The Heritage Foundation

ISSUE BRIEF

No. 4529 | MARCH 14, 2016

Congress Can Help Pensioners, But Not Through a Bailout

Rachel Greszler

Some lawmakers want to bail out a select group of coal workers' pensions by tapping a fund designated for environmental cleanup. The Abandoned Mine Land Reclamation Fund (AML) is needed for cleanup of abandoned coal mines and should not be used to fund the pension and retiree health benefits of one particular coal miners' union—the United Mine Workers of America (UMWA).

Many public and private pensions funds have overpromised benefits and underfunded contributions. Forcing taxpayers and these companies' competitors to bail out the irresponsible choices of pension administrators would be unfair and could set the expectation for a multi-trillion-dollar bailout of private and public pensions across America.

The Coal Healthcare and Pensions Protection Act of 2015 (H.R. 2403) and the Miners Protection Act (S. 1714) would allow the UMWA to take nearly half a billion dollars a year from the AML to pay for its pension and retiree health benefits. Such action is outside the purpose of the fund, would unfairly bail out a select group of pensioners, and would set a dangerous precedent for future bailouts. Moreover, Congress has its own unfunded obligations that it must address by reforming Social Security and Medicare before it even considers helping private companies pay their unfunded liabilities.

This paper, in its entirety, can be found at
http://report.heritage.org/ib4529

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

The government already provides a backstop against pension losses through the Pension Benefit Guaranty Corporation (PBGC). Congress can help reduce private pension losses by ensuring the PBGC remains solvent and by improving multiemployer pension funding through proper regulation of multiemployer plans.

Bailout Violates the Purpose of the Fund

Diverting funds from the AML for an entirely unrelated purpose is like using Superfund dollars to pay the retirement and health benefits of companies that contributed to pollution on Superfund sites. The AML was set up to provide funds to clean up environmental damage caused by coal mines that closed prior to 1977 when the Surface Mining Control and Reclamation Act was passed.

Although the Obama Administration has since done an about-face and now supports using the fund to bail out UMWA pensions, the Chief of the Office of Surface Mining (OSM) Reclamation and Enforcement, Alfred Whitehouse, laid out the Department's opposition to using the AML for a pension bailout back in 2010, stating that the purpose of the AML fund is "to address the hazards and environmental degradation created by centuries of weakly regulated coal mining that occurred before [the Surface Mining Control and Reclamation Act's] enactment."[1] The fund was not set up as an insurance program in the event that private coal mining companies promise their employees greater retirement benefits than they can afford.

Bailout Puts Future Fund Needs at Risk

Although interest earned on the AML has already been diverted to partially fund the UMWA's retiree health programs and taxpayers are already covering the difference between what the UMWA is allowed and what the interest provides, Congress should not use the AML and taxpayer dollars to bailout the UMWA's pension plan. Proponents of H.R. 2403 and S. 1714 argue that the bills simply allow the UMWA to receive the maximum $490 million per year that it is currently allowed, but that cap was supposed to set a limit on annual health care bailouts, not a guaranteed revenue stream for pensions. Moreover, because interest on the AML will not come anywhere close to $490 million over the foreseeable future, the federal government would continue to pay the difference using general taxpayer dollars.

Diverting additional revenues from the AML to select retiree benefits could restrict the fund from serving its intended purpose. Although the fund currently has about $2.5 billion in assets, the funds are needed for existing high-priority projects and new ones that will emerge.[2]

The OSM's recent budget request provides evidence that the fund does not have extra money sitting around to be given away for retirement benefits. The request included a $49 million per year increase in the current AML fee in order to "reclaim priority abandoned mine sites and address over $6 billion in remaining high priority AML sites nationwide."[3] According to the OSM, millions of Americans live within a mile of these abandoned sites, and many more areas could "become reclamation priorities as the old mines deteriorate and subside in the future."[4] Taking nearly half a billion dollars a year out of the fund for UMWA health and pension benefits would prevent the fund from serving its intended purpose.

Bailout Unfairly Discriminates Against Non-UMWA Coal Producers

In addition to violating the purpose of the AML, transferring funds to particular pension and health benefit plans unfairly discriminates against certain contributing employers. All coal companies have to contribute to the AML, paying a fee of 28 cents per ton of surface coal produced and 12 cents per ton of underground coal. In 2015, union mines accounted for only 14 percent of total coal mining production and UMWA members were responsible for only 9 percent of total mining production. Yet, the UMWA has exclusive access to the AML fund for its health benefits. H.R. 2403 and S. 1714 would expand that access to its pensions, providing up to $490 million each year when the UMWA only contributed between $10 million and $23 million to the fund in 2015.[5]

Allowing the UMWA to use AML funds to shore up its pension plan would unfairly force all non-UMWA coal companies to prop up their competitors by further subsidizing their overpromised and underfunded health and pension benefits. Many coal workers are no longer unionized because companies realized the unaffordable costs of future pension promises. Instead of unaffordable promises, most of these non-union companies offer their workers 401(k)-type retirement accounts that they own and control, and many employers provide generous contributions. Employers who choose to provide their workers with direct retirement contributions instead of unaffordable promises should not have to pay for their competitors unaffordable promises.

UMWA: Passing the Blame on the Economy and the Buck onto Taxpayers and Their Competitors

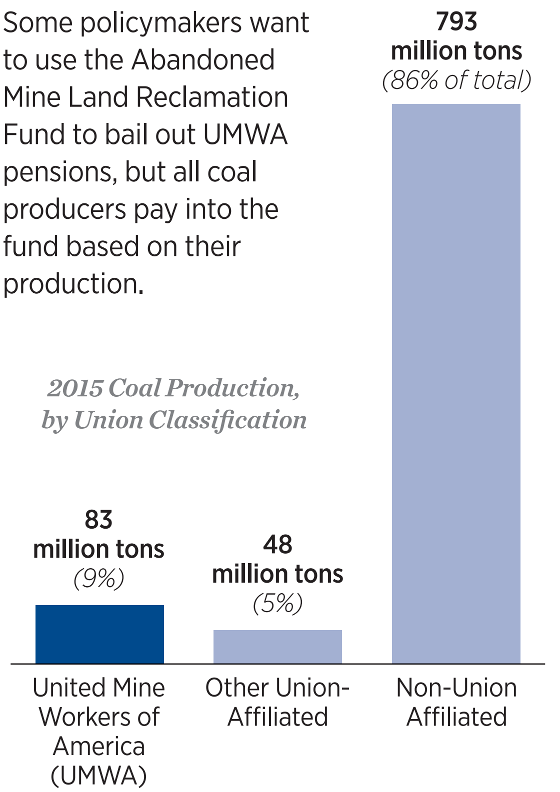
UMWA President Cecil Roberts argued that the UMWA should receive AML funds because the decline in the coal industry has forced it to take on the obligations of "orphaned" employees—workers who were employed by coal companies that went bankrupt. According to recent testimony from

1. Hearing, "H.R. 5479, Coal Accountability and Retired Employee Act of 2010," Committee on Natural Resources, U.S. House of Representatives, 111th Cong., 2nd Sess., June 23, 2010.
2. Office of Surface Mining Reclamation and Enforcement, "Reclaiming Abandoned Mine Lands: Title IV of the Surface Mining Control and Reclamation Act," May 21, 2015, http://www.osmre.gov/programs/AML.shtm (accessed March 9, 2016).
3. Office of Surface Mining Reclamation and Enforcement, "Proposed FY 2017 Budget," http://www.osmre.gov/resources/budget/docs/FY17_Proposed_Budget.pdf (accessed March 9, 2016).
4. Office of Surface Mining Reclamation and Enforcement, "Reclaiming Abandoned Mine Lands."
5. Estimated UMWA contributions based on total UMWA production of about 83 million tons of coal in 2015, and the range representing a minimum 12-cent-per-ton cost and a maximum 28-cent-per-ton cost.

CHART 1

Mine Workers Union Accounts for Small Share of Total Coal Production

Some policymakers want to use the Abandoned Mine Land Reclamation Fund to bail out UMWA pensions, but all coal producers pay into the fund based on their production.



SOURCE: U.S. Department of Labor, Mine Safety and Health Administration, http://arlweb.msha.gov/OpenGovernmentData/OGIMSHA.asp (accessed March 10, 2016).

IB 4529 heritage.org

Roberts, the fund has more than 10 retirees for every one worker paying into the system.[6] Moreover, Roberts blames the financial crisis of 2007 for the fund's recent deterioration. There are two important points, however, that Roberts fails to recognize when attempting to pass the blame.

First, if a pension plan is properly funded from the start—meaning workers only receive the benefits they accrue—and properly managed along the way—meaning the appropriate assumptions are used to determine adequate funding levels and adjustments are made regularly to account for any deficiency in full funding—it does not matter how many employers exit the system or if a recession occurs. If contributions fully fund future liabilities, exiting employers would not leave behind any unfunded liabilities. Moreover, if plans use conservative assumptions, they can weather the storms of a recession.

The UMWA, however, did not properly fund its plan from the start, nor did it adequately adjust contribution and accrual rates along the way, or use appropriate assumptions to estimate its future liabilities. When the UMWA pension fund was first established, the union fought hard to begin paying out pension benefits immediately to workers that for whom pension contributions were never made. In fact, the UMWA fought so hard that the pension plan's neutral trustee resigned in frustration and the miners walked out in March of 1948. The union got its way and the first pension check was issued months later in September of 1948.[7] The UMWA's decision to pay benefits to workers that never earned them is a primary reason that it cannot afford to pay benefits to workers who have earned them.

Second, although multiemployer plans are subject to significantly fewer rules and regulations because the pool of participating employers is supposed to act as insurance, the inherent nature of UMWA and other multiemployer plans have instigated, instead of prevented, their demise.[8] Because benefits in multiemployer plans are often unrelated to contributions, the UMWA and other plans did not properly adjust contribution and accrual rates when participating employers went out of business or plan investments failed to perform as well as expected. In fact, despite growing

6. Cecil E. Roberts, "On S. 1714, the Miner's Protection Act," testimony before the Committee on Finance, U.S. Senate, March 1, 2016, http://www.finance.senate.gov/imo/media/doc/03012016%20Roberts%20Testimony%20SFC%20Testimony%20Multiemployer%20Pensions.pdf (accessed March 8, 2016).

7. United Mine Workers of America, "A Brief History of UMWA Health and Retirement Funds," http://www.umwa.org/?q=content/brief-history-umwa-health-and-retirement-funds-0 (accessed March 9, 2016).

8. Rachel Greszler, "Bankrupt Pensions and Insolvent Pension Insurance: The Case of Multiemployer Pensions and the PBGC's Multiemployer Program," Heritage Foundation *Backgrounder* No. 3029, July 30, 2015, http://www.heritage.org/research/reports/2015/07/bankrupt-pensions-and-insolvent-pension-insurance-the-case-of-multiemployer-pensions-and-the-pbgcs-multiemployer-program.

unfunded liabilities, many multiemployer plans handed out excessive benefits and hid their true underfunding through unreasonable assumptions, both of which were made possible through the lax rules and regulations to which multiemployer plans are privy.

In attempting to shift the blame of its underfunded pensions and health benefits onto the recent recession and the demise of the coal industry, the UMWA fails to acknowledge its own negligence. If the UMWA had not first forced the plan to pay pension benefits to retirees who did not earn them, had used appropriate funding assumptions, and had adjusted contributions as needed, the plan would not be insolvent today and more than a hundred thousand coal workers and retirees would have the retirement security the UMWA promised them. Taxpayers and UMWA's competitors should not have to bear the burden of its underfunded promises.

Bailout Sets a Dangerous Precedent and Encourages Reckless Pension Promises

The UMWA pension fund is one of approximately 1,300 multiemployer plans covering about 10 million participants across the U.S. Depending on the assumptions, between 84 percent and 99 percent of these plans are underfunded, with between $115 billion and $500 billion in combined underfunded liabilities.[9]

Those are only the private, multiemployer pensions. In addition, there are underfunded single-employer pensions, roughly $3 trillion of unfunded state and local pensions,[10] and more than $13.5 trillion unfunded Social Security obligations.[11] That is a lot of promises that cannot be kept.

A bailout of the UMWA's pension and gold-plated retiree health benefits is relatively small on the grand scale, but if the federal government is going to force taxpayers and other coal companies to bail out the UMWA, why will they not do the same for the next pension plan that runs out of money?

The United States simply cannot afford to bail out all the unfunded retirement benefits that have been promised to Americans across the country. Allowing some bailouts—however small—will send the message to troubled pensions that they do not have to confront their shortfalls, and could create a race to the bottom to receive pension bailouts before the federal bailout tap runs dry.

Action by many troubled pension plans, including the UMWA, shows that plans are either banking on a federal bailout or they do not care about the future well-being of their members. Take, for example, the UMWA's recent "bonus plan" to provide bonuses to eligible UMWA retirees in 2014, 2015, and 2016.[12] This plan was negotiated by the UMWA despite the plan's own acknowledgement that it will become insolvent in the 2025–2026 plan year as well as the PBGC's assessment that the plan could be insolvent as soon as 2020.[13] Negotiating for bonuses for current retirees when there will be nothing left to pay retirees in five to 10 years is reprehensible and this type of behavior should not be encouraged or rewarded through bailouts.

Current Benefits

Coal miner pensions are relatively modest, but their health benefits are gold-plated. 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.[14] A worker with 30 years of service who retires at age 62 in 2016 would receive $2,021 per month, or

9. Society of Actuaries, "Multiemployer Pension Plan Contribution Analysis," March 2016, http://www.soa.org/Research/Research-Projects/Pension/2016-multiemployer-pension-plan-analysis.aspx (accessed March 10, 2016).

10. Joshua Rauh, "Unfunded Pension Debts of U.S. States Still Exceed $3 Trillion," Pension Research Council, August 25, 2015, http://www.forbes.com/sites/pensionresearchcouncil/2015/08/25/unfunded-pension-debts-of-u-s-states-still-exceed-3-trillion/#1e3c623d69f0 (accessed March 9, 2016).

11. Romina Boccia and Rachel Greszler, "Disability Payments in Jeopardy as Trust Fund Set to Run Dry Next Year," The Daily Signal, July 22, 2015, http://dailysignal.com/2015/07/22/disability-payments-in-jeopardy-as-trust-fund-set-to-run-dry-next-year/.

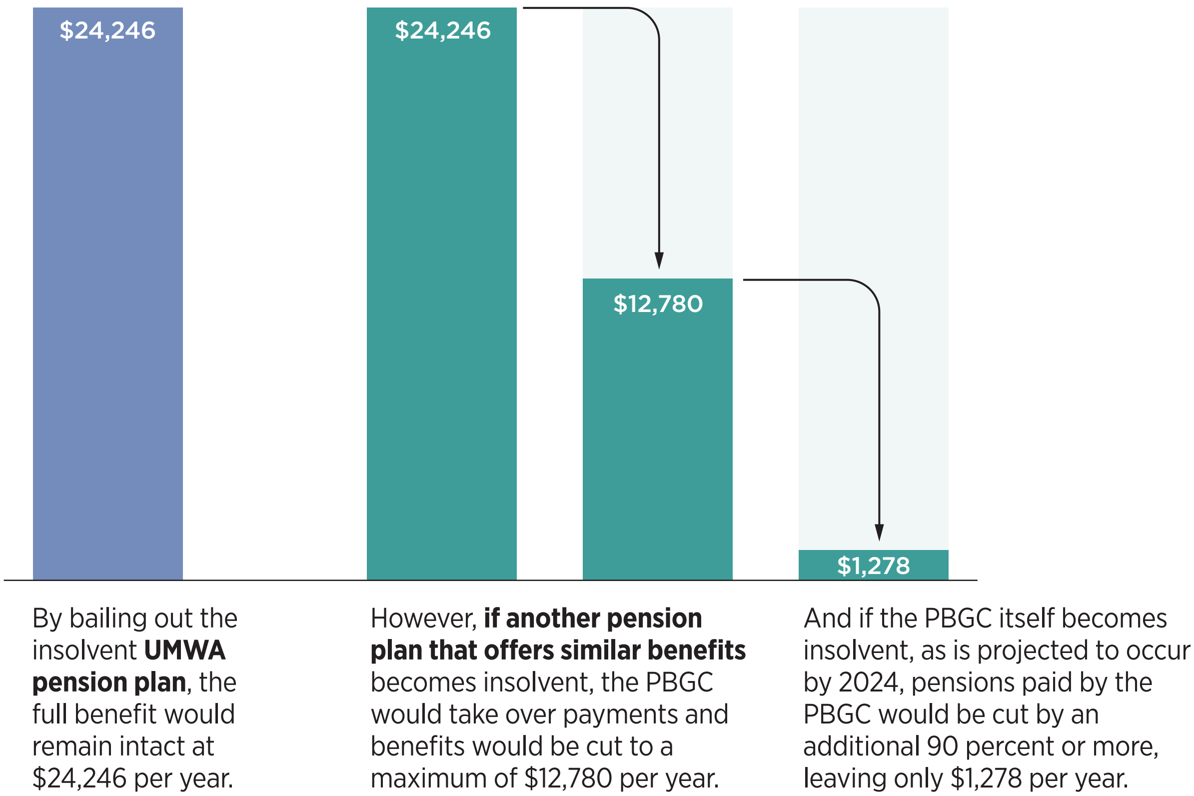
12. United Mine Workers of America, "UMWA Health and Retirement Funds, 2012 Retiree Bonus Account Plan," http://www.umwafunds.org/AboutUs/Pages/2012-Retiree-Bonus-Account-Plan.aspx (accessed March 9, 2016).

13. In testimony before the Senate Finance Committee on March 1, 2016, UMWA President Cecil Robert said that the UMWA pension plan actuary predicts the fund will become insolvent in the 2025–2026 plan year and that the Pension Benefit Guaranty Corporation (PBGC) said the UMWA could be insolvent as soon as 2020.

14. 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).

CHART 2

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



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, 2016). 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, House of Representatives, March 5, 2013, http://www.gao.gov/assets/660/652687.pdf (accessed March 10, 2016).

IB 4529 heritage.org

about $24,250 per year, in addition to their Social Security benefit.[15] 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.[16]

UMWA health care benefits, however, include comprehensive medical, drug, and vision coverage with little to no cost to retirees. The UMWA plan includes only $5 copays for doctor visits and prescriptions and no cost for hospital visits.[17] In other

15. 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).
16. Roberts, "On S. 1714, the Miner's Protection Act."
17. United Mine Workers of America, "UMWA Health and Retirement Funds, Medical Copayment Summary," http://www.umwafunds.org/Health-Medical-Benefits/Pages/Medical-Copay-Summary.aspx (accessed March 9, 2016).

words, eligible UMWA workers can retire at age 55 and pay nothing for health insurance while most non-union coal miners have to pay thousands of dollars for health insurance if they want to retire before they can collect Medicare at age 65. Despite the fact that all coal producers are subject to the same AML fee and that the UMWA pays only about 9 percent of total contributions, the UMWA has exclusive rights to tap the AML fund to provide its generous health benefits. H.R. 2403 and S. 1714 would expand that access to prop up its pension benefits as well.

Consequences for UMWA Pensions and Health Benefits Without a Bailout

Absent a bailout, the UMWA's pension system will likely run out of funds sometime between 2020 and 2026. According to the UMWA's financial disclosure forms, the union has about $145 million in investment assets and another $60 million in revenues.[18] The UMWA should be required to put that money towards its retirement benefits before tapping taxpayer or PBGC resources.

When the UMWA pension fund becomes insolvent over the next four to 10 years, the PBGC will be on the hook for providing the UMWA with funds equal to the PBGC-guaranteed level of insurance. Assuming the PBGC's multiemployer program is not insolvent itself by then, the average UMWA benefit of $530 per month would be reduced by $50 to $480, but a 2016 retiree with a 30-year work history would receive a $950 reduction in their monthly benefit, from $2,020 to $1,070.[19]

The PBGC's multiemployer program is scheduled to become insolvent in 2024, as the likely insolvencies of the Central State Teamsters and UMWA plans are projected to quickly draw down all of PBGC's assets. If the PBGC becomes insolvent, all its benefits will be reduced to the level of incoming contributions, which are estimated to equal only about 10 percent of guaranteed benefits.[20] This would bring the maximum monthly benefit down from $1,070 to just $107. The PBGC's multiemployer program insolvency would impact over one million pension beneficiaries, who would receive mere pennies on the dollar in promised benefits.

The insolvency of PBGC's multiemployer program needs to be addressed in order to continue protecting pensioners from a complete loss of benefits. Among other things, Congress should grant PBGC authority to set its own premiums and function more like a private insurance company.[21]

Certain UMWA retiree health funds already receive annual bailouts of up to $490 million per year from both interest earned on the AML as well as general taxpayer dollars. These bailouts allow the UMWA to continue providing generous health care benefits without raising new revenues or limiting costs.

Social Security Solvency Should Come Before Private Pensions

Just as private pension plans across the nation are massively underfunded, so too is the federal government's Social Security system, which acts as a pension program for all working Americans. Social Security is on track to run out of money and have to cut benefits by 23 percent beginning in 2034. It is wrong for the government to preserve the unfunded and irresponsible promises of select private companies when it cannot afford to keep its own promises. No federal money—whether direct from taxpayers or by raiding an industry-supported fund—should be spent to prop up private-sector pensions and health benefits, especially not before Congress reforms Social Security and Medicare to make both programs solvent in the long run.

Summary

The UMWA represents one small fish in a sea of unfunded pension and retiree health benefits across the country. It would be unfair for Congress

18. United States Department of Labor, "Form LM-2 Labor Organization Annual Report for the United Mine Workers," File Number 000-063, http://www.unionreports.gov (accessed March 9, 2016).

19. Author's calculations based on UMWA's 1974 pension benefit summary plan description and PBGC's benefit formula. PBGC guarantees up to $12,870 per year for multiemployer plan pensions. For retirees with 30 years of service, 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.

20. Joshua Gotbaum, "What Congress Can Do to Help People in Multiemployer Pension Plans," testimony before the Committee on Finance, U.S. Senate, March 1, 2016, http://www.finance.senate.gov/imo/media/doc/03012016%20Gotbaum%20SFC%20Gotbaum%20Multiemployer%20Pensions%20Testimony.pdf (accessed March 8, 2016).

21. Greszler, "Bankrupt Pensions and Insolvent Pension Insurance."

to bail out one pension system and not others, but the federal government cannot afford to bail out *all* unfunded pensions.

Instead of a bailout, Congress should do what it can to protect pension benefits through its regulation of private plans and its administration of the private pension backstop—the PBGC. Congress should eliminate the preferential treatment it gives to multiemployer pension plans, such as allowing them to set their own unrealistic assumptions that lead to underfunding. Additionally, Congress should reform the PBGC so that it can provide its promised protection against complete pension losses. The federal government should not give a single dollar to pay private pension benefits when its own insurance agent, the PBCG, cannot afford to keep its own promises.

A federal bailout of private pensions would send a dangerous message to underfunded pension systems that they need not reform because the federal government will force taxpayers to keep the promises that they cannot. Congress can protect pensioners and taxpayers by requiring sound administration of multiemployer pension plans and ensuring the solvency of the PBGC.

*—**Rachel Greszler** is Senior Policy Analyst in Economics and Entitlements in the Center for Data Analysis, of the Institute for Economic Freedom and Opportunity, at The Heritage Foundation.*