performance of the assets in the trust – no longer can companies inflate their funded status by relying on “fake” assets.

7. The payment of lump sum benefits will be accounted for in liabilities and shut down benefits will be funded on a faster basis.

Employers agree that pension plans should be fully funded and accept that virtually all companies will be required to put more money into their pension plans. In order to reach this point, Congress must enact a final bill that preserves a strong pension system by eliminating legal uncertainties, minimizes funding volatility and allows for a predictable and flexible transition period to meet the new requirements. These elements are vital to moving a final bill in a common sense direction that will allow employers to continue to maintain defined benefit plans and at the same time grow and compete in the global economy

The Pension Coalition
advancing retirement security through
voluntary employer-sponsored plans

April 2006

Name	District	Address	Phone	Fax
Chairman Charles Grassley	R-IA	219 Dirksen	(202) 224-4515	(202) 224-6020
Senator Orrin Hatch	R-UT	104 Hart	(202) 224-5251	(202) 224-6331
Senator Trent Lott	R-MS	487 Russell	(202) 224-6253	(202) 224-2262
Senator Olympia Snowe	R-ME	154 Russell	(202) 224-5344	(202) 224-1946
Senator Rick Santorum	R-PA	511 Dirksen	(202) 224-6324	(202) 228-0604
Chairman Mike Enzi	R-WY	428 Dirksen	(202) 224-5375	(202) 228-0359
Senator Judd Gregg	R-NH	393 Russell	(202) 224-3324	(202) 224-4952
Senator Mike DeWine	R-OH	140 Russell	(202) 224-2315	(202) 224-6519
Senator Johnny Isakson	R-GA	120 Russell	(202) 224-3643	(202) 228-0724
Ranking Member Max Baucus	D-MT	219 Dirksen	(202) 224-2651	(202) 224-4700
Senator John Rockefeller	D-WV	531 Hart	(202) 224-6472	(202) 224-7665
Senator Kent Conrad	D-ND	530 Hart	(202) 224-2043	(202) 224-7776
Senator Jeff Bingaman	D-NM	703 Hart	(202) 224-5521	(202) 224-2852
Ranking Member Ted Kennedy	D-MA	644 Dirksen	(202) 224-4543	(202) 224-2417
Senator Tom Harkin	D-IA	731 Hart	(202) 224-3254	(202) 224-9369
Senator Barbara Mikulski	D-MD	503 Hart	(202) 224-4654	(202) 224-8858
Chairman Buck McKeon	R-CA-25	2181 Rayburn	(202) 225-1956	(202) 225-4527
Majority Leader John Boehner	R-OH-08	1011 Longworth	(202) 225-6205	(202) 225-4000
Congressman Sam Johnson	R-TX-03	1211 Longworth	(202) 225-4201	(202) 225-1485
Congressman John Kline	R-MN-02	1429 Longworth	(202) 225-2271	(202) 225-2595
Congressman Patrick Tiberi	R-OH-12	113 Cannon	(202) 225-5355	(202) 226-4523
Chairman Bill Thomas	R-CA-22	1102 Longworth	(202) 225-2915	(202) 225-3625
Congressman Dave Camp	R-MI-04	137 Cannon	(202) 225-3561	(202) 225-9679
Ranking Member Charles Rangel	D-NY-15	1106 Longworth	(202) 225-4021	(202) 225-0816
Ranking Member George Miller	D-CA-07	2101 Rayburn	(202) 225-3725	(202) 225-5609
Congressman Donald Payne	D-NJ-10	2209 Rayburn	(202) 225-3436	(202) 225-4160
Congressman Rob Andrews	D-NJ-01	2439 Rayburn	(202) 225-6501	(202) 225-6583

For more information visit:
www.thepensioncoalition.org

The Pension Coalition
advancing retirement security through
voluntary employer-sponsored plans

This is the first in a series of informational pieces to be circulated by the Pension Coalition
as current pension reform legislation continues to take shape.

Pension Reform

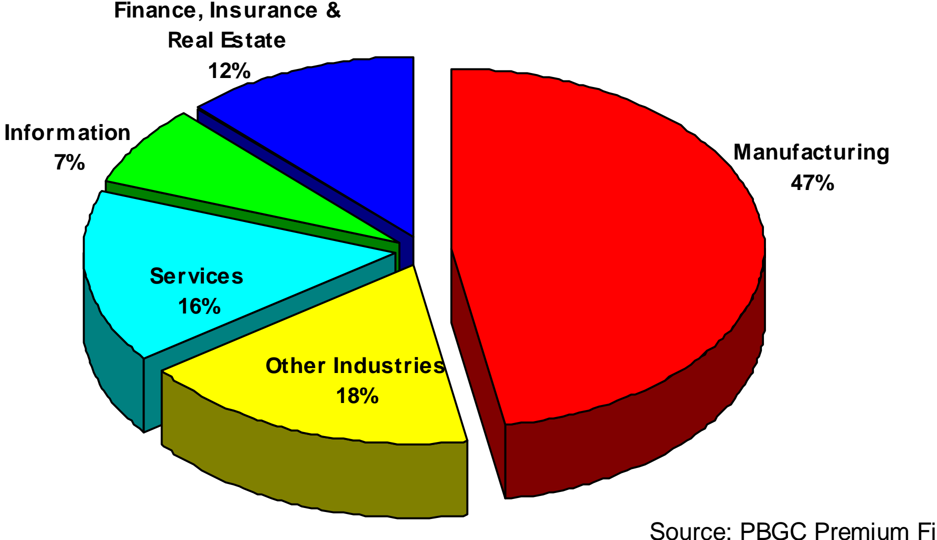
The National Association of Manufacturers (NAM)—the nation's largest industrial trade association—is a strong supporter of the nation's private and voluntary pension system. NAM members have much at stake in the current debate on reforming the nation's pension laws—manufacturers sponsor nearly half of all the single-employer defined benefit plans insured by the Pension Benefit Guaranty Corporation. As House and Senate conferees begin to craft a final pension reform package (H.R. 2830), we strongly urge you to support reforms to strengthen the private retirement system and reject provisions that will threaten the retirement security of America's workers.

HOW CONGRESS CAN HELP

- Urge conferees to reject provisions that base a company's pension funding on their credit rating. Using a company's credit rating for funding purposes will have a severe economic impact and will drive more companies out of the voluntary retirement system.

- Support an adequate "smoothing period." The proposed three-year period in the House bill would allow companies to adequately plan for contributions and eliminate the need to react to market fluctuations on a yearly basis. In contrast, the Senate's proposed 12-month smoothing period does not provide adequate planning time and will lead to volatile funding requirements.

PBGC-Insured Participants by Industry, 2003



Source: PBGC Premium Filings

THE BOTTOM LINE

No Credit Rating Test – Struggling companies should not be saddled with huge additional pension liabilities that hurt the companies' ability to recover. Provisions that base plan funding on a company's credit rating should be removed from the final conference report.

Predictability – Plan sponsors need predictable funding rules, with an adequate period for smoothing liabilities and assets. Without predictability, companies cannot effectively make business plans. If defined benefit plan obligations are unpredictable, many companies will not be able to maintain these plans. It is vital that the final bill reflect a smoothing period that is not less than three years, as contained in the House bill.

Credit Balances – An effective and fair bill should not undermine the use of credit balances created in good faith reliance on current law. The bill also should preserve the basic elements of the credit balance system prospectively; otherwise, companies will have a disincentive to pre-fund pension obligations. Neither bill contains workable rules that treat credit balances equally, regardless of credit balance size or how well funded a plan may be. We encourage the conference to craft new provisions that maintain the credit balance concept and treat all credit balances equally.

Transition – If funding reforms are implemented too quickly, a sudden increase in funding costs could cause severe business problems. At a minimum, we believe that plan sponsors should have five years to comply with the new rules and that all plans have the same transition period, regardless of their funded status. We also request that the effective date be changed to 2008 to allow for compliance.

Hybrid Plans – Unless the uncertainties regarding hybrid plans are resolved, a large and critical part of the defined benefit plan system could erode very rapidly. The NAM believes that comprehensive clarification that the design of hybrid pension plans is not inherently age discriminatory (which neither bill contains) will save this promising plan design. We do not believe that Congressional guidance is warranted surrounding plan conversions and would prefer to allow the judiciary to determine questions of fairness in conversions.

NAM Resources

For more information on pensions, go to: www.nam.org.

For more information on this issue, please contact:

Bob Shepler at 202-637-3071 or bshepler@nam.org.

PENSION POINTERS..... ▶

PLEASE FORWARD TO THE LA FOR PENSIONS:

In the near future your office again will be asked to take a position on pension reform. The currently pending bills are the most significant reform bills since ERISA passed in 1974. The choices made in crafting a final bill will encourage employers to establish and maintain defined benefit pension plans – or will encourage them to avoid those plans. The bills also make significant changes to rules governing defined contribution plans.

To assist you in understanding this critical legislation, we will be sending you short briefs on key issues in the bills. This brief discusses recent press coverage regarding whether the bills as approved by the House and Senate are stronger than current law. Put it in a special folder so you will have it readily available when the time comes for your office to determine whether the bill will help, or hinder, pension coverage in the future.

MYTHS AND FACTS REGARDING
RECENT PRESS COVERAGE OF PENSION REFORM

The pension bills pending before Congress, if modified in certain critical respects, would strengthen the pension system without pushing some companies toward bankruptcy and without leading other companies to stop providing pension benefits. Unfortunately, recent press coverage of pension reform has painted a misleading picture based on incomplete and inaccurate information. Set forth below are the myths as well as the actual facts.

MYTH: from the N.Y. Times, March 19, 2006, "Major Changes Raise Concerns on Pension Bill", by Mary Williams Walsh ("N.Y. Times Article"). "With a strong directive from the Bush Administration, Congress set out more than a year ago to fashion legislation that would protect America's private pension system…. Then the political horse-trading began…. In the end, the lawmakers modified many of the proposed rules…. As a result, the bill now being completed in a House-Senate conference committee, rather than strengthening the pension system, would actually weaken it…."

FACTS: According to the Congressional Budget Office (as quoted below), the two key funding proposals that arguably require less funding than under current law are the yield curve and 7-year amortization. These proposals are, in fact, drawn directly from the Administration's proposal, not from "political horse-trading" as the article alleges. The studies that have claimed that the bills weaken current law have defined "current law" as requiring use of the 30-year Treasury bond rate to calculate pension liabilities. However, this rate has been recognized by essentially everyone – Republicans and Democrats in both the House and Senate, the Administration, labor, and business – as an inappropriate rate that does not accurately measure liabilities. The Administration's proposal does not rely on this rate but rather on a corporate bond yield curve. Further, the 7-year amortization period included in the bills reflects the *strictest* period of time in the range of 7-10 years initially suggested by the Administration. In addition, as discussed below, the nature of these two provisions seriously undermines the legitimacy of the claim that the bills would actually weaken current law.

On October 17, 2005, Douglas Holtz-Eakin, Director of the Congressional Budget Office, wrote to Chairman Enzi, stating that:

> The Administration's pension reform proposal would increase PBGC's 10-year costs by $7 billion…. [The bill reported out of the Education and the Workforce Committee] would increase PBGC's 10-year net costs by $9 billion… The largest effects on overall net costs from both proposals are due to (1) extending

> the use of corporate interest rates rather than reverting to Treasury interest rates for discounting future pension obligations, and (2) lengthening the period over which underfunding is amortized....

(An October 11 letter from CBO concluded that S. 1783 (as then in effect) would similarly increase PBGC costs by $9 billion.)

As described by Mr. Holtz-Eakin and as noted above, the primary reasons for the adverse effect on the PBGC are (1) the switch from the 30-year Treasury bond rate to the yield curve and (2) the use of 7-year amortization instead of the current-law rules, which can require 4-year amortization for the worst-funded plans. One must seriously question whether these two provisions would actually weaken "current law." <u>Since the 30-year Treasury bond was discontinued near the end of 2001, the unadjusted 30-year Treasury bond rate has not been in effect for several years.</u> Thus, a comparison based on the 30-year Treasury bond rate is hardly a valid comparison to current law. In addition, if the Administration itself recognized that 4-year amortization puts far too great a burden on companies, it is highly questionable whether struggling companies would be able to continue to make the contributions required under current law, or whether alternatively many of the companies would be forced into bankruptcy.

Thus, the so-called "weakening" of current law (1) is based on proposals drawn directly from the Administration's proposal, and (2) relies on measures that are outdated and that all parties concerned agree are inappropriate.

<u>**MYTH:** from N.Y. Times Article:</u> "In the end, lawmakers modified many of the proposed rules, allowing companies [a] more time to cover pension shortfalls, [b] to make more forgiving estimates about how much they will owe workers in the future, and [c] even sometimes to assume that their workers will die younger than the rest of the population."

<u>**FACTS:**</u> (a) The Administration proposed 7 to 10-year amortization; Congress chose 7-year amortization. Thus, Congress, instead of allowing more time to cover shortfalls, chose the more stringent end of the Administration's proposal.

(b) The "forgiving estimates" reference is presumably a reference to the use of smoothing to measure liabilities. In fact, if no smoothing were allowed today, pension contributions would decrease because of recent increases in interest rates. Over time, smoothing by definition neither increases nor decreases liabilities; smoothing simply makes contributions more predictable.

(c) Under both bills, a company would be permitted to assume that its workers die younger only if the company can prove that this is true <u>to the Treasury Department</u> based on historical data.

<u>**MYTH:** from N.Y. Times Article.</u> "The biggest single-industry pension break in the bill passed by the Senate is for the airlines, to allow them to keep their unstable pension plans going."

<u>**FACTS:**</u> Why is it a bad thing to allow plans to "keep going" and thus prevent them from terminating? Termination of the plans would reduce workers' benefits and shift liabilities to the PBGC.

<u>**MYTH** from N.Y. Times Article.</u> "[T]he airlines… would also be allowed to factor in highly optimistic assumptions about their investment returns when calculating how much they needed to contribute to their pension funds each year."

<u>**FACTS:**</u> Under the law, the airlines would not be permitted to assume investment returns greater than they have earned historically and can reasonably expect to earn in the future. Investment returns like 8% are what the article refers to as "highly optimistic".

* * * * *

If the Administration's funding proposal were to become law, a very large number of companies would stop providing pension benefits. And many other companies would be forced out of business. The bills pending in Congress address the shortcomings in the Administration's proposal to some extent, but more work is needed. Specifically:

1. **Funding obligations should not be increased due to a company's poor credit rating.** To impose huge additional funding burdens on struggling companies will have a severely counterproductive effect on companies' ability to recover, thus leading to more bankruptcies and terminations of underfunded plans.
2. **Pension assets and liabilities must be smoothed over at least three years. Smoothing provides companies with the predictability they need to make business plans.** If companies cannot predict their pension costs, they will not maintain pension plans.
3. **Credit balances must be preserved without onerous new rules.** Adverse treatment of credit balances would (1) disrupt business plans made in good faith reliance on the law in effect when the contributions were made, and (2) discourage companies from contributing more than the minimum amount required. The Administration's proposal to eliminate credit balances has already led to major declines in funding, as companies fear that they will not receive credit for extra contributions.
4. **The new funding rules need to be phased in.** The new rules can increase funding burdens by hundreds of millions of dollars, or billions in some cases. To impose these burdens too quickly would hurt companies, employees, the economy, and the PBGC.

Questions? ***Contact:***

Janice Gregory
Senior Vice President
The ERISA Industry Committee
(202)789-1400
jgregory@eric.org

Lynn Dudley
Vice President Retirement Policy
American Benefits Council
(202)289-6700
ldudley@abcstaff.org

April 3, 2006