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HEARINGS

Before The

COMMITTEE ON FINANCE

UNITED STATES SENATE

EXECUTIVE SESSION

Washington, D. C.

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EXECUTIVE SESSION

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TUESDAY, APRIL 29, 1980

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United States Senate

Committee on Finance

Washington, D.C.

The committee convened at 11:45 a.m., in Room 2221, Dirksen Senate Office Building, the Honorable Russell Long (chairman of the committee) presiding.

Present: Senators Long, Ribicoff, Bentsen, Baucus, Packwood, Heinz, and Durenberger.

The Chairman. Now we turn to a controversial matter that Senator Bentsen has worked on vigorously. Maybe Mr. Shapiro should explain it and what the problem is.

Actually the problem is, as I understand it, are we going to ask for a delay in this, and if so, how much time?

Go ahead, Mr. Shapiro.

Mr. Shapiro. As most of you may recall, in 1974 when Congress passed ERISA, they created a system of termination insurance under that system. The Pension Benefit Guarantee Corporation, commonly referred to as PBGC, was set up to guarantee the benefits under the terminated pension plans.

They had two types of plans, one referred to as a single employer plan, and second, a multi-employer plan. The single

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1 employer plans were required to be covered immediately. The multi-  
2 employer plans, those are plans that several employers contribute  
3 pursuant to collective bargaining agreements.

4 In the case of these multi-employer plans, the Pension  
5 Benefit Guarantee Corporation was not required to cover these  
6 plans, but had discretionary authority to cover these benefits.  
7 This authority has been extended several times before there was  
8 required authority.

9 As of May 1, 1980, two days from now, the guarantee of  
10 benefits under the multi-employer plans will become mandatory.  
11 Up until now it was discretionary authority within PBGC to cover  
12 the multi-employer plans, but they will be mandatory as of May 1.

13 There presently has been a concern that the rules of present  
14 law that provide for these guarantees may tend to encourage the  
15 termination of some of these multi-employer plans and may result  
16 in liabilities that cannot be satisfied by the Pension Benefit  
17 Guarantee Corporation.

18 There have been bills that have been suggested by the  
19 Administration that have been referred through the Senate and  
20 the House, S. 1076 in the Senate. That bill has been jointly  
21 referred to the Finance Committee, and the Labor and Human  
22 Resources Committee in the House. The bill was introduced as  
23 H.R. 3904, referred to the Committee on Ways and Means and the  
24 House Committee on Education and Labor.

25 As you may well know, the tax-writing committees have been

1 very much involved in the windfall profit tax legislation over  
2 the past period of time and did not have an opportunity to  
3 address this legislation any sooner. However, the Labor Committees  
4 in both the House and Senate have taken action on it.

5 The Senate committee had approved the bill on March 24,  
6 1980 with amendments, and the Finance Subcommittee on Private  
7 Pension Plans and Employee Fringe Benefits held hearings on  
8 March 19, but up to now the Finance Committee has not had an  
9 opportunity to act.

10 In the House, the companion legislation was approved by the  
11 House Education and Labor Committee on January 30, 1980, and the  
12 Ways and Means Committee considered it soon after the windfall  
13 profits was passed. They completed their action on the bill on  
14 April 23rd.

15 The House bill is presently awaiting action in the House,  
16 and because of the fact that May 1 is just a couple of days from  
17 now, and it's obvious that even the House bill has passed, the  
18 Finance Committee has not had an opportunity to review it, once  
19 again because of the windfall profits tax taking the attention of  
20 the members of the Finance Committee and Ways and Means Committee.

21 A bill was introduced in the House, H.R. 7140, and was passed  
22 yesterday to extend that May 1st date for one additional month  
23 until June 1 of 1980. What this does is give you an additional  
24 month to consider that legislation.

25 However, there has been a concern among some Senators as to

1 whether a one-month extension is sufficient because this committee  
2 has not had the opportunity to review it. It has a lot of contro-  
3 versial issues that are to come before this committee. You have  
4 not only this committee's action but the Senator floor and ulti-  
5 mately a conference of four committees.

6 The issue, I think, before this committee is H.R. 7140, which  
7 has passed the House, is at the desk, is being kept at the desk  
8 as to what recommendation this committee should have in regard to  
9 that legislation.

10 Senator Bentsen. Mr. Chairman?

11 The Chairman. Yes.

12 Senator Bentsen. There is no way that this can be passed  
13 by May the 1st in the position we're in now with any serious  
14 consideration at all. This is an exceeding complex piece of  
15 legislation.

16 Since 1974 we were given a lot of information about single  
17 employer plans and multi-employer plans, and received a great deal  
18 of misinformation about multi-employer plans. We were told about  
19 the stability there and the safety there, and therefore that it  
20 should be a smaller premium than the single employee plan, 50  
21 cents per employee. That has not proven adequate. It has to be  
22 changed.

23 And the legislation is talking about a gradual change. The  
24 question is whether it should be expedited to preserve the  
25 stability and solvency of the funds. In this situation we have

1 cases were allocations have been made where a small company would  
2 have a liability that would extend beyond its network, and there  
3 are a number of these, if they were to withdraw. We ought to  
4 check into that, and we should not pass this piece of legislation  
5 without serious consideration of it, and see if these are justified  
6 allegations.

7 One of the concerns, of course, is that there would be a hiatus  
8 there after May the 1st, and a lot of these companies would with-  
9 draw and escape any liability and be rid of the whole problem.  
10 We ought to make it apparent, at least for this one Senator, I  
11 would say to those who are concerned I will strongly support the  
12 May 1st date as the date on which liabilities will be incurred  
13 even though people might withdraw subsequent to that date and  
14 the actual passage of this legislation. So we don't have any  
15 exodus of firms thinking they are going to be able to escape what-  
16 ever the final law is.

17 I'm deeply concerned that we have a law passed that will  
18 assure the pensioners that when they reach retirement that those  
19 savings have not turned to dust and it is not turned over to the  
20 government to pick up the deficiencies that might be incurred.

21 So you have a number of very technical, difficult questions,  
22 and I would urge strongly, I frankly would like 90 days extension,  
23 but I understand a number feel like 60 would be appropriate. I  
24 would limit my recommendation to 60 days if I can also have the  
25 understanding that I will have available to the subcommittee or

1 the full committee, if you prefer, the resources of staff that we  
2 need in this situation to give it the proper consideration that  
3 has to be given to it. And I would urge then on that basis a  
4 60 day extension.

5 The Chairman. It has been urged on me that we ought to try  
6 to get this job done in 30 days.

7 Let me ask the staff, do you think that you could do the  
8 job in 30 days?

9 Mr. Shapiro. Mr. Chairman, I think it would be very diffi-  
10 cult for the complete work that needs to be done in this legislation  
11 that the Finance consideration, and the Senate floor, and the  
12 conference could be done in 30 days. It requires a certain amount  
13 of staff work, coordination of the joint committees, the Finance  
14 Committee staff and the member staffs. And Senator Bentsen has  
15 asked for some assistance.

16 We have been working with his staff and others, and we would  
17 need a time longer than 30 days. I would hope 60 days would be  
18 the outside, meaning we will be able to do the staff work, do  
19 the coordination with the member staffs, present issues to the  
20 members and then as expeditiously as possible we would have that  
21 done, and the committee would be able to meet and hopefully we  
22 would be able to meet that 60 days in advance. You would not go  
23 to the last day.

24 But 60 days allows you to reserve if there are delays on the  
25 Senate floor or problems that come up in conference that may not

1 be anticipated at the present time.

2 The Chairman. The other committees have met and have taken  
3 a position. They're waiting on us, and they want to act. It seems  
4 to me that we should not delay one day longer than we find neces-  
5 sary, because it is a significant matter; and if we do ask for  
6 60 days, I think it should be strictly with the understanding that  
7 we act in 30 days if we can.

8 Senator Bentsen. I agree. If we can act in 30 days, we  
9 should. I seriously question that we can do it in that period of  
10 time, and I sure don't want to see us make some decisions as we  
11 did in '74 in multi-employer plans, again to go through the process  
12 of passing it through this committee, then on the floor and then  
13 in conference, because I have a hunch there are going to be some  
14 changes in this piece of legislation by the time we're through.

15 The Chairman. Senator Packwood.

16 Senator Packwood. You're planning no more hearings, are you,  
17 Lloyd?

18 Senator Bentsen. I bet we'd have more hearings. I really  
19 want a lot of staff work and some actuarial help in this, and try  
20 to do something about the responsibility of the employers and the  
21 trustees, and what we do about benefits and contributions. I  
22 want some solid evidence given to us by some of these actuaries  
23 to help us.

24 Senator Packwood. Secondly, with that is there any reason  
25 why we can't mark this up in a day, if you have the information and



1 we are done with the hearings? I realize it is going to be heavily  
2 lobbied. I have a western conference of Teamsters in Oregon.  
3 They're solid, and the fund's solid. They're very solid and no  
4 allegations of any problems.

5 Senator Bentsen. There is no problem there.

6 Senator Packwood. What they want, they want this bill  
7 finished, as we all do. I want to make sure that if we go to  
8 60 days we don't get to 50 days and then go another 60 days. Then  
9 who knows what.

10 Senator Bentsen. Senator, as far as I'm concerned we will  
11 not. I will be delighted to give it a top priority, and I will  
12 push for that.

13 Senator Packwood. All right.

14 The Chairman. Any further discussion?

15 Mr. Shapiro. Since the bill is at the desk, it would need  
16 a recommendation of the committee that the bill be taken off the  
17 desk, and the recommendation of this committee would be 60 days,  
18 and there would have to be some coordination with the Labor and  
19 Human Resources Committee, as they have the jurisdiction as well.

20 The Chairman. With the understanding that we will move, we  
21 will move as expeditiously as possible. We will not take 60 days  
22 if we can be ready in 30. We will move as expeditiously as we  
23 can, with the understanding that there is a lot of staff work to  
24 be done.

25 Perhaps we can agree on it. Those in favor of the 60 day

1 extension, asking for a 60 day extension with the understanding  
2 that we'll try to move as expeditiously as we can, hopefully before  
3 the 60 days, say "Aye."

4 (There was a chorus of "Ayes.")

5 The Chairman. Opposed, no.

6 (There was no response.)

7 Senator Bentsen. I want to be sure that the signal goes out.  
8 I as one Senator will be working very hard that no one pulls out  
9 of this thing after May 1st, that they will incur liability for  
10 deferral.

11 The Chairman. It occurs to me the date ought to be before  
12 May 1st.

13 Mr. Stern. You're talking about July 1st effective instead  
14 of May 1st, are you not?

15 Senator Bentsen. I'm talking about incurring the liabilities  
16 for withdrawal, that those be incurred -- that they be incurred  
17 because that is when the mandatory law was to go into effect.

18 The Chairman. Would it be possible for somebody to take  
19 action before May 1st?

20 Would the committee be able to withdraw or would Senator  
21 Bentsen's date take care of the matter?

22 Senator Bentsen. I'll do it April 29th. That is today.

23 The Chairman. I'm wondering if you need to have your date  
24 as of yesterday or as of today so that someone who's trying to  
25 escape liability may act immediately.

1 Mr. Shapiro. As I understand it, it's possible that someone  
2 could withdraw before the date. We're not aware of anyone, but  
3 it is possible. You could use today's date, April 29th, as the  
4 date to have it be retroactive to.

5 Senator Bentsen. The Chairman and I are trying to assure the  
6 same objective here.

7 The Chairman. Or say any day after the 28th. That means if  
8 you did it today you would still be under it.

9 Without objection then the Senator will author an amendment  
10 and will support such an amendment when they call it off the  
11 calendar.

12 Senator Bentsen. I don't know if we can handle it with an  
13 amendment. I want it understood when the piece of legislation  
14 comes up I'm going to be pushing very hard.

15 Mr. Shapiro. I think you can have a statement in the record  
16 that it's the intent of this committee. That can be a part of the  
17 legislative history in this regard.

18 Also, I think I would make it clear we're talking about an  
19 extension, July 1 extension. Technically 61 days.

20 Senator Bentsen. Fine.

21 The Chairman. Well, I think that that may be all we can  
22 handle at this moment. We have a caucus at noon with the Democrats  
23 that we are supposed to be talking about a budget matter. We  
24 should all be there because we are all involved in it.

25 Senator Baucus. Mr. Chairman.

1 The Chairman. Senator Baucus.

2 Senator Baucus. In the spirit of acting expeditiously, since  
3 we've been hearing the Tax Court nominees, I don't see any reason  
4 why we could not favorably report out them.

5 The Chairman. All in favor of reporting out the Tax Court  
6 nominees say "Aye."

7 (There was a chorus of "Ayes.")

8 The Chairman. Opposed?

9 (There was no response.)

10 The Chairman. Without objection, agreed.

11 (Whereupon, at 12:00 p.m., the session was adjourned.)  
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