SUBMISSION BY

THE NATIONAL COORDINATING COMMITTEE FOR MULTIEMPLOYER PLANS

TO

THE JOINT SELECT COMMITTEE ON SOLVENCY OF MULTIEMPLOYER PENSION PLANS

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The following submission is to correct and provide a more complete record for the April 18, 2018 hearing of the Joint Select Committee. The submission identifies the Committee member's questions and provides the appropriate responses.

NATIONAL COORDINATING COMMITTEE FOR MULTIEMPLOYER PLANS

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Members of the United States Senate &
United States House of Representatives
Joint Select Committee on Solvency
of Multiemployer Pension Plans
219 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Ladies and Gentlemen,

The National Coordinating Committee for Multiemployer Plans (NCCMP) supports the work of the Joint Select Committee on Solvency of Multiemployer Pension Plans to address the looming solvency crisis in multiemployer pension plans and at the Pension Benefit Guaranty Corporation (PBGC). The work of this Committee is an important and positive step forward for the millions of hardworking Americans and their families who are at risk of losing their retirement savings if these plans are allowed to fail.

Such an effort must be undertaken carefully. The vast majority of multiemployer plans today are healthy, and are succeeding in their mission to provide secure and reliable lifetime income to their participants. The Joint Select Committee should ensure that any efforts to stabilize and strengthen the system for the future does not have the opposite effect and destroy the employers and plans that it is intending to save.

The Joint Select Committee has an opportunity to stabilize and safeguard the multiemployer system for the future by providing these plans at risk of insolvency with the solvency restoration tools that they need to work through this crisis. These same solvency restoration tools will allow the PBGC to constructively work through the list of plans that comprise the net deficit in the multiemployer guarantee program, largely without need for additional premiums beyond what is already in law. The longer Congress waits to act, the more difficult and costly this problem will be to solve.

As Congress has considered legislation impacting multiemployer plans, it has historically relied upon the NCCMP for input and ideas for potential solutions to the issues facing multiemployer pensions, and for advice on the practical implications of proposed legislative changes.

On April 18th, the Joint Select Committee held its first public hearing that was titled “The History and Structure of the Multiemployer Pension System”. After a careful review of the hearing, we thought that the members would be well served if NCCMP provided more detailed explanations than were possible in the hearing format. The attached document has three parts. The first is the questions asked by each member, whether in round 1 or round 2, and the related answers. The second is Appendix I: The Multiemployer Pension Crisis and the Cost of Doing Nothing, which is referenced in numerous responses. The third is Appendix II: Multiemployer Pension Facts and the National Economic Impact, which is referenced numerous responses.

In 2011, as a result of the 2008 financial crisis, NCCMP established the Retirement Security Commission (Commission), which brought together 42 employer groups, unions, plans, and other multiemployer system stakeholders. The purpose of the Commission was to address structural problems in the multiemployer system, which related to plans in financial distress as well as healthy plans. NCCMP's work culminated in the passage of the Multiemployer Pension Reform Act of 2014 (MPRA).

MPRA provided plan trustees the ability to apply to Treasury for benefit suspensions. This self-help tool was designed to restore plan solvency, protect the retirees from the even greater benefit reductions that they would see when their plans went insolvent and became subject to the PBGC guarantee, and to help restore the finances of the PBGC, which would reduce the need for uneconomic premium increases.

Unfortunately, Treasury denied the MPRA application of the largest and most systemically important plan, the Central States Pension Fund (Central States). The approval of Central States' MPRA application would have restored plan solvency, protected the retirees from the even larger benefit reductions that they will see when their plan goes insolvent, and removed this plan from the PBGC's list of plans that comprise its multiemployer deficit, thereby lowering the PBGC's deficit by approximately $20 billion. An approval would have also avoided the disastrous consequences described throughout the attached questions and answers.

The crisis is solvable; however, the Committee must adhere to the Hippocratic Oath of "First, do no harm." We address the issues head-on throughout the question and answer portion. As a preview, NCCMP believes that a comprehensive solution to solve this looming crisis will involve the following:

- **Reform MPRA** so that it is the reliable and predictable self-help tool for trustees of plans in critical and declining status that Congress and the multiemployer community intended. This will allow plans in financial crisis to restore solvency while protecting the benefits to retirees to the maximum extent possible. It is also the only tool today that will keep plans from going to the PBGC, which will improve the financial health of the PBGC's multiemployer program without uneconomical calls for additional premiums to a failing agency.

- **Enact a responsible subsidized loan program** that will be successful using very conservative assumptions regarding investment returns, and that will achieve the policy objectives of (1) restoring and ensuring plan solvency, (2) protecting the maximum amount of benefits possible for retirees, (3) providing the U.S. Government with certainty on the timely repayment of the loan, (4) having very high confidence that once passed, it will get executed by the Executive Branch, and (5) consistency with the Federal Credit Reform Act of 1990 and related OMB Circulars. This solvency restoration tool is needed today because of Treasury's rejection of the Central States MPRA application. This tool will also keep plans from going to the PBGC, which will improve the financial health of the PBGC's multiemployer program without uneconomical calls for additional premiums to a failing agency.

- **Reform the PBGC and its finances** by providing tools to proactively workout plans in financial distress so that they do not become insolvent and need PBGC financial assistance, and to accurately establish the scope of the PBGC's deficit and any future need for premiums that are not met by the current law premiums which are expected to average at least $38.50 per participant over the next 20 years. The two solvency restoration tools discussed are the "dials" that provide plans the ability to workout the PBGC's deficit in its multiemployer program by removing the successful MPRA or loan applicant from the PBGC's list of plans facing insolvency. These tools provide the U.S. Government with its least-cost solution to the multiemployer crisis and would eliminate the need for any other federal support of the PBGC.

  The approval of Central States MPRA application would have reduced the PBGC deficit by approximately $20 billion. The PBGC's statement in its 2017 annual report that three plans came off their deficit list, one of which was a successful MPRA applicant, reduced the 2017 deficit by $2.8 billion. However, equally important to working out the PBGC's finances is the accurate establishment of the size of their deficit. This directly impacts the calls it has made for additional premiums. Currently, the PBGC discounts liabilities of plans that it expects to be insolvent based on "market" rates to purchase annuities that would defease these liabilities. This annuity approach overstates the PBGC's deficit by more than $30 billion if one used the same discount rate that Social Security uses for its risk-free, full faith and credit obligations.

  The PBGC testified last week that raising $16 billion in premiums over 10-years will not affect the multiemployer system. This is not correct. Such an increase will in fact make the employers that actually employ the active workers in multiemployer plans economically uncompetitive in the market. The PBGC is an "insurance company" that only covers 47% of retiree losses in the best case, and as the PBGC has publicly acknowledged, 2% to 6% of retiree losses in the most likely case[1]. This profile is the very definition of a failed agency, and there is no way to premium its way to health and keep the multiemployer system intact. The focus needs to be on the dials that restore plan solvency, like MPRA, which was the multiemployer system's idea for self-help, and a responsibly designed loan program. These tools will keep plans from getting to the PBGC in the first place, which is how one fixes the PBGC's multiemployer program.

- **Enact the GROW Act** that will modernize and strengthen the multiemployer pension plan system for the future by allowing healthy plans to voluntarily elect to adopt this new type of retirement vehicle that combines the key features of defined benefit and defined contribution plans.

[1] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

As the Committee works toward considering and developing solutions for the multiemployer pension crisis, accurate and complete information on the history, structure, and operation of these plans and the PBGC's multiemployer guarantee program is of vital importance.

The NCCMP is a non-partisan, nonprofit, tax-exempt social welfare organization with members, plans and contributing employers in every major segment of the multiemployer universe. The NCCMP is the only national organization devoted exclusively to protecting the interests of the job creating employers of America and the more than 20 million active and retired American workers and their families who rely on multiemployer retirement and welfare plans. The NCCMP's purpose is to assure an environment in which multiemployer plans can continue their vital role in providing retirement, health, training, and other benefits to America's working men and women.

NCCMP and its leadership is uniquely qualified to assist the Committee in the intricate details and workings of the multiemployer system. Additionally, based on prior senior leadership positions in the U.S. Government that included extensive analytical, policy, and execution work on market failures, bailouts, workouts, restructurings, and the use of federal credit and capital, we are able to be an expert resource on the difficult decisions facing the Joint Select Committee as you confront the challenging issues and solutions required to address the multiemployer pension crisis. We stand ready to assist and consult with you as needed.

Respectfully submitted,

Michael D. Scott
Executive Director

SENATOR ORRIN HATCH

1. **Do the funding rules that apply to multiemployer plans also apply to single-employer plans? If they are not the same, why are they different?**

No. Single-employer plans are subject to different rules than multiemployer plans, because Congress has historically recognized that multiemployer plans are fundamentally different from single-employer plans in a number of ways and that it would not be prudent or appropriate to apply the same rules to such disparate plans.

A Brief History

Under the Employee Retirement Income Security Act of 1974 (ERISA) as originally enacted, the rules for single-employer and multiemployer plans were similar but became substantially different over time. ERISA's minimum funding rules were originally designed to ensure that benefits would be funded over an employee's working career, so that by the time an average employee retired, the benefit would be fully funded, and no additional employer contributions would be required. Because the time horizon for funding benefits was the covered employees' entire working careers, the methods for determining required contributions incorporated long-term assumptions for such things as estimating a plan's projected earnings.

In the mid-1980s, the focus of Congress and the Pension Benefit Guaranty Corporation (PBGC) was on the risks of the single-employer program. As the insurer of first resort, the PBGC's single-employer program was designed to address individual employers going out of business but was not designed to address the collapse of entire industries. Thus, in the Omnibus Budget Reconciliation Act of 1987 (OBRA 1987), Congress attempted to address the problems in single-employer plan funding and the PBGC's increasing deficit by imposing new requirements on single-employer plans. Most notably, Congress imposed additional funding requirements on these plans based a plan's "current liability" generated by using corporate bond rates instead of long-term expected earnings. OBRA 1987 also included a new variable rate premium payable to the PBGC based upon a single-employer plan's level of underfunding. These attempted fixes did not work, however. In the 1990s and the early 2000s, the contraction of the steel and airlines industries dramatically increased the PBGC's deficit in the single-employer program.

Following the recession in 2000-2002, Congress acted to ameliorate the hardships on employers caused by the additional funding requirements imposed by OBRA 1987 by passing the Pension Funding Equity Act of 2004 ("PFEA 2004). PFEA 2004 modified the additional funding requirements on single-employer plans by permitting these plans to use higher interest rate assumptions based on long-term corporate bonds in determining their "current liability." Congress also provided two years of relief to airlines and steel manufacturers. In 2006, however, the prior paradigm for funding single-employer plans—that benefits were to be funded over an employee's working life—was abandoned entirely for single-employer plans. The Pension Protection Act of 2006 (PPA) required significantly stricter funding rules and benefit restrictions when new funding targets were not achieved for single-employer plans with the intent of achieving better funding. The new funding paradigm for single-employer plans instead assumed that a plan should be fully funded on a termination basis at any time. Thus, rigid funding requirements were imposed, including sharply reduced interest rate assumptions published periodically by the IRS, and significantly reduced periods over which full-funding must be achieved. Unfortunately, over time, these legislative changes have proven to be too rigid and unpredictable even for the single-employer plans.

Congress has provided relief to single-employer plan sponsors since PPA became law, reflecting that the substantial funding requirements that arose from the 2008-2009 financial crisis and the current low-interest rate environment were unsupportable and unsustainable. In 2012, Congress passed the Moving Ahead for Progress in the 21st Century Act (MAP-21), which among other things allowed single-employer plan sponsors to use a 25-year average of high-quality bonds (the top 3 quality levels A, AA, AAA) to determine the interest rate used to measure plan liabilities. The goal was to increase and smooth the effective interest rate, thereby lowering funding requirements to a level that was possible for plans and employers to sustain and reducing volatility. The extent and timeframe of this relief was extended by two further budget acts, in 2014 and 2015.

Impact on Single-Employer Coverage

The laws, regulations, funding rules, and PBGC premiums required primarily by OBRA 1987 and the PPA have had a significant negative impact on the economic viability of single-employer defined benefit pension plans for employers. PBGC data (depending on which PBGC historical dataset is correct) show that either 140,935[2] or 181,383[3] single-employer plans were terminated voluntarily by plan sponsors (referred to by PBGC as Standard Termination) between 1975 and 2016. Further, the data show that either 4,769[4] (2016 data book), 4,742 (calculated) or 4,634[5] (1999 and 2016 data) single-employer plans were terminated by PBGC in distress or involuntary terminations (collectively referred to by PBGC as Trusteed Terminations). In 2016, there were 22,333 single-employer plans insured, of which 8,285 (2014 data) have accrual or participation freezes, leaving 14,048 open single-employer plans. In other words, the number of single-employer plans has declined by at least 91.6% since the passage of ERISA. The laws, regulations and rules governing single-employer defined benefit plans have clearly incented employers to terminate their defined benefit plans, discouraged employers from offering a defined benefit pension, and has led to weakening of the retirement security for working Americans.

Multiemployer Funding

While the original ERISA multiemployer funding regime saw only minor changes over the ensuing 30 years, PPA shortened amortization targets and also made significant changes to the

[2] Pension Benefit Guaranty Corporation, Standard Terminations 1975-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

[3] Pension Benefit Guaranty Corporation, Standard Terminations 1975-1999, Table S-10, https://www.pbgc.gov/sites/default/files/legacy/docs/1999databook.pdf, and Standard Terminations 2000-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

[4] Pension Benefit Guaranty Corporation, Trusteed Terminations 1975-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

[5] Pension Benefit Guaranty Corporation, Trusteed Terminations 1975-1999, Table S-10, https://www.pbgc.gov/sites/default/files/legacy/docs/1999databook.pdf, and Standard Terminations 2000-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

multiemployer funding rules applicable to financially troubled plans with the creation of the "zone rules." However, Congress recognized that it would not be appropriate to apply the single-employer funding rule approach to multiemployer plans generally for several reasons. Multiemployer plans are subject to the collective bargaining process that provides a specific level of contribution obligation for each employer for the term of the collective bargaining agreement (CBA). Because contribution levels are set for the period of the CBA and cannot be changed without reopening the agreement, a plan is not able to accommodate the rapid changes in plan funding that can occur under the single-employer rules to account for market volatility and interest rate changes. Also, use of a long-term approach in valuing plan liabilities (in contrast to single-employer plans that value plan liabilities on current interest rates) is appropriate for most multiemployer plans because they are not dependent on the health of a single employer.

Here it is interesting to consider the resiliency built into the multiemployer structure through the example of the Central States Pension Fund (Central States). In 1980, the Motor Carrier Act of 1980 was passed which deregulated the trucking industry, the principal contributing employers in Central States. This directly impacted the employers in Central States and decimated the unionized trucking industry. Central States had 11,379 active employers in 1980. At the time of their 2015 application for benefit suspension under the Multiemployer Pension Reform Act of 2014 (MPRA), Central States had approximately 1,585 contributing employers[6]. The fact that the relief under MPRA would have allowed Central States to restore the solvency of their plan with the loss of almost 10,000 contributing employers is testament to the durability of the multiemployer system as well as the powerful tool that MPRA could be. Treasury denied Central States' MPRA application in May 2016. Had Central States' MPRA application been approved, the plan would have restored solvency, protected its retirees from the massive benefit reductions that they will see under the PBGC's guarantee, and the PBGC's multiemployer program net deficit ($53 billion in 2016) would have been reduced by approximately $20 billion. MPRA is intended to be - and could still be - a very powerful tool to restore critical and declining status plans to solvency, protect retirees, and workout the finances of the PBGC without cost to the PBGC, allowing it to be an insurer that can honor its obligations.

Relationship to Respective PBGC Programs

Further, there are significant differences between the PBGC's single-employer program and its multiemployer program that bear on the funding approach to the plans. First, in the single-employer program the PBGC is the insurer of first resort, meaning that the PBGC's guarantee is called when the employer pursues a distress termination of a plan or the PBGC's decides to involuntarily terminate the plan in order to protect the interests of plan participants and the agency. In the multiemployer program, the PBGC is the insurer of last resort. Unlike with a single-employer plan, when an individual employer ceases to fund its share of a multiemployer plan's liabilities under a multiemployer plan the burden falls on the remaining employers to make good

[6] U.S. Department of the Treasury, Central States Pension Fund MPRA Application, Checklist 17: List of Employers and Unions, https://www.treasury.gov/services/AppsExtended/(Checklist%2017)%20List%20of%20Employers%20and%20Unions.pdf.

on the shortfall. This means that the PBGC does not have financial exposure until the plan becomes insolvent. Insolvency is when the plan assets do not support the full benefit payments in the coming year and is typically associated with the erosion of the contributing employer base (usually from industry decline, bankruptcy, liquidation, or mass withdrawal).

A second critical difference is that the single-employer guarantee (currently $65,045 at age 65, without regard to a participant's years of service) is generally five times higher than the multiemployer guarantee ($12,870 at 30 years of service). This results in the PBGC guaranteeing, on average, 95.5% of a retiree's contractual benefit in the single-employer program. This compares with the PBGC currently guaranteeing, on average, 47% of a multiemployer retiree's contractual benefit, which will fall to between 2% and 6% when the PBGC's multiemployer program becomes insolvent.[7]

A Finance Perspective

Since the passage of the PPA, one of the principal distinctions between single-employer plan funding standards and those standards applicable to multiemployer plans is the discount rate used for determining the present value of future benefits. The purpose of discounting in finance is to value an asset or liability based on the level of risk inherent in that asset or liability. For example, if an investor purchases a 30-year Treasury bond of the U.S. Government at par, that investor would be expected to value that bond on the purchase date at the rate explicit in that specific security, as it is a risk-free asset backed by the full faith and credit of the U.S. Government. Similarly, if an investor purchased a 30-year junk bond that yields 10% at par, that investor would never discount that junk bond at the 30-year Treasury rate because it neither is risk-free nor does it have the full faith and credit backing of the U.S. Government. The idea that if we just change the discount rate to the 30-year Treasury or to the average rate of high-quality corporate bonds, we will improve the underlying risk of an asset or liability is simply wrong.

This basic finance concept directly impacts how one looks at the PBGC's single-employer program and the multiemployer program. For instance, as previously mentioned, the PBGC's single-employer program effectively guarantees 95.5% of the contractual benefits of a retiree in a trusteed plan, and we have no reason to doubt the PBGC's ability to continue to do so. This is the rough equivalent of a BBB- bond, so while there is a significant difference between the A, AA, and AAA rated corporate bonds that are used to discount single-employer liabilities, it is at least tangentially tethered to a basis considering the riskiness of the cash flows.

In the multiemployer program, the PBGC's current guarantee for insolvent plans provides for only 47% of a retiree's contractual benefit. This is the rough equivalent of completely unsecured debt or other claim in default ("D" rated), which would never be confused with a risk-free Treasury bond, or alternatively the highest investment grade bonds in the market. Additionally, the PBGC

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[7] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

has provided the public with every reason to doubt the ability of the agency to honor even this meager guarantee as it has reported that the multiemployer program will become insolvent around 2025[8], after which it will only be able to pay out what it takes in from premium income. This will be devastating to retirees as it will reduce the PBGC's multiemployer guarantee to between 2% and 6% of the retiree's contractual benefit[9].

It is also crucial to recognize that the PBGC is not a full faith and credit obligation of the U.S. Government and in fact the statutory terms of ERISA explicitly reject any such liability.[10] Further supporting the fact that the U.S. Government disavows any obligation for the PBGC is the fact that plaintiffs against the PBGC are statutorily denied access to the Judgment Fund.[11]

There is nothing in ERISA or in the PBGC's multiemployer guarantee that suggests that multiemployer pensions are fully guaranteed either by the plan, its contributing employers, the PBGC, or the U.S. Government. In fact, it is clear that there is no basis to consider multiemployer pensions risk-free assets. The PBGC's multiemployer "guarantee" demonstrates that it represents enormous risk to the insured, and that no fiduciary would voluntarily spend plan assets to purchase this guarantee in the market.

Consistent with the long-term nature of pension obligations and the riskiness of the liability of multiemployer pensions, the current funding practice of using the actuary's best estimate of future expected returns is both a reasonable and a sound practice. For example, a newly created pension liability that is funded with contributions that are expected to earn a return of 7%, that in fact do earn 7%, would be a fully funded obligation. If this plan was required to discount its liabilities at the 30-year Treasury rate, the plan would report a massive unfunded liability and require significantly higher employer contributions, even though it will be fully funded as long as the actual rates of return are at or above the expected return.

Similarly, a risk-free discount rate (30-year Treasury rate) approach, or high-quality corporate bond approach, for existing plans would result in plans reporting massive new liabilities that would require exorbitant contribution increases from employers, which in turn would make them uncompetitive in the market. Further, it would significantly increase withdrawal liability for employers, requiring them to reorganize under Chapter 11 of the Bankruptcy Code or liquidate

[8] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 11, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[9] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

[10] Citation to the ERISA section number, here ERISA §4002(g)(2), and not the United States Code is used herein.

[11] 31 U.S.C §1304. *See* Congressional Research Service, The Judgment Fund: History, Administration, and Common Usage, R42835, March 7, 2013, https://fas.org/sgp/crs/misc/R42835.pdf, See also The Availability of the Judgment Fund for the Payment of Judgments or Settlements in Suits Brought Against the Commodity Credit Corp. Under the Fed. Tort Claims Act, 13 Op. Off. Legal Counsel 362 (1989), https://www.justice.gov/file/24371/download.

under Chapter 7. This would affect every one of the 210,865 employers that participate in the 1,375 multiemployer that exist today.

This approach to discounting multiemployer pension liabilities is not only inconsistent with any credibly accepted theory on finance, it would result in the collapse of the multiemployer system, which in 2015 generated $158 billion in federal taxes for the U.S. Government, $82 billion in state and local taxes, $2.2 trillion in economic activity, $1 trillion in GDP, 13.6 million American jobs, $41 billion in pension payments, and $203 billion in wages[12]. Over the 10-year federal budget window, the dollars are roughly 10.5 times the 2015 data.

While the actuary is tasked with understanding the asset allocation strategy of the pension plan and establishing their best estimate of the projected future returns, the historical rolling 30-year average of a balanced equity and bond portfolio (which exclude several asset classes that are typical in pension asset allocation strategies today) support the historical expected returns that multiemployer plans have used. This despite market crashes or bear markets in 1987, 1990, 1994, 2000, 2001, 2002, 2008-2009, 2011, and 2015.

It is also important to consider that since 2008, the monetary policy of the Federal Reserve has crushed short-term and long-term Treasury rates, which also serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. This has caused long-term pension liabilities to be overstated when measured by these lower-than-market interest rates, and also reduced investment earnings on plan assets.

Comparison to Federal Programs

In addition to the obvious issues raised by the risk inherent in each program, it is instructive to consider the discount rates that the U.S. Government uses for its own account on a similar type of obligation. The Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds (Social Security) and the actuary at Social Security discounted their January 1, 2017 obligations at 5.3%[13]. This compares with the December 30, 2016 30-year Treasury rate of 3.06%.

Naturally, the obligations of Social Security dwarf the multiemployer system with unfunded obligations of $12.5 trillion[14] (18.6% funded) over the 75-year horizon and $34.2 trillion[15] (7.7% funded) over the infinite horizon. What is particularly instructive in this case is that Social Security is in fact a full faith and credit obligation of the U.S. Government, and even it does not discount its liabilities at the current 30-year Treasury rate. Obviously if the government did that, and if it did not intentionally exclude these and other entitlement program liabilities from its balance sheet

[12] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[13] The 2017 Annual Report of The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, page 111, https://www.ssa.gov/oact/tr/2017/tr2017.pdf.

[14] The 2017 Annual Report of The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, page 72, https://www.ssa.gov/oact/tr/2017/tr2017.pdf.

[15] The 2017 Annual Report of The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, page 200, https://www.ssa.gov/oact/tr/2017/tr2017.pdf.

and the related accrued expenses from its income statement as it currently elects to do, the liabilities and accrued expenses of the U.S. Government would be massively higher.

Multiemployer Coverage

One final observation, in contrast to the single-employer system, the number of plans in the multiemployer universe has decreased significantly less over time than the universe of single-employer plans. According to PBGC data[16], there were 2,244 multiemployer plans in 1980. Since that time, the number of plans has decreased so that there are now 1,375 multiemployer plans. While this is a 38.7% reduction, only 81 multiemployer plans have ever received assistance from the PBGC, or 3.6% of the total. The remaining 788 plans merged into plans that remain ongoing and continue to provide retirement security to their participants.

2. What were the funding requirements for multiemployer plans prior to ERISA? Were the rules adequate and sound?

Before ERISA was enacted in 1974, the funding rules were the same for both multiemployer and single-employer plans. The Internal Revenue Code required plans to contribute amounts equal to the cost of the additional pension earned for that year and interest due on unfunded past liabilities (such as past service liabilities). There was, however, no requirement that unfunded past liabilities actually be fully funded. Various other tax rules also applied, including limits on employer deductions for contributions and delayed income inclusion until benefit distribution, but the only real oversight focused on reporting and disclosure.

The rules were not adequate and sound for single-employer plans because the plans were dependent on the health of one company and, unless a plan was collectively bargained and required a particular level of employer contributions, funding was left to the company's discretion. An example of the failure of these pre-ERISA funding standards was the case of Studebaker, then the longest continuously operating U.S. automobile manufacturer. When the Studebaker plan terminated on October 15, 1964, current retirees and retirement-eligible employees over age 60 received their full pension; vested employees under age 60 received about 15% of the value of their benefits; and non-vested employees, including everyone under 40, received nothing.

In the case of multiemployer plans, the fear was whether employers that left the plan would leave too costly a burden on employers that remained in the plan, which was one of the reasons for the enactment of the Multiemployer Pension Plan Amendments Act of 1980, or MPPAA, which amended ERISA to establish withdrawal liability for employers that withdraw from a plan.

3. What new funding requirements did ERISA establish? What was the impact on multiemployer plans?

ERISA established funding rules that, at the beginning, were nearly the same for both multiemployer and single-employer plans. ERISA specifically prohibited such practices as "pay-as-you-go" pension funding, where benefits were paid out of corporate assets or current

[16] Pension Benefit Guaranty Corporation, PBGC-Insured Plans, Table M-6, https://www.pbgc.gov/sites/default/files/2015-pension-data-tables.pdf.

contributions, as well as “terminal funding”, where benefits would only be funded by a contribution made at the time an employee retired. Instead, both single-employer and multiemployer plans were required to adopt one of several permitted actuarial funding methods that would generate required annual minimum funding contributions. ERISA did permit some variations for multiemployer plans, including longer amortization periods than single-employer plans to pay off their unfunded liabilities.

The new funding rules included:

- Strengthening the minimum funding requirements so that some of the unfunded liability (an amortized amount) had to be paid off each year (rather than just the interest on the liability).
- Expanding the contributing employer’s funding obligation to include withdrawal liability (as provided under MPPAA) so that the obligation was no longer limited to the amount the employer agreed to pay in the collective bargaining agreement.
- Protecting the current accrued benefit with the anti-cutback rule. This eliminated the possibility of reducing current benefits, including for plans heading toward insolvency, even when asset and funding levels do not support their payment. Prior to ERISA’s passage, plans were permitted to adjust benefits to match their actual funding levels.

As a general matter, all existing plans, including multiemployer plans, had to make significant adjustments to conform to the requirements of ERISA. For multiemployer plans, however, adapting to required vesting schedules and more generous eligibility and participation requirements was more burdensome than adapting to the funding rules.

While these changes were made with the intention of protecting both participants and plans, they have had significant unintended consequences over time. The establishment of withdrawal liability under MPPAA expanded the contributing employers’ funding obligations beyond the level that was mutually agreed by management and labor. This has had disastrous consequences for employers and plans. It is a proximate cause of employers leaving the multiemployer system, it has limited the opportunities for owners to sell, merge or pass-down their businesses, and it has made it significantly more difficult to bring new employers into the multiemployer system. Withdrawal liability has exacerbated the poor demographic trends affecting public and private pensions, as well as Social Security.

Likewise, the intent of the ERISA’s anti-cutback rule was to protect benefits that participants have accrued, given highly publicized pension failures pre-ERISA. This is clearly intended to be beneficial to participants. However, for plans that are currently facing insolvency, this rule has severely restricted the ability of Trustees to manage plans in situations where the assets may no longer be able to support the level of benefits that was previously anticipated. Had Trustees in troubled plans been able to make adjustments earlier, well in advance of a projected insolvency, the required reductions to maintain solvency would have been significantly less than those participants are currently facing. Ultimately, the anti-cutback rule does not actually protect participants in failing plans from benefit reductions, it just means that those multiemployer participants will face even more severe benefit cuts when their plan becomes insolvent and subject to the PBGC guarantee, and further benefit cuts when the PBGC itself goes insolvent.

SENATOR SHERROD BROWN

1. What is the basic structure of multiemployer plans? How are trustees selected? How are they governed? What is the employer's role (both in establishing the plan and each year)?

The Labor Management Relations Act of 1947 (Taft-Hartley Act) created the joint-labor management structure that governs multiemployer benefit plans today. Taft-Hartley requires that labor (employee) and management (employer) are equally represented on a board that governs the benefit plan. The assets of the benefit plan must be held in a trust overseen by the board of trustees who are deemed to be fiduciaries under §3(21)(A) of the Employee Retirement Income Security Act (ERISA).[17]

The way in which multiemployer plans select trustees varies by plan. There is no one correct way of selecting trustees. In general, each side selects its trustees in accordance with any rules set forth in the trust and bargaining agreements. The employer-appointed and union-appointed trustees do not bargain with each other. Instead, ERISA §404(a)(1) establishes the standards that the board of trustees, as fiduciaries, must follow when administering the plan, including when determining and providing benefits to participants and beneficiaries and administering the plan. ERISA vests the exclusive authority and discretion to manage and control assets of the plan in the trustees alone, not the union or the employers, and the U.S. Supreme Court has made it clear[18] that while a trustee of the joint-labor management board may appropriately consider the recommendations of the party who appoints him or her, the trustee is a fiduciary owing undivided loyalty to the interests of the participants in administering the plan to the exclusion of the interests of all other parties. The trust agreement and plan document also specify the specific duties of the trustees under the plan and trust.

The employer's role in establishing the plan is to negotiate with the union over the establishment of the plan in collective bargaining. Thereafter the employer's role is to negotiate with the union in collective bargaining over the amount of contributions, and to pay the contributions in accordance with the terms of the current collective bargaining agreement. Depending upon the mechanism established in the plan's trust agreement for the appointment of management trustees, an employer may have a direct role in the governance of the plan through the selection of such trustees. If an employer withdraws from the plan, the employer also would be responsible for making withdrawal liability payments, if any.

The trustees also rely on credible and credentialed professionals such as investment consultants, professional asset managers, as well as internal investment staffs in some cases, actuaries, attorneys, and accountants as advisors to assist them in the fulfillment of their legal and moral responsibilities to the participants and beneficiaries.

[17] Citation to the ERISA section number and not the United States Code 29 U.S.C. §1001 et. seq., is used herein.
[18] *NLRB v. Amax Coal Co.*, 453 U.S. 322, 332-334 (1981).

2. **How did the easing of the funding rules impact plans hurt by the Great Recession and did they contribute to the current financial condition of the plans?**

The easing of the funding rules for multiemployer plans provided in the Worker, Retiree, and Employer Recovery Act (WRERA) in 2008, and again in the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010) helped plans that found that their employers were unable to sustain rapid increases in funding to the level that would have been required by the Pension Protection Act of 2006 (PPA). Both plans and their employers were severely impacted by both the market collapse in asset values during the financial crisis in 2008 and industry contractions during the Great Recession that followed. The relief offered in WRERA and PRA 2010 enabled employers participating in multiemployer plans to gradually increase funding levels, remain financially stable, and to continue to take part in the multiemployer system. In turn, this stabilized plans that would have otherwise faced a severe reduction in their contribution base.

The easing of the PPA funding rules did not contribute to the current financial condition of the plans. The current financial conditions of these plans are largely the product of the unintended consequences of 44 years of federal laws, regulations, rules and policies, Treasury's unwillingness to implement the Multiemployer Pension Reform Act of 2014 in a statutorily faithful manner, and the most severe market crash since the Great Depression, which led to the Great Recession.

The specific federal laws and policies that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by ERISA's anti-cutback rule, the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980, the deregulation of the trucking industry through the Motor Carrier Act of 1980, and the excise tax on contributions to fully funded plans as part of the Tax Reform Act of 1986. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries. Further, it is also important to consider that since 2008, the monetary policy of the Federal Reserve has crushed both short-term and long-term Treasury rates, which also serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. These lower-than-market rates have caused long-term pension liabilities to be overstated and have reduced investment earnings on plan assets.

3. **In the most serious cases of plan funding shortfalls, post 2006, was the main cause the number of employers who went out of business and stopped paying into the plan?**

No. While employer bankruptcies, liquidations and dissolutions contributed to funding shortfalls, many other factors also contributed to funding issues, the most significant of which was the 2008-2009 market crash and the subsequent Great Recession. The seeds of this crisis, however, are largely the product of the unintended consequences of 44 years of federal laws, regulations, rules, policies, and Treasury's unwillingness to implement the Multiemployer Pension Reform Act of 2014 in a statutorily faithful manner.

The other specific federal laws and policies that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by ERISA's anti-cutback rule, the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980, the deregulation of the trucking industry through the Motor Carrier Act of 1980, trade policies which decimated many manufacturing industries, and the excise tax on contributions of fully funded plans as part of the Tax Reform Act of 1986.

4. **Why would an employer that was not going out of business withdraw from the plan? Why did employees whose employer stayed in the plan want out of the plan – was it because the offset to wages was too large?**

Employers that are financially healthy offer various reasons for withdrawing from multiemployer pension plans. A core reason is the unpredictability of pension costs and regulatory costs. Employers cannot be assured that the pension contribution rates negotiated into their collective bargaining agreements will fix their financial obligations under current law. If a plan falls into the Yellow Zone or the Red Zone under ERISA's tougher funding standards, the plan's board of trustees is required to adopt a funding improvement plan or a rehabilitation plan that normally includes mandatory contribution rate increases, commonly annually over a period of years.

Some employers are concerned that Congress will impose additional regulatory burdens on plans that will raise administrative costs and compel increases in required contribution rates. Concerns about Pension Benefit Guaranty Corporation (PBGC) premium rate increases are a prime example. Another important example is the concern Congress will mandate even tougher funding rules that will spike contribution requirements (e.g. more restrictions on actuarial assumptions).

Some employers fear that the plan's financial condition will deteriorate (unfunded liabilities will grow) and that an early withdrawal from a plan will be less costly than a withdrawal later in terms of employer withdrawal liability. Some employers see other employers withdraw and fear that they and other remaining employers will have to bear a greater funding burden.

Concerns about potential employer withdrawal liability and the risks of participating in a plan with unfunded benefit liabilities can also have adverse impacts on an employer's ability to obtain credit and bonding needed for business operations.

It is important to note that the industries in which multiemployer plans are common--like building and construction--are highly cost competitive. Employers that participate in these plans, and their employees, must compete for work against employers that do not have any pension costs. As the costs of a pension plan increase, these employers and their employees are placed at an unfair competitive disadvantage.

Employees' concerns may also affect an employer's decision to withdraw. Increases in contribution rates--whether caused by funding rules or regulatory costs--often mean cutting into wage rates. This effect is often exacerbated by the need for more contributions to the employees' health and welfare fund. After years of such wage offsets, workers can become unhappy with their pension plans, and their need for current income overwhelms their future need for a secure retirement income. They may press their employer and union to bargain out of the pension plan to recapture the pension contributions for payment of higher wages.

5. Who set PBGC premiums lower for multiemployer plans than for single-employer plans?

Premium rates are set by law. The Employee Retirement Income Security Act of 1974 (ERISA) initially set the rate of premiums for PBGC's single-employer program and its multiemployer program. After ERISA, Congress has acted several times to increase the premium rates in both of PBGC's programs. The premium rates for both programs are also indexed so they already automatically increase over time.

In the multiemployer program, the current premium of $28 per participant is expected to average at least $38.50 per participant over the next 20-years under current law. This represents a 37.5% increase from the current premium.

There are a number of differences between the PBGC's single-employer plan guarantee program and its multiemployer program that fully justify disparate premiums. First, in the single-employer program, the PBGC is the insurer of first resort, meaning that the PBGC's guarantee is called when the employer pursues a distress termination or the PBGC decides to involuntarily terminate the plan in order to protect the interests of plan participants and the agency. In the multiemployer program, the PBGC is the insurer of last resort. This means that the PBGC does not have financial exposure until the plan is insolvent. Insolvency is when the plan assets do not support full benefit payments in the coming year and is typically associated with the erosion of the contributing employer base (usually from bankruptcy, liquidation, or mass withdrawal).

A second critical difference is that the single-employer guarantee (currently $65,045 at age 65, without regard to a participant's years of service) is generally five times higher than the multiemployer guarantee ($12,870 at 30 years of service). This results in the PBGC guaranteeing, on average, 95.5% of a retiree's contractual benefit in the single-employer program. This compares with the PBGC currently guaranteeing, on average, 47% of a multiemployer retiree's contractual benefit, and between 2% and 6% when the PBGC's multiemployer program becomes insolvent.[19] The relative value of the "guarantee" in the multiemployer program is in stark contrast to that of the single-employer program. It is not obvious that the "guarantee" in the multiemployer program today is worth the premiums paid, but it is absolutely clear that today's premiums are not purchasing anything of value based on the 2025 insolvency of the PBGC's multiemployer program.

6. Should Congress prescribe the rate of return actuaries must use for multiemployer plan funding?

No. There are many reasons why it continues to be appropriate for actuaries to set the rate of return assumption for multiemployer plans. Healthy multiemployer pension plans, which represent the vast majority of such plans, have a long-term time horizon and are not in danger of terminating or becoming insolvent. Such plans make investments for the long term and they can and should view

[19] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

their long-term investment return assumptions in that light. In many troubled plans where the time horizon is not long-term, and the asset allocation of the portfolio is changing based on the short-term time horizon, the actuaries would in fact be using lower discount rates based on the future projected return of the asset allocation and investment strategy. Every plan is different, and the ability of actuaries to be able to use their professional judgment based on facts and circumstances is a key to the future success of the multiemployer system.

In NCCMP's view, a change to the rate of return interest assumptions used by single-employer plans, or alternatively, the 30-year Treasury rate, would cause severe repercussions, including the collapse of the entire multiemployer system, and the bankruptcy or liquidation of the contributing employers. This approach does not recognize the significant differences between single-employer and multiemployer plans, the guarantee provided by the PBGC, the level of risk inherent in these benefits, and is inconsistent with any credible theory of finance regarding the discounting of assets or liabilities based on risk.

While some people may argue that funding levels for single-employer plans have improved since the passage of the Pension Protection Act of 2006 (PPA), the reality is that much of that improvement is a result of the termination and freezing (closing the plan to new participants and/or ceasing benefit accruals) of plans that were unable to maintain the stringent and volatile level of funding required by PPA and changes to the accounting standards. The PBGC data (depending on which PBGC historical dataset is correct) show that either 140,935[20] or 181,383[21] single-employer plans were terminated voluntarily by plan sponsors (referred to by PBGC as Standard Termination) between 1975 and 2016. Further, the data show that either 4,769[22] (databook), 4,742 (calculated) or 4,634[23] (1999 and 2000 data) single-employer plans were terminated by PBGC in distress or involuntary terminations (collectively referred to by PBGC as Trusteed Terminations). In 2016, there were 22,333 single-employer plans insured, of which 8,285 (2014 data) have accrual or participation freezes, leaving 14,048 open single-employer plans. In other words, the number of single-employer plans has declined by at least 91.6% since the passage of ERISA. The laws, regulations and rules governing single-employer defined benefit plans have clearly incented employers to terminate their defined benefit plans, discouraged employers from offering a defined benefit pension, and has led to weakening of the retirement security for working Americans.

Multiemployer pension plans are subject to collective bargaining, and contribution levels generally cannot be modified for the duration of each bargaining agreement, usually three to five years. This type of agreement ensures that labor costs remain stable for the length of the agreement. This

[20] Pension Benefit Guaranty Corporation, Standard Terminations 1975-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

[21] Pension Benefit Guaranty Corporation, Standard Terminations 1975-1999, Table S-10, https://www.pbgc.gov/sites/default/files/legacy/docs/1999databook.pdf, and Standard Terminations 2000-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

[22] Pension Benefit Guaranty Corporation, Trusteed Terminations 1975-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

[23] Pension Benefit Guaranty Corporation, Trusteed Terminations 1975-1999, Table S-10, https://www.pbgc.gov/sites/default/files/legacy/docs/1999databook.pdf, and Standard Terminations 2000-2016, Table S-3, https://www.pbgc.gov/sites/default/files/2016_pension_data_tables_-_release_1.pdf.

stability of labor costs is essential to the financial viability of employers, particularly for small and mid-sized businesses. Multiemployer plans, and their mostly small to mid-size contributing employers, cannot adapt to funding rules that impose volatile contribution requirements driven by short-term investment performance and discount rates that vary significantly year-over-year.

Even some healthy plans have a significant amount of "orphan" liability – participant benefits associated with service earned with an employer that no longer contributes to the plan. To mandate a lower interest rate (either corporate bonds or the 30-year Treasury rate) for multiemployer plans would not only increase contribution requirements for each active employer's own participants' benefits, but it would also increase the contribution requirements each active employer must bear for its share of the orphan liability. Volatility in contribution requirements would force employers to reevaluate their participation in multiemployer plans. The changes that this proposal would have to the liabilities, funded status, and contribution requirements for plans would put employers out of business, decimate previously healthy plans, cause the collapse of the multiemployer system, and create a significantly larger contagion that puts the entire annual tax payments that the multiemployer system make to the U.S. Government at risk. The tax payments (post 2017 tax reform) that the multiemployer system is projected to contribute to the U.S. Government exceed $1.64 trillion over the current 10-year budget window.

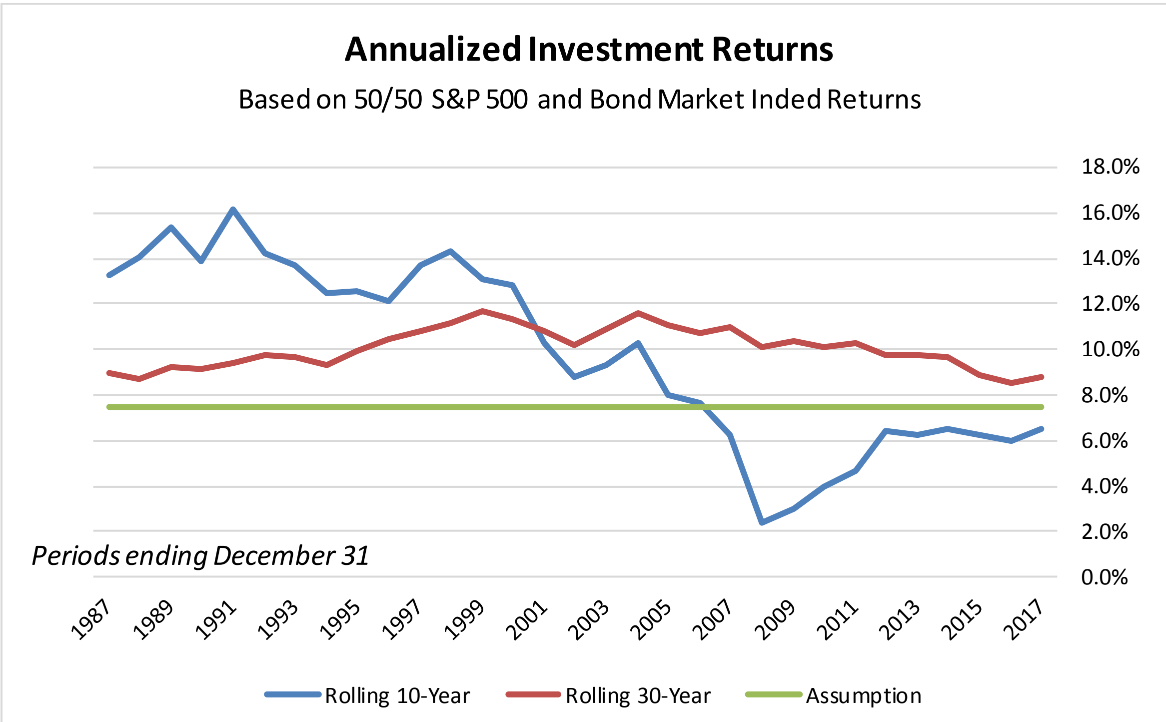
Even for single-employer plans, Congress repeatedly has provided relief to single-employer plan sponsors since PPA became law, reflecting that the substantial funding requirements that arose from the 2008-2009 financial crisis and the current low-interest rate environment were unsupportable and unsustainable. In 2012, Congress passed the Moving Ahead for Progress in the 21st Century Act (MAP-21) which, among other things, allowed single-employer plan sponsors to use a 25-year average of high-quality bonds (the top 3 quality levels A, AA, AAA) in determining the interest rate used to measure plan liabilities. The goal was to increase and smooth the effective interest rate, thereby lowering funding requirements to a level that was possible for plans and employers to sustain and reducing volatility. The extent and timeframe of this relief was extended by two further budget acts, in 2014 and 2015. Applying an approach to multiemployer plans that has failed to work for even the far more nimble single-employer plans would be disastrous.

7. How do actuaries make their assumptions of rates of return?

For multiemployer pension plans, the actuarial valuation interest rate assumption usually represents the expected annualized investment return on the plan's assets. For purposes of determining funding requirements for an ongoing, healthy plan, actuaries generally use a long-term horizon in developing this assumption; for example, the assumption represents the forward-looking expected return on plan assets over the lifetime of the plan, taking into account the timing of when benefits are expected to be paid. Typically, this means that actuaries consider the expected rate of return over next 20 or 30 years, as investment professionals are unable to supply capital market expectations over longer timeframes. Based on publicly-available data, for around 75% of multiemployer plans, the actuary currently uses an investment return assumption between 7.0% and 7.5%. [24].

[24] Form 5500 data for plan years ending in 2016.

In fact, actual investment returns over rolling 30-year periods have consistently exceeded a benchmark of 7.5%. For simplicity, these returns are based on a 50/50 blend of S&P 500 and bond market indices. When focused on shorter-term, rolling 10-year periods, actual returns have exceeded a 7.5% benchmark except in the years following 2008. The 10-year return for the 10-year period from 1/1/2008 through 12/31/2017 is 6.5%. However, as noted earlier, actuaries for ongoing, healthy plans look to longer investment horizons when developing the actuarial rate of return assumption.



Actuaries are guided by Actuarial Standards that relate to consideration of investment return expectations for each component of a plan's asset allocation, looking to long-term forecasts of investment professionals, as well as past experience.

8. Are actuaries governed by professional standards? If you violate those standards, are you punished?

Yes. In the United States, actuaries are covered by a set of Actuarial Standards of Practice (ASOPs) that are developed by the Actuarial Standards Board. These ASOPs apply to actuarial determinations and disclosures, setting actuarial assumptions, and general professional conduct. An actuary believed to have violated the ASOPs may be reported to the Actuarial Board for Counseling and Discipline (ABCD). After reviewing the case, the ABCD may recommend a punishment for the offending actuary, including reprimand, suspension of credentials by the respective actuarial organizations, and expulsion for egregious violations.

9. What has been the average rate of return of the S&P since ERISA? If it were 12% or 13%, would it be unreasonable for the actuary to use a 7-8% return rate?

The annualized return on the S&P 500 from 1/1/1975 to 12/31/2017 is 12.1%. Please also see the response for Question 7 regarding historical investment returns.

It is also important to note that historical returns on the S&P 500 return are only one metric to consider when evaluating the assumed valuation interest rate. This actuarial assumption is based on the plan's actual asset allocation, which will usually include various types of both stocks and bonds in publicly traded markets, and often alternative asset classes. The assumption is forward-looking rather than backward-looking. While forward-looking return expectations take into account historical data, they also consider the current market expectations and expected changes in the future.

Under ERISA and actuarial standards of practice, the actuarial rate of return assumption is intended to be a "best estimate" of the plan's expected return on assets over the long term. Therefore, while long term double-digit S&P returns alone do not necessarily justify a 7% or 8% return assumption, the historical long-term returns are an important factor for the actuary to consider when setting a long-term interest assumption and, depending on the asset allocation, certainly help to support long-term assumptions in that range.

REPRESENTATIVE VIRGINIA FOXX

1. What parties are involved in the collective bargaining process?

The collective bargaining process is governed by the National Labor Relations Act. The bargaining parties are the employees and their representatives and the employer(s) and their representatives. It is very common that employees who are union members are directly involved in every stage of the bargaining process, from developing and prioritizing proposals, to participating in the negotiations via a role in the bargaining committee to ultimately voting on the final outcome of the bargaining process. The employers and their managers are similarly involved.

2. Who determines the employer contribution amount?

Contributions to a multiemployer benefit plan are considered mandatory subjects of bargaining under the National Labor Relations Act, and the manner in which contributions are determined varies by industry, plans at the national level as compared to those at the local level, etc. The bargaining parties determine the contribution as part of the bargaining process based on their priorities, the economics of the ultimate wage and benefit package and many other variables that can impact the process. The structure of the bargaining relationships has built up over time, and each reflects the unique perspectives and values of the bargaining parties that take part. The bargaining parties will typically seek information from the benefit plan board of trustees regarding needed contribution levels. For example, the benefit plan will inform the bargaining parties what the required contribution needs to be in order to fund the benefits promised by the plan.

It should be noted that under the Pension Protection Act of 2006 (PPA) endangered plans, and critical or critical and declining plans must conform to established Funding Improvement and Rehabilitation Plans. The terms of a Funding Improvement and Rehabilitation Plan limit the ability of the contributing employers to reduce or suspend contributions to a plan. A 5% -10% surcharge may apply to a contributing employer who fails to incorporate the Rehabilitation Plan contribution schedule into a collective bargaining agreement.

3. Who determines the participant benefit amount?

The Labor Management Relations Act of 1947 (Taft-Hartley Act) created the joint labor-management structure that governs multiemployer benefit plans today. Taft-Hartley requires that a board with equal representation of management and labor union trustees govern the benefit plan and determine the level of benefits that the plan will provide. The assets of the benefit plan must be held in a trust overseen by the board of trustees who are deemed to be fiduciaries under §3(21)(A) of the Employee Retirement Income Security Act (ERISA).[25]

In most cases, the joint labor-management board of trustees determines a participant's benefit at retirement. In a small minority of multiemployer plans, benefit levels are bargained along with the required contributions. Determination of those benefits are subject to limitations imposed by ERISA and the Internal Revenue Code. ERISA §404(a)(1) establishes the standard the board of trustees, as fiduciaries, must follow when determining and providing benefits to participants and

[25] Citation to the ERISA section number and not the United States Code 29 U.S.C. §1001 et. seq., is used herein.

beneficiaries. PPA and the Multiemployer Pension Reform Act of 2014 (MPRA) place limitations on the ability to increase benefits in an endangered plan, critical plan or critical and declining plan.

4. When a multiemployer plan fails, what liability attaches to the Union?

No liability attaches to the union unless the union is a contributing employer to the multiemployer plan. For example, there were 169 local unions listed as contributing employers in the Central States' MPRA application. If the union is a contributing employer and withdraws from the plan, the union, like all other employers, would owe withdrawal liability to the plan and mass withdrawal liability in the event that all employers withdrew from the plan. In the event the union has not withdrawn when the plan becomes insolvent, the union, like all other employers, continues to owe contributions to the plan.

5. When a multiemployer plan fails, what liability attaches to the employer?

If a contributing employer withdraws from the plan, the employer owes withdrawal liability to the plan and mass withdrawal liability in the event that all employers withdrew from the plan. In the event the employer has not withdrawn from the plan and the plan becomes insolvent, the employer continues to owe contributions to the plan.

6. How many plans have successfully applied for a MPRA suspension? Do those plans remain solvent?

As of this writing, there have been 5 MPRA suspension approvals. One of those approvals also included a PBGC partition of certain liabilities. All of these plans are expected to remain solvent, and to pay out benefits to participants at a level that exceeds the tenuous guarantee provided by the PBGC. For the 5 suspension approvals, contractual benefits were approximately $481 million per year of which approximately $430 million were payable to participants of the New York State Teamsters Conference Pension & Retirement Fund. MPRA has allowed these plans to preserve $371 million or 77% of the benefits participants earned. Had these applications been denied, participants would have received annual benefits of $200 million (or a 58% reduction). Once the PBGC becomes insolvent, participants would have only received at most $10 million per year.

In contrast, 4 MPRA suspension applications have been denied, including the largest and most systemically important plan, the Central States Pension Fund. Leaving aside the Road Carriers Local 707 Pension Fund, which was facing insolvency within a single year of its application, and the Automotive Industries Pension Fund, whose application is no longer available on the Treasury website, the MPRA-rejected plans had contractual benefits of $5.4 billion per year. If their MRPA applications had been approved, these plans too could have remained solvent, and would have preserved benefits at a level of $3.6 billion per year. Instead, these plans are now facing insolvency and participants will receive $2.6 billion per year at the PBGC guarantee level if the PBGC itself is able to remain solvent. Once the PBGC becomes insolvent, participants will receive no more than $129 million per year.

In addition, approximately 11 additional plans that had originally applied to suspend benefits and preserve benefits for their participants above the limited guarantee offered by the PBGC have withdrawn their applications out of concerns that Treasury will not approve the benefit suspension. If these plans are unable or unwilling to reapply, these plans too may be added to the list of plans that could have remained solvent had the Treasury faithfully implemented the intent of Congress and the multiemployer community in MPRA.

REPRESENTATIVE RICHARD NEAL

1. **What will be the economic impact to retirees and the economy at large, if Congress does not act in the near future?**

Congress must take immediate, thoughtful action in order to address the coming insolvencies of severely financially distressed multiemployer pension plans and the PBGC. Every minute that we wait to take action, the larger and harder to solve the problems become.

In the event of plan insolvency and PBGC insolvency, many participants and beneficiaries will receive benefits far lower than their contractual benefit. When a plan goes insolvent, the PBGC's multiemployer guarantee will result, on average, in a 53% reduction to the retirees' contractual benefits.

Unfortunately, when the PBGC exhausts its multiemployer trust fund (PBGC insolvency), the PBGC's financial assistance will be limited to what it takes in from premium income. At PBGC insolvency, retirees will receive between 2% and 6% of their contractual benefit.[26]

In the near term, there are two large plans heading toward insolvency, the United Mine Workers of America 1974 Pension Fund (2022) and the Central States Pension Fund (Central States) (2025). Coincident with the Central States insolvency, the PBGC will also become insolvent (2025).

UPDATED September 13, 2018 BEGIN

One part of analyzing the economic impact on retirees and the national economy if Congress does not act comes from understanding Central States, including the overlap of employers contributing to Central States and other multiemployer pension plans. For example, the Western Conference of Teamsters Pension Trust (Western Conference) is a multiemployer plan that is currently one of the largest and best funded. Based on new information that NCCMP obtained in August 2018, we believe that approximately 55 contributing employers to Western Conference face significant withdrawal liabilities to the Central States plan. In 2017, these 55 overlapping contributing employers provided approximately 12.5% of the contributions to Western Conference.

In addition, the largest contributing employer to Western Conference is United Parcel Service (UPS). In 2017, UPS provided over 43% of the employer contributions to Western Conference. This is important because, while UPS withdrew from Central States in 2007 and paid $6.1 billion in withdrawal liability, it agreed to provide coordinating benefits for UPS participants whose last employer was UPS and who had not retired as of January 1, 2008 in the event that benefits are lawfully reduced by Central States.

[26] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

When Central States goes insolvent and begins receiving PBGC financial assistance, these coordinating benefits are projected to cost UPS $4 billion[27] assuming that the PBGC guarantee is at its current level. However, it is expected that UPS's liability rises with the insolvency of the PBGC as the PBGC's guarantee is then reduced to the amount that can be supported by its premium income.

Further, UPS's share of Western Conference contributions has increased from 35% in 2010 to the current 43% in 2017, an average annual increase of 8%. This is significantly above the average annual increase for non-UPS contributions. Assuming the same contribution growth rate until the projected insolvency of Central States in January 2025, UPS's contributions alone will exceed 52% of all Western Conference contributions. Many of the employers in Central States and Western Conference contribute to multiple Teamster plans, with UPS being a dominate contributor in a number of Teamster plans.

The bottom line is that Western Conference, a Green Zone plan today, currently has approximately 56% of its current contribution base directly tied to employers with massive liabilities in a Central States insolvency.

When Central States becomes insolvent, it will have dramatic consequences on the financial health of the contributing employers. While it is difficult to know today how this turns out, it is highly likely that a number of employers in Central States will become balance sheet insolvent and need to file for reorganization under Chapter 11 or Chapter 7 of the Bankruptcy Code. The PBGC recently argued that future insolvent plans, including Central States, will not terminate through mass withdrawal, and therefore, employers continue to contribute (even though actives will receive very little from their accruals) and will not have to book the withdrawal liability on their balance sheets.

This view is incredibly naïve for several reasons. First, almost every employer in the multiemployer system relies on bank credit, capital market debt or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the employers based on their proportional share at mass withdrawal (even if it is not invoked), the banks that provide capital to the employers in these insolvent plans will certainly consider the withdrawal liability as part of pro forma financial statements used in making lending decisions. Second, the capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of employers to investors in the market.

Banks, and investment banks that provide access to the capital markets, have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines[28] since 2008, and repurchased massive

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[27] United Parcel Service 10-K filed with the U.S. Securities and Exchange Commission on February 21, 2018, see "Pension Backstop" page 56, https://www.sec.gov/Archives/edgar/data/1090727/000109072718000009/ups-12312017x10k.htm

[28] CBS MarketWatch, Steve Goldstein, "*Here's the staggering amount banks have been fined since the financial crisis*", February 24, 2018. *Accessed at https://www.marketwatch.com/story/banks-have-been-fined-a-staggering-243-billion-since-the-financial-crisis-2018-02-20.*

amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability that would be imputed to the employer in a plan insolvency, whether mass withdrawal occurs or not.

The idea that the private market would ignore these liabilities is inconsistent with market behavior during the financial crisis which began as early as August 2007. Suppliers to the employers are highly likely to take the same view as the banks and investment banks.

The idea that the private market would ignore these liabilities, and suppliers to the employers are highly likely to take the same view as the banks and investment banks, is inconsistent with market behavior during the financial crisis which began as early as August 2007. In fact, even the Government Sponsored Enterprises which were "AAA" rated credits saw that market participants will make their own valuation of an issuers' liabilities. In June and July of 2008, the market became very concerned about the value of the mortgages that underpinned Fannie Mae and Freddie Mac mortgage backed securities and their retained portfolios. The market reaction was so swift that Congress enacted the Housing and Economic Recovery Act of 2008 in less than four weeks which authorized Treasury to purchase unlimited amounts of Fannie Mae and Freddie Mac securities. Today, both entities remain in conservatorship, Treasury owns $196.4 billion of Senior Preferred Stock in both and has commitments for another $254 billion if needed, and the Federal Reserve owns more than $1.4 trillion of Fannie and Freddie MBS, all of which says a lot about how the market continues to view the GSE's a decade later.

Separate from the banks and capital markets, the insolvency of Central States and the liabilities that would be imputed to employers will also be a topic for the accounting profession, including the Financial Accounting Standards Board (FASB). Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become increasingly real the closer we are to a systemically important plan insolvency. FASB made changes to multiemployer accounting in 2010, and the insolvency of a systemically important plan may attract interest in this new phenomenon of plans going insolvent without a mass withdrawal.

The insolvency of Central States will damage the ability of employers to make contributions to other funds that are currently healthy in which they currently participate. While it is impossible to say with certainty how severely a currently well-funded plan like Western Conference would be impacted by a financial weakening of its employer base, it is safe to say that the contributing employers will be in a significantly less stable position going forward. The problem will also spread to other Teamster plans as the contributing employer overlap is an issue for other Teamster plans as well.

The contagion can further spread to other parts of the multiemployer system with the insolvency of the largest and most systemically important plan, Central States. This is the type of crisis that is likely to negatively impact capital formation for employers throughout the multiemployer system.

The insolvency of Central States and the PBGC will dramatically reduce the pension benefits payable to the retirees in insolvent plans. It will also affect the current jobs available with contributing employers. The collapse of these plans and the broader contagion within the multiemployer pension system will result in the loss of tax revenue for the Federal Government.

There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are currently being paid wages. Based on NCCMP's report[29] that showed that the system paid $158 billion in federal taxes during 2015 and, adjusting for the impact of the 2017 tax reform, as well as NCCMP's August 14, 2018 updated analysis[30] which provides tax loss ranges based on varying assumptions for employment losses, we believe that the U.S. Government will lose between $31.5 billion and $101.3 billion[31] in tax revenue over the 10-year budget window from the collapse of critical and declining status plans.

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis, we believe that the U.S. Government will lose between $67.6 billion and $213.1 billion[32] in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America"[33], when the full pension promises are not kept, there will be additional demands (costs) on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

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[29] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[30] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018.

[31] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[32] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[33] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah), https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[34]) and only the 653,739 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals $175.5 billion[35] over the 10-year window and $334.8 billion[36] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This brings the total federal costs to between $207 billion and $276.8 billion[37] over the 10-year budget window and between $402.4 billion and $548 billion[38] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending are estimated at between $43 billion and $80.4 billion[39] over a 10-year budget window and between $86 billion and $163.4 billion[40] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

UPDATED September 13, 2018 END

2. How has the landscape for multiemployer plans changed over the last year?

The Multiemployer Pension Reform Act of 2014 (MPRA) was enacted by Congress with the intent to help restore troubled multiemployer plans to solvency and remove those plans from the PBGC's liabilities. MPRA doubled PBGC premiums, allowed significantly underfunded plans to reduce

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[34] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[35] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[36] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[37] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[38] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[39] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 9.

[40] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.

benefits (with approval of Treasury), and gave PBGC more flexibility to help merge and partition troubled plans.

Treasury's implementation of MPRA has been completely outside of what Congress and the multiemployer community intended. Treasury's interpretation of MPRA requirements has been an enormous impediment to restoring plan solvency, protecting the retirees of critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent. Further, MPRA provided the U.S. Government with the best dial to ensure that plans do not come to the PBGC in the first place because every approved MPRA application removes that plan from the list of plans that comprise the PBGC's deficit, thereby improving the finances of the PBGC's multiemployer program.

The rejection of Central States' MPRA application will have serious negative consequences for participants, employers, unions, the multiemployer system, and all levels of government. For other critical and declining status plans, every year that goes by without a real solution results in negative cash flow, which reduces the plan's assets, and speeds up the time to plan insolvency. This makes any solution more difficult and expensive.

REPRESENTATIVE PHIL ROE, M.D.

1. Is the multiemployer plan problem a simple math problem -- more going out than in?

No. There are perfectly healthy plans where employer contributions are exceeded by benefits coming out. These are typically referred to as "mature" plans. Such a plan may still be fully funded, meaning that its assets are projected to be sufficient to pay all promised benefits. These plans are, however, more vulnerable to unanticipated declines in the financial markets (such as occurred during years 2000 through 2002 and again in 2008), because it is much harder to improve their funding by increasing employer contributions.

The current crisis is predominantly the product of the unintended consequences of 44 years of federal laws, regulations, rules, policies, and Treasury's unwillingness to implement the Multiemployer Pension Reform Act of 2014 in a statutorily faithful manner, and the most severe market crash since the Great Depression which led to the Great Recession.

The specific federal laws that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by the anti-cutback rule under the Employee Retirement Income Security Act (ERISA), the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980, the deregulation of the trucking industry through the Motor Carrier Act of 1980, and the excise tax on contributions of fully funded plans as part of the Tax Reform Act of 1986. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries. Further, it is also important to consider that since 2008, the monetary policy of the Federal Reserve has crushed both short-term and long-term Treasury rates, which also serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. These lower-than-market rates have caused long-term pension liabilities to be overstated and have also reduced investment earnings on plan assets.

Much of this could have been solved for if Treasury had faithfully implemented the Multiemployer Pension Reform Act of 2014 (MPRA). MPRA was designed to be, and still could be, a very powerful tool for plan trustees to restore plan solvency. MPRA also protects participants in critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and become subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent. Further, MPRA provided the U.S. Government with the best dial to ensure that plans do not come to the PBGC in the first place because every approved MPRA application removes that plan from the list of plans that comprise the PBGC's deficit, thereby improving the finances of the PBGC's multiemployer program. Unfortunately, Treasury did not approve the MPRA application of the largest and most systemically important plan, Central States, among others, which means that a new tool is needed to address those plans where MPRA is no longer an option.

2. **Why are PBGC premiums for single-employer plans different than premiums for multiemployer plans?**

Premium rates are set by law. ERISA initially set the rate of premiums for PBGC's single-employer program and its multiemployer program. After ERISA, Congress has acted several times to increase the premium rates in both of PBGC's programs. The premium rates for both programs are also indexed so they already automatically increase over time.

In the multiemployer program, the current premium of $28 per participant is expected to average at least $38.50 per participant (assuming the national average wage index[41] rises by 2.9% annually as opposed to the 32-year average of 3.52%) over the next 20-years under current law. This represents a 37.5% increase from the current premium.

There are important differences between the PBGC's single-employer plan guarantee program and its multiemployer program that fully justify disparate premiums. First, in the single-employer program, the PBGC is the insurer of first resort, meaning that the PBGC's guarantee is called when the employer pursues a distress termination or the PBGC decides to involuntarily terminate the plan in order to protect the interests of the plan participants and the agency. In the multiemployer program, the PBGC is the insurer of last resort. This means that the PBGC does not have financial exposure until the plan is insolvent. Insolvency is when the plan assets do not support full benefit payments in the coming year and is typically associated with the erosion of the contributing employer base (usually from bankruptcy, liquidation, or mass withdrawal).

A second critical difference is that the single-employer guarantee (currently $65,045 at age 65, without regard to a participant's years of service) is generally five times higher than the multiemployer guarantee ($12,870 at 30 years of service). This results in the PBGC guaranteeing, on average, 95.5% of a retiree's contractual benefit in the single-employer program. This compares with the PBGC currently guaranteeing, on average, 47% of a multiemployer retiree's contractual benefit, which will fall to between 2% and 6% when the PBGC's multiemployer program becomes insolvent.[42] The discrepancy in the PBGC guarantee in the two programs as compared to the contractual benefits payable makes the PBGC multiemployer guarantee significantly less valuable today, and meaningless when the PBGC's multiemployer program becomes insolvent.

3. **What return assumptions do actuaries use?**

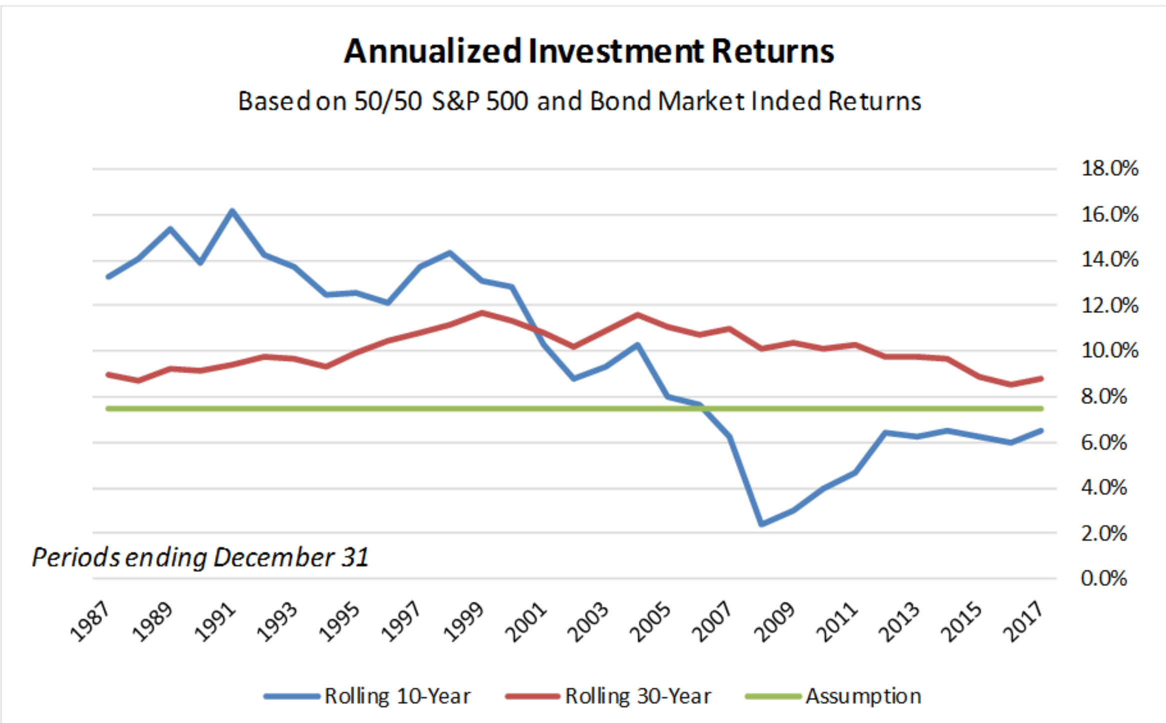
For multiemployer pension plans, the actuarial valuation interest rate assumption usually represents the expected annualized investment return on the plan's assets. For purposes of determining funding requirements for an ongoing, healthy plan, actuaries generally use a long-term horizon in developing this assumption; for example, the assumption represents the forward-

[41] National wage index as calculated by the Social Security Administration.

[42] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

looking expected return on plan assets over the lifetime of the plan, taking into account the timing of when benefits are expected to be paid. Typically, this means that actuaries consider the expected rate of return over next 20 or 30 years, as investment professionals are unable to supply capital market expectations over longer timeframes. Based on publicly-available data, for around 75% of multiemployer plans, the actuary currently uses an investment return assumption between 7.0% and 7.5%.[43]

In fact, actual investment returns over rolling 30-year periods have consistently exceeded a benchmark of 7.5%. For simplicity, these returns are based on a 50/50 blend of S&P 500 and bond market indices. When focused on shorter-term, rolling 10-year periods, actual returns have exceeded a 7.5% benchmark except in the years following 2008. The 10-year return for the 10-year period from 1/1/2008 through 12/31/2017 is 6.5%. However, as noted earlier, actuaries for ongoing, healthy plans look to longer investment horizons when developing the actuarial rate of return assumption.



Actuaries are guided by Actuarial Standards that relate to consideration of investment return expectations for each component of a plan's asset allocation, looking to long-term forecasts of investment professionals, as well as past experience.

4. Is the federal government involved in determining what benefits a plan can pay?

While the joint labor-management board of trustees has the operational responsibility to determine what the benefits of a multiemployer plan are taking into account the bargained contributions and

[43] Form 5500 data for plan years ending in 2016.

plan investment returns, as well as limitations imposed by funding and deductibility limits, the federal government is also directly and indirectly involved.

ERISA's anti-cutback rule was designed to protect benefits that participants have accrued, given highly publicized pension failures pre-ERISA. This is clearly intended to be beneficial to participants. However, for plans that are currently facing insolvency, this rule has severely restricted the ability of trustees to manage plans in situations where the assets may no longer be able to support the level of benefit that was previously anticipated. Had Trustees in troubled plans been able to make adjustments earlier, well in advance of a projected insolvency, the required reductions to maintain solvency would have been significantly less than those participants are currently facing. Ultimately, the anti-cutback rule does not actually protect participants in failing plans from benefit reductions, it just means that those multiemployer participants will face even more severe benefit cuts when their plan becomes insolvent and subject to the PBGC guarantee, and further benefit cuts when the PBGC itself goes insolvent.

The Secretary of the Treasury has responsibility in assuring that plans comply with the Internal Revenue Code. Failure to do so can result in a plan losing its tax qualified status, directly impacting the contributing employers and plan participants. The Secretary of the Treasury also reviews and approves all applications submitted under MPRA for critical and declining plans seeking to reduce accrued benefits that are in pay status.

When a multiemployer plan goes insolvent, it receives financial assistance from PBGC in an amount up to the PBGC maximum guarantee benefit amount as applied to each participant and beneficiary. Participants' and beneficiaries' contractual benefits are reduced to conform to the PBGC maximum guarantee amount, which in the multiemployer program will result in an average reduction of 53% from their contractual benefit, until the PBGC itself becomes insolvent. At PBGC insolvency, the average reduction will be between 94% and 98% of contractual benefits payable.[44]

5. If an employer puts money into a plan for a participant, why doesn't it cover the participant's benefit like it does in a defined contribution plan?

Defined benefit plans are fundamentally different than defined contribution plans. In a typical defined benefit pension plan arrangement, there are no individual participant accounts as there are in a defined contribution arrangement. Instead, contributions are made to a common, collective trust that is intended to grow with investment income over time and be sufficient to pay promised benefits to all participants, as well as expenses needed to administer the plan.

In defined contribution plans, participants build up an account balance over the course of their career to the extent that they are able to save, that they make appropriate investment decisions, and

[44] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

assuming that the account balance is not withdrawn early due to other economic circumstances. One they retire, they must then invest and manage so that it is spent down over the rest of their lifetime (but not a longer or shorter timeframe). In contract, defined benefit plans are intended to pay the negotiated benefit level for a participant's entire lifetime after post-retirement. Defined benefit plans provide lifetime income for both the plan participant, as well as for the participant's spouse. This eliminates the fear and danger of participants outliving their assets.

Traditionally, for multiemployer defined benefit pension plans employer contribution rates are negotiated by bargaining parties – in other words, individual employers and local unions. The trustees of these plans then set the level of benefits afforded by the incoming contributions, based on reasonable actuarial assumptions.

Defined benefit plan assets are usually invested in a well-diversified portfolio of stocks, bonds, and increasingly, alternative asset classes. Even a diversified portfolio, however, will have volatility, and for that reason, it is important that defined benefit plans be permitted to build up cushions following periods of investment gains.

Unfortunately, funding and tax laws prevented U.S. private sector defined benefit pension plans – including multiemployer plans – from building up funding cushions during the strong investment gains of the 1990s. Those restrictive rules for multiemployer plans were finally changed in 2002. Many multiemployer plan sponsors increased benefit levels in order to preserve the employers' tax-deductibility of contributions that had been negotiated.

The poor investment returns that followed – first the Dot Com bubble burst in 2000-2002 and then the financial market collapse in 2008 and 2009, and the subsequent Great Recession – created significant funding challenges for multiemployer plans. Without having built up funding cushions in the late 1990s, defined benefit plan sponsors were forced to seek higher contribution rates from employers, as well as reduce the rate at which participants accrue benefits going forward, and take other remedial actions permitted under the Pension Protection Act of 2006. These actions enabled most multiemployer plans to return to strong funding levels over the last decade.

The traditional corrective actions were not sufficient for some plans, however. Plans that are now facing insolvency – in other words, those that are projected to run out of money and be unable to fulfill their promised benefits, despite their best efforts to create a Rehabilitation Plan – are often marked by maturing demographics and in damaged or declining industries. A common measure of plan maturity is the ratio of inactive and retired participants to active participants in the plan; the higher the ratio, the more mature the plan. With fewer active participants under the plan and a dwindling contribution base, a very mature plan may not be able to pull itself out of its nose dive with changes to prospective contribution and benefit levels alone. For this reason, Congress passed MPRA in late 2014. MPRA was intended to enable the sponsor of a deeply troubled plan to suspend benefits – something that would otherwise be prohibited under anti-cutback rules – in order to restore the plan to projected solvency and to protect participants in critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and become subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent.

REPRESENTATIVE BOBBY SCOTT

1. If one of the plans goes insolvent, does the "last man standing" rule require the remaining participating employers to pay the benefits?

A multiemployer plan becomes insolvent when it no longer has enough assets to pay full benefits when due. When a plan reaches insolvency, participant benefits are reduced to the PBGC guaranteed level. The PBGC then provides assistance to the plan in the amount needed to pay these reduced benefits.

However, the plan remains an ongoing plan in that employers remain obligated to contribute to the plan in the amounts negotiated through collective bargaining. If an employer withdraws after the plan becomes insolvent, the plan may assess withdrawal liability against that employer.

A mass withdrawal may occur by the withdrawal of every employer from the plan (this is known as a mass withdrawal termination), or by withdrawal of "substantially all" employers from a plan pursuant to an arrangement or agreement to withdraw (this is known as a substantially all mass withdrawal, but the plan remains ongoing as not all employers have withdrawn). In both cases, mass withdrawal liability applies to the employers that have withdrawn from the plan. In addition, employers who withdrew after the beginning of the second full plan year preceding the termination date are subject to mass withdrawal liability.

The withdrawal of employers from multiemployer plans over time has resulted in a declining base of employers contributing to support the benefits of increasing numbers of "orphan" retirees. Ultimately, however, the remaining employers' responsibility will be limited to payment of withdrawal liability, which is unlikely to be sufficient to cover all promised benefits.

In the case of an employer becoming insolvent, benefits that participants have remain funded by the contributions the employer previously made to the plan, and investment earnings on those contributions. To the extent that benefits are not fully funded when the employer becomes insolvent and sufficient additional funds are not able to be recovered from the employer, the cost is borne by the remaining solvent employers.

2. If you are an employer that owes money, are all corporate assets exposed?

Yes, the employer's assets are exposed to claims from the plan. Additionally, the Employee Retirement Income Security Act of 1974 (ERISA)[45] provides that withdrawal liability is joint and several among the various members of an employer's controlled group. For this purpose, a controlled group is defined as trades or business under the common control with the employer. If an employer goes into bankruptcy, however, claims by a pension plan generally are unsecured and plans seldom recover large amounts.

[45] Citation to the ERISA section number and not the United States Code 29 U.S.C. §1001 et. seq., is used herein.

3. **Are the PBGC's assets sufficient to cover all the plans that are expected to go insolvent? If additional plans become insolvent so PBGC goes insolvent, would participants already receiving benefit assistance as well as those newly insolvent plans see a catastrophic reduction in income?**

No, the PBGC's assets in the multiemployer trust fund are not sufficient to cover all the plans that are expected to go insolvent.

When a multiemployer plan goes insolvent, it receives financial assistance from PBGC in an amount up to the PBGC maximum guarantee benefit amount as applied to each participant and beneficiary. Participants' and beneficiaries' contractual benefits are reduced to conform to the PBGC maximum guarantee amount, which in the multiemployer program will result in an average reduction of 53% from their contractual benefit, until the PBGC itself becomes insolvent. At PBGC insolvency, the average reduction will be between 94% and 98% of contractual benefits payable. This reduction – which is appropriately characterized as catastrophic – would also apply to the benefits of the 63,000[46] current retirees receiving benefits under the PBGC multiemployer guarantee will receive additional benefit reductions when the PBGC goes insolvent.

However, much of this could have been solved for if Treasury had faithfully implemented the Multiemployer Pension Reform Act of 2014 (MPRA). MPRA was designed to be, and still could be, a very powerful tool for plan trustees to restore plan solvency. MPRA also protects participants in critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and become subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent. Further, MPRA provided the U.S. Government with the best dial to ensure that plans do not come to the PBGC in the first place because every approved MPRA application removes that plan from the list of plans that comprise the PBGC's deficit, thereby improving the finances of the PBGC's multiemployer program. Unfortunately, Treasury did not approve the MPRA application of the largest and most systemically important plan, Central States, among others, which means that a new tool is needed to address those plans where MPRA is no longer an option.

4. **How much less would plan participants, faced with reduced income, be paying in federal, state, and local taxes?**

UPDATED September 13, 2018 BEGIN

There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are currently being paid wages. Based on NCCMP's report[47] that showed that the system paid $158 billion in federal taxes during 2015 and, adjusting for the impact of the 2017 tax reform, as well as NCCMP's August 14, 2018 updated analysis[48] which provides tax loss ranges based on varying

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[46] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[47] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[48] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018.

assumptions for employment losses, we believe that the U.S. Government will lose between $31.5 billion and $101.3 billion[49] in tax revenue over the 10-year budget window from the collapse of critical and declining status plans.

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis, we believe that the U.S. Government will lose between $67.6 billion and $213.1 billion[50] in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America"[51], when the full pension promises are not kept, there will be additional demands (costs) on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[52]) and only the 653,739 retirees in pay status in critical and declining status plans today. The new federal social

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[49] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[50] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[51] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah), https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.

[52] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

safety net spending totals $175.5 billion[53] over the 10-year window and $334.8 billion[54] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This brings the total federal costs to between $207 billion and $276.8 billion[55] over the 10-year budget window and between $402.4 billion and $548 billion[56] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending are estimated at between $43 billion and $80.4 billion[57] over a 10-year budget window and between $86 billion and $163.4 billion[58] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

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5. **Would participants be likely to become more reliant on the social safety net – welfare, food stamps? How much would that cost?**

Yes, significant reductions to the PBGC guarantee that are expected as a result of PBGC's insolvency will likely place immense stress on federal and state social safety net programs as more retirees seek assistance to bridge the gap in lost retirement income.

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However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens

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[53] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.
[54] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.
[55] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.
[56] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.
[57] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 9.
[58] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.

America"[59], when the full pension promises are not kept, there will be additional demands (costs) on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[60]) and only the 653,739 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals $175.5 billion[61] over the 10-year window and $334.8 billion[62] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This brings the total federal costs to between $207 billion and $276.8 billion[63] over the 10-year budget window and between $402.4 billion and $548 billion[64] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state

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[59] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah), https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.
[60] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.
[61] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.
[62] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.
[63] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.
[64] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

Medicaid spending are estimated at between $43 billion and $80.4 billion[65] over a 10-year budget window and between $86 billion and $163.4 billion[66] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

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6. Can you quantify the contagion problem?

Not precisely at this point, but we can provide some color on it. The universe of multiemployer plans is interconnected, with many employers participating in multiple multiemployer plans. The multiemployer system is also interconnected with the federal, state, and local governments, as well as the national economy. The economic contagion will occur throughout all of these connections.

While accurately assessing the interconnectedness of the multiemployer system is difficult to capture, it is clear that failure of a large, systemically important plan like Central States would have devastating consequences on employers, other Teamster plans, and the multiemployer system as a whole.

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For example, the Western Conference of Teamsters Pension Trust (Western Conference) is a multiemployer plan that is currently one of the largest and best funded. Based on new information that NCCMP obtained in August 2018, we believe that approximately 55 contributing employers to Western Conference face significant withdrawal liabilities to the Central States plan. In 2017, these 55 overlapping contributing employers provided approximately 12.5% of the contributions to Western Conference.

In addition, the largest contributing employer to Western Conference is United Parcel Service (UPS). In 2017, UPS provided over 43% of the employer contributions to Western Conference. This is important because, while UPS withdrew from Central States in 2007 and paid $6.1 billion in withdrawal liability, it agreed to provide coordinating benefits for UPS participants whose last employer was UPS and who had not retired as of January 1, 2008 in the event that benefits are lawfully reduced by Central States.

When Central States goes insolvent and begins receiving PBGC financial assistance, these coordinating benefits are projected to cost UPS $4 billion[67] assuming that the PBGC guarantee is at its current level. However, it is expected that UPS's liability rises with the insolvency of the PBGC as the PBGC's guarantee is then reduced to the amount that can be supported by its premium income.

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[65] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 9.
[66] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.
[67] United Parcel Service 10-K filed with the U.S. Securities and Exchange Commission on February 21, 2018, see "Pension Backstop" page 56, https://www.sec.gov/Archives/edgar/data/1090727/000109072718000009/ups-12312017x10k.htm

Further, UPS's share of Western Conference contributions has increased from 35% in 2010 to the current 43% in 2017, an average annual increase of 8%. This is significantly above the average annual increase for non-UPS contributions. Assuming the same contribution growth rate until the projected insolvency of Central States in January 2025, UPS's contributions alone will exceed 52% of all Western Conference contributions. Many of the employers in Central States and Western Conference contribute to multiple Teamster plans, with UPS being a dominate contributor in a number of Teamster plans.

The bottom line is that Western Conference, a Green Zone plan today, currently has approximately 56% of its current contribution base directly tied to employers with massive liabilities in a Central States insolvency.

When Central States becomes insolvent, it will have dramatic consequences on the financial health of the contributing employers. While it is difficult to know today how this turns out, it is highly likely that a number of employers in Central States will become balance sheet insolvent and need to file for reorganization under Chapter 11 or Chapter 7 of the Bankruptcy Code. The PBGC recently argued that future insolvent plans, including Central States, will not terminate through mass withdrawal, and therefore, employers continue to contribute (even though actives will receive very little from their accruals) and will not have to book the withdrawal liability on their balance sheets.

This view is incredibly naïve for several reasons. First, almost every employer in the multiemployer system relies on bank credit, capital market debt or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the employers based on their proportional share at mass withdrawal (even if it is not invoked), the banks that provide capital to the employers in these insolvent plans will certainly consider the withdrawal liability as part of pro forma financial statements used in making lending decisions. Second, the capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of employers to investors in the market.

Banks, and investment banks that provide access to the capital markets, have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines[68] since 2008, and repurchased massive amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability that would be imputed to the employer in a plan insolvency, whether mass withdrawal occurs or not.

The idea that the private market would ignore these liabilities is inconsistent with market behavior during the financial crisis which began as early as August 2007. Suppliers to the employers are highly likely to take the same view as the banks and investment banks.

[68] CBS MarketWatch, Steve Goldstein, "*Here's the staggering amount banks have been fined since the financial crisis*", February 24, 2018. *Accessed at https://www.marketwatch.com/story/banks-have-been-fined-a-staggering-243-billion-since-the-financial-crisis-2018-02-20.*

The idea that the private market would ignore these liabilities, and suppliers to the employers are highly likely to take the same view as the banks and investment banks, is inconsistent with market behavior during the financial crisis which began as early as August 2007. In fact, even the Government Sponsored Enterprises which were "AAA" rated credits saw that market participants will make their own valuation of an issuers' liabilities. In June and July of 2008, the market became very concerned about the value of the mortgages that underpinned Fannie Mae and Freddie Mac mortgage backed securities and their retained portfolios. The market reaction was so swift that Congress enacted the Housing and Economic Recovery Act of 2008 in less than four weeks which authorized Treasury to purchase unlimited amounts of Fannie Mae and Freddie Mac securities. Today, both entities remain in conservatorship, Treasury owns $196.4 billion of Senior Preferred Stock in both and has commitments for another $254 billion if needed, and the Federal Reserve owns more than $1.4 trillion of Fannie and Freddie MBS, all of which says a lot about how the market continues to view the GSE's a decade later.

Separate from the banks and capital markets, the insolvency of Central States and the liabilities that would be imputed to employers will also be a topic for the accounting profession, including the Financial Accounting Standards Board (FASB). Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become increasingly real the closer we are to a systemically important plan insolvency. FASB made changes to multiemployer accounting in 2010, and the insolvency of a systemically important plan may attract interest in this new phenomenon of plans going insolvent without a mass withdrawal.

The insolvency of Central States will damage the ability of employers to make contributions to other funds that are currently healthy in which they currently participate. While it is impossible to say with certainty how severely a currently well-funded plan like Western Conference would be impacted by a financial weakening of its employer base, it is safe to say that the contributing employers will be in a significantly less stable position going forward. The problem will also spread to other Teamster plans as the contributing employer overlap is an issue for other Teamster plans as well.

The contagion can further spread to other parts of the multiemployer system with the insolvency of the largest and most systemically important plan, Central States. This is the type of crisis that is likely to negatively impact capital formation for employers throughout the multiemployer system.

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7. Are there other foreseeable costs to the federal government if we do nothing?

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There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are currently being paid wages. Based on NCCMP's report[69] that showed that the system paid $158

[69] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

billion in federal taxes during 2015 and, adjusting for the impact of the 2017 tax reform, as well as NCCMP's August 14, 2018 updated analysis[70] which provides tax loss ranges based on varying assumptions for employment losses, we believe that the U.S. Government will lose between $31.5 billion and $101.3 billion[71] in tax revenue over the 10-year budget window from the collapse of critical and declining status plans.

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis, we believe that the U.S. Government will lose between $67.6 billion and $213.1 billion[72] in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America"[73], when the full pension promises are not kept, there will be additional demands (costs) on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[74]) and only the

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[70] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018.

[71] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[72] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[73] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah), https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.

[74] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

653,739 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals $175.5 billion[75] over the 10-year window and $334.8 billion[76] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This brings the total federal costs to between $207 billion and $276.8 billion[77] over the 10-year budget window and between $402.4 billion and $548 billion[78] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending are estimated at between $43 billion and $80.4 billion[79] over a 10-year budget window and between $86 billion and $163.4 billion[80] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

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8. **From an actuarial point of view, if you have no assets in the trust fund but you have enough money coming in to pay benefits you call that solvent? If these plans are solvent they should not have to rely on ongoing contributions to pay out benefits, isn't that right?**

A multiemployer plan is insolvent, as described under ERISA § 4245(b), "if the plan's available resources are not sufficient to pay benefits under the plan when due for the plan year…" In other words, multiemployer plans are considered to be insolvent when they no longer have enough assets and contributions to pay full benefits to participants during a year.

In reality, many multiemployer plans are very mature in that there are large numbers of retired and terminated vested participants compared to active participants. Since contributions to multiemployer plans are made on behalf of the work performed by active participants, who continue to earn benefits, these very mature plans depend heavily on investment earnings rather than contributions to pay benefits.

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75 See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.
76 See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.
77 See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.
78 See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.
79 See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 9.
80 See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.

9. Is the plan a "Ponzi scheme" if it relies on future contributions to pay for benefits?

Defined benefit pension plans are not "Ponzi schemes." ERISA requires private sector pension plans to be pre-funded with contributions that grow with investment income over time and are expected to be sufficient to pay benefits when due. If adverse experience causes a plan to become underfunded, it is possible additional contributions may be required to address the investment shortfall. The impact of such adverse experience can be mitigated, however, if pension plans are allowed to build up funding cushions – in other words, become over-funded – following favorable experience.

Unfortunately, funding and tax laws prevented U.S. private sector multiemployer defined benefit pension plans from building up funding cushions during the strong investment markets of the 1990s. Those restrictive rules for multiemployer plans were finally changed in 2002. Many multiemployer plan sponsors increased benefit levels in order to preserve the employers' tax-deductibility of incoming contributions that had been negotiated.

The poor investment returns that followed – first the Dot Com bubble burst in 2000-2002 and then the financial market collapse in 2008 and 2009, and the subsequent Great Recession – created significant funding challenges for multiemployer plans. Defined contribution plan participants saw their individual accounts badly impaired; participants hoping to retire at that time had to significantly reduce their expected level of retirement income. Without having built up funding cushions in the late 1990s, defined benefit plan sponsors were forced to seek higher contribution rates from employers, as well as reduce the rate at which participants accrue benefits going forward, and take other remedial actions permitted under the Pension Protection Act of 2006. These actions enabled most multiemployer plans to return to strong funding levels over the last decade.

The traditional corrective actions were not sufficient for some plans, however. Plans that are now facing insolvency – in other words, those that are projected to run out of money and be unable to fulfill their promised benefits, despite their best efforts to create a Rehabilitation Plan – are often marked by maturing demographics and in damaged or declining industries. A common measure of plan maturity is the ratio of inactive and retired participants to active participants in the plan; the higher the ratio, the more mature the plan. With fewer active participants under the plan and a dwindling contribution base, a very mature plan may not be able to pull itself out of its nose dive with changes to prospective contribution and benefit levels alone. For this reason, Congress passed MPRA in late 2014. MPRA was intended to enable the sponsor of a deeply troubled plan to suspend benefits – something that would otherwise be prohibited under anti-cutback rules – in order to restore the plan to projected solvency.

SENATOR HEIDI HEITKAMP

1. What is the time window for a solution? How much worse can it get if we wait beyond the year-end time line of this committee? How close to "the cliff" are we now?

Congress must take immediate action in order to address the coming insolvencies of severely financially-distressed multiemployer pension plans and the PBGC. Every minute that we wait to take action, the larger and harder to solve the problems become.

In the event of plan insolvency and PBGC insolvency, many participants and beneficiaries will receive benefits far lower than their contractual benefit. When a plan goes insolvent, the PBGC's multiemployer guarantee will result, on average, in a 53% reduction to the retirees' contractual benefits.

Unfortunately, when the PBGC exhausts its multiemployer trust fund (PBGC insolvency), the PBGC's financial assistance is limited to what it takes in from premium income. At PBGC insolvency, retirees will receive between 2% and 6% of their contractual benefit.[81]

In the near term, there are two large plans heading toward insolvency, the United Mine Workers of America 1974 Pension Fund (2022) and the Central States Pension Fund (2025). Coincident with the Central States insolvency, the PBGC will also become insolvent (2025).

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One part of analyzing the economic impact on retirees and the national economy if Congress does not act comes from understanding Central States, including the overlap of employers contributing to Central States and other multiemployer pension plans. For example, the Western Conference of Teamsters Pension Trust (Western Conference) is a multiemployer plan that is currently one of the largest and best funded. Based on new information that NCCMP obtained in August 2018, we believe that approximately 55 contributing employers to Western Conference face significant withdrawal liabilities to the Central States plan. In 2017, these 55 overlapping contributing employers provided approximately 12.5% of the contributions to Western Conference.

In addition, the largest contributing employer to Western Conference is United Parcel Service (UPS). In 2017, UPS provided over 43% of the employer contributions to Western Conference. This is important because, while UPS withdrew from Central States in 2007 and paid $6.1 billion in withdrawal liability, it agreed to provide coordinating benefits for UPS participants whose last employer was UPS and who had not retired as of January 1, 2008 in the event that benefits are lawfully reduced by Central States.

[81] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

When Central States goes insolvent and begins receiving PBGC financial assistance, these coordinating benefits are projected to cost UPS $4 billion[82] assuming that the PBGC guarantee is at its current level. However, it is expected that UPS's liability rises with the insolvency of the PBGC as the PBGC's guarantee is then reduced to the amount that can be supported by its premium income.

Further, UPS's share of Western Conference contributions has increased from 35% in 2010 to the current 43% in 2017, an average annual increase of 8%. This is significantly above the average annual increase for non-UPS contributions. Assuming the same contribution growth rate until the projected insolvency of Central States in January 2025, UPS's contributions alone will exceed 52% of all Western Conference contributions. Many of the employers in Central States and Western Conference contribute to multiple Teamster plans, with UPS being a dominate contributor in a number of Teamster plans.

The bottom line is that Western Conference, a Green Zone plan today, currently has approximately 56% of its current contribution base directly tied to employers with massive liabilities in a Central States insolvency.

When Central States becomes insolvent, it will have dramatic consequences on the financial health of the contributing employers. While it is difficult to know today how this turns out, it is highly likely that a number of employers in Central States will become balance sheet insolvent and need to file for reorganization under Chapter 11 or Chapter 7 of the Bankruptcy Code. The PBGC recently argued that future insolvent plans, including Central States, will not terminate through mass withdrawal, and therefore, employers continue to contribute (even though actives will receive very little from their accruals) and will not have to book the withdrawal liability on their balance sheets.

This view is incredibly naïve for several reasons. First, almost every employer in the multiemployer system relies on bank credit, capital market debt or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the employers based on their proportional share at mass withdrawal (even if it is not invoked), the banks that provide capital to the employers in these insolvent plans will certainly consider the withdrawal liability as part of pro forma financial statements used in making lending decisions. Second, the capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of employers to investors in the market.

Banks, and investment banks that provide access to the capital markets, have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines[83] since 2008, and repurchased massive

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[82] United Parcel Service 10-K filed with the U.S. Securities and Exchange Commission on February 21, 2018, see "Pension Backstop" page 56, https://www.sec.gov/Archives/edgar/data/1090727/000109072718000009/ups-12312017x10k.htm

[83] CBS MarketWatch, Steve Goldstein, "*Here's the staggering amount banks have been fined since the financial crisis*", February 24, 2018. *Accessed at https://www.marketwatch.com/story/banks-have-been-fined-a-staggering-243-billion-since-the-financial-crisis-2018-02-20.*

amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability that would be imputed to the employer in a plan insolvency, whether mass withdrawal occurs or not.

The idea that the private market would ignore these liabilities is inconsistent with market behavior during the financial crisis which began as early as August 2007. Suppliers to the employers are highly likely to take the same view as the banks and investment banks.

The idea that the private market would ignore these liabilities, and suppliers to the employers are highly likely to take the same view as the banks and investment banks, is inconsistent with market behavior during the financial crisis which began as early as August 2007. In fact, even the Government Sponsored Enterprises which were "AAA" rated credits saw that market participants will make their own valuation of an issuers' liabilities. In June and July of 2008, the market became very concerned about the value of the mortgages that underpinned Fannie Mae and Freddie Mac mortgage backed securities and their retained portfolios. The market reaction was so swift that Congress enacted the Housing and Economic Recovery Act of 2008 in less than four weeks which authorized Treasury to purchase unlimited amounts of Fannie Mae and Freddie Mac securities. Today, both entities remain in conservatorship, Treasury owns $196.4 billion of Senior Preferred Stock in both and has commitments for another $254 billion if needed, and the Federal Reserve owns more than $1.4 trillion of Fannie and Freddie MBS, all of which says a lot about how the market continues to view the GSE's a decade later.

Separate from the banks and capital markets, the insolvency of Central States and the liabilities that would be imputed to employers will also be a topic for the accounting profession, including the Financial Accounting Standards Board (FASB). Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become increasingly real the closer we are to a systemically important plan insolvency. FASB made changes to multiemployer accounting in 2010, and the insolvency of a systemically important plan may attract interest in this new phenomenon of plans going insolvent without a mass withdrawal.

The insolvency of Central States will damage the ability of employers to make contributions to other funds that are currently healthy in which they currently participate. While it is impossible to say with certainty how severely a currently well-funded plan like Western Conference would be impacted by a financial weakening of its employer base, it is safe to say that the contributing employers will be in a significantly less stable position going forward. The problem will also spread to other Teamster plans as the contributing employer overlap is an issue for other Teamster plans as well.

The contagion can further spread to other parts of the multiemployer system with the insolvency of the largest and most systemically important plan, Central States. This is the type of crisis that is likely to negatively impact capital formation for employers throughout the multiemployer system.

The insolvency of Central States and the PBGC will dramatically reduce the pension benefits payable to the retirees in insolvent plans. It will also affect the current jobs available with contributing employers. The collapse of these plans and the broader contagion within the multiemployer pension system will result in the loss of tax revenue for the Federal Government.

There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are currently being paid wages. Based on NCCMP's report[84] that showed that the system paid $158 billion in federal taxes during 2015 and, adjusting for the impact of the 2017 tax reform, as well as NCCMP's August 14, 2018 updated analysis[85] which provides tax loss ranges based on varying assumptions for employment losses, we believe that the U.S. Government will lose between $31.5 billion and $101.3 billion[86] in tax revenue over the 10-year budget window from the collapse of critical and declining status plans.

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis, we believe that the U.S. Government will lose between $67.6 billion and $213.1 billion[87] in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America"[88], when the full pension promises are not kept, there will be additional demands (costs) on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

[84] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[85] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018.

[86] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[87] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[88] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah), https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[89]) and only the 653,739 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals $175.5 billion[90] over the 10-year window and $334.8 billion[91] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This brings the total federal costs to between $207 billion and $276.8 billion[92] over the 10-year budget window and between $402.4 billion and $548 billion[93] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending are estimated at between $43 billion and $80.4 billion[94] over a 10-year budget window and between $86 billion and $163.4 billion[95] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

UPDATED September 13, 2018 END

2. Do you agree with PBGC's projection of 2025 for the PBGC program's insolvency?

Yes, we have every reason to believe in the PBGC's current projection based on Treasury's unwillingness to implement the Multiemployer Pension Reform Act (MPRA) faithfully with the intent of the law, and in particular, the rejection of the MPRA application from the largest and most systemically important plan, Central States.

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[89] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[90] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

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[95] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.

3. Is it true that some of the options that we had 10 or 5 years ago are no longer available?

Yes. While, generally, most multiemployer plans are better funded now than they were 5 years ago there is a small portion of plans that cannot recover. Had legislated self-help, such as the tools provided under MPRA, been implemented earlier and properly, many of these severely troubled plans would have been able to restore themselves to solvency, and certainly the largest and most systemically important plan, Central States, would have been able to.

4. Do you have any suggestions for additional tools, methods or plans to address the problem?

Yes. NCCMP historically has participated in the development of law applicable to multiemployer pension plans. Significant multiemployer pension plan legislation, including the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), the Pension Protection Act of 2006 (PPA), and the Workers, Retiree and Employer Recovery Act of 2008 (WRERA), was the product of interaction among the administration, Congress, NCCMP and other interested parties.

Subsequent legislation, MPRA, was passed in recognition that a small subset of multiemployer plans at risk of insolvency needed additional tools to address their financial problems. The NCCMP was a leader in that effort as well, establishing the 2011 Retirement Security Review Commission with 42 stakeholders in the multiemployer system. MPRA was the multiemployer industry's attempt to receive the self-help tools that it would need to solve the financial crisis of certain plans and avoid the need for a federal response later. Unfortunately, Treasury's implementing regulations and practices failed to fulfill the intent and purposes of MPRA, further jeopardizing the employers and pensions of Americans participating in those plans.

The multiemployer system plays an important part in providing retirement security to more than 10 million participants that work for more than 210,000 employers. We now need the Joint Select Committee to provide real solutions to several problems.

The first is a solution for plans in financial crisis, so that plans can restore solvency while protecting the benefits to retirees to the maximum extent possible. This includes reforming MPRA so that it is the reliable and predictable self-help tool for trustees of plans in critical and declining status that Congress and the multiemployer community that passed it intended. This will preserve more benefits for retirees in those plans (average reduction 36%) than the current law alternative of having these plans subject to the PBGC guarantee either today (average reduction 53%), or when the PBGC becomes insolvent (average reduction 94% to 98%).[96]

As part of this, because Treasury rejected the largest and most systemically important plan, Central States, among others, a new solvency restoration tool is needed for those plans where MPRA is no longer an option. Based on our work with a number of plans including Central States and the United Mine Workers of America 1974 Pension Fund, we believe that a subsidized loan program can be structured using very conservative assumptions regarding investment returns to restore and ensure plan solvency, protect the maximum amount of benefits possible for retirees, provide the

[96] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

U.S. Government with certainty on the timely repayment of the loan, and one that is highly likely to get executed by the Executive Branch. Because of our viability concerns about other loan or loan and grant proposals, NCCMP retained the preeminent experts in federal credit to design a program that can achieve the objectives mentioned, while providing Congress with flexibility to enact features that are its prerogative. For example, the eligibility of plans that could otherwise use MPRA, the authorized size of the program, the level of benefit reductions required, and the credit subsidy cost sharing between the plan and the government are all policy decisions for Congress to make.

However, the basic structural details of a loan program are incredibly important to ensure that it achieves the policy and programmatic objectives. NCCMP's loan alternative provides for a 1% loan for 30-years, the first 15-years are interest only, and the remaining 15-years are principal and interest. NCCMP specifically provides a number of structural protections, of which the following are particularly important.

- ✓ The plan is only entitled to the investment earnings of the loan account and cannot use the loan proceeds to pay for plan benefits. This is achieved by holding the loan proceeds in a separate loan account which is held in trust for the U.S. Government.
- ✓ The loan program is designed to restore plan solvency and demonstrate full repayment of the federal loan using only the investment earnings of the loan account, and with expected rates of returns that cannot exceed 5.5%.
- ✓ The loan itself (and not the Plan) is required to be rated by two Nationally Recognized Statistical Rating Organizations and achieve at least a BB+ rating from both.
- ✓ Any benefit reductions are paid to the financing account and used to offset the credit subsidy costs calculated under the Federal Credit Reform Act.
- ✓ If investment returns exceed 9% annually, the excess is retained in a reserve sub-account of the loan account and can be used as a buffer in a future period.
- ✓ If investment returns are negative and the corpus of the loan account is below the original amount, the plan forfeits future investment earnings until the corpus of the loan account is restored.
- ✓ In the event of material experience loss that supported the loan approval, the transfer of investment earnings is suspended until the experience loss is covered.
- ✓ In the event of a plan insolvency or mass withdrawal, the loan account is immediately returned to the U.S. Government. Any unpaid amounts on the loan account are covered by plan assets.
- ✓ In the event of an employer withdrawal, the loan account, disbursed investment returns, expected returns, benefit reductions, and certain employer contribution increases are ignored for purposes of calculating withdrawal liability.

The legislative language for NCCMP's loan alternative can be found at http://nccmp.org/wp-content/uploads/2017/11/MPP-leg-draft-03-19-18-discussion-draft.pdf. The background information can be found at http://nccmp.org/wp-content/uploads/2017/11/Loan-Program-Discussion-Draft-Feb-21-2018.pdf.

The second reform is to the PBGC. The two solvency restoration tools are also needed to provide plans the ability to workout the PBGC's deficit in its multiemployer program by removing the successful MPRA or loan applicant from the PBGC's list of plans facing insolvency. These tools provide the U.S. Government with its least-cost solution to the multiemployer crisis and would eliminate the need for any other federal support of the PBGC. However, equally important to working out the PBGC's finances is the accurate establishment of the scope of their deficit. This directly impacts the calls that they have for additional premiums. Currently, the PBGC discounts liabilities of plans that it expects to be insolvent based on "market" rates to purchase annuities that would defease these liabilities. This is financially, economically, and analytically the wrong approach.

Why do the PBGC's discount rates matter? First, that is not what happens when the PBGC provides financial assistance under its multiemployer program. Second, the market for group annuities of this size is not deep or liquid, and the pricing is very one-sided in favor of the insurer. Third, the group annuity transactions that have taken place in the single employer market are often driven by economic, regulatory, and market factors that are unique to the company and its shareholders and have nothing to do with the economics of the underlying transaction itself. Finally, nobody in the U.S. Government does it this way.

In its 2017 report to determine its program deficit, the PBGC uses discount rates which start at 1.54% in year 1 and vary annually thereafter until year 31, when the factor becomes 2.44%. Lower discount rates result in higher liabilities, and therefore artificially suggest the need for higher premiums.

To put this into some perspective, the actuary and trustees at Social Security used a discount rate of 5.3% in 2017 to discount their liabilities, which are actually full faith and credit obligations of the U.S. Government. The purpose of discounting is to recognize the risk involved in the economic transaction. The Social Security obligations recognized in the Trustees Report are backed by the full faith and credit of the U.S. Government, or in other words, this is a risk-free benefit.

In the PBGC's multiemployer program, the PBGC will pay out 47% of the contractual benefits today and between 2% and 6% of contractual benefits when the multiemployer trust fund becomes insolvent.[97] It is hard to imagine anyone confusing the PBGC's multiemployer guarantee with a risk-free benefit, and it should not be discounted as if it were.

In 2016, the PBGC issued a report that indicated that they would need, on average, $2.5 billion annually in premiums to keep the multiemployer guarantee at the current level (maximum of $12,870 for someone with 30 years of service). This compares with the current $291 million that the system currently pays annually and the $402 million annually that the system will pay on average over the next 20-years under current law. While PBGC premiums are paid on behalf of all participants (retirees, terminated vested participants, and actives) and benefits are guaranteed for all participants (retirees, terminated vested participants, and actives), ultimately it is the active

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workers who pay PBGC premiums on behalf of all participants. For many plans, active participants currently have between 40% and 90% of their contributions being used to pay for the unfunded obligations of their plans for current retirees, meaning very little is actually being used for their retirement benefit. Raising premiums to the levels suggested by the PBGC in 2016 is not economically possible while keeping employers and industries competitive and in business.

The reality is that there are clearly other options that will workout the dire financial condition of the PBGC's multiemployer program that do not require massive dollars to be thrown at the PBGC.

While the emphasis of the Joint Select Committee is on the issues of plan and PBGC solvency, there is one issue that relates only to healthy plans that needs Congressional action. The GROW Act will modernize and strengthen the multiemployer pension plan system for the future by allowing plans to voluntarily elect to adopt this new type of retirement vehicle that combines the key features of defined benefit and defined contribution plans.

The GROW Act plans will freeze the current defined benefit plan (legacy plan) and pay all of the accrued benefits that participants have earned in that plan. It also establishes a 25-year amortization payment program for any unfunded liability, which for many plans will enable the active participants in the GROW Act plan to receive accruals in a new plan at approximately the same rate as they are entitled to in the legacy plan. Under the statute, the contributions to the legacy plan are secured and the required contributions to the new plan are such that it is funded to at least 120% of liabilities.

Participants in the new GROW Act plan can have confidence in their new benefit because of the statutory requirement for the sponsors to maintain a funded status of 120%. While it is true that the accrual rate or in certain extreme circumstances, the benefit, can change based on the investment performance of the portfolio, the statutory requirement to determine the funded status annually allows changes to be small. Contrary to assertions that multiemployer defined benefits are risk-free, today's crisis in certain multiemployer pensions and the 94% to 98% benefit reductions that are coming to retirees of insolvent plans demonstrates that the current system does not provide a risk-free pension.[98]

Existing employers continue to have withdrawal liability exposure in the legacy plan until it is fully funded on a very conservative mass withdrawal basis, although they do not have withdrawal liability exposure in the new GROW Act plan. The elimination of withdrawal liability for the new employers in the GROW Act plan will make this retirement security option attractive to employers that would not otherwise sign a collective bargaining agreement because of exposure to withdrawal liability in the legacy plan.

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The statutory structure also benefits the legacy plan, the current employers, and the PBGC as a portion of the new employers' contribution rate is directed to the legacy plan, helping to pay down any unfunded liability in the legacy plan.

For the PBGC, removing the financial risk related to the potential of a defined benefit plan going insolvent is always positive. Further, the PBGC is not harmed in this process as it continues to collect premiums on all participants in the legacy plan. While they do not collect premiums on the GROW Act plan, PBGC will not provide any insurance or guarantee in that plan. They will not lose any premium income, because those new employers in the GROW Act plan would never have signed a collective bargaining agreement that included the defined benefit plan.

SENATOR ROB PORTMAN

1. **Is it likely that employers burdened by Central States will make fewer contributions to other multiemployer plans, thereby creating a contagion effect on the entire multiemployer system?**

Yes. The universe of multiemployer plans is interconnected, with many employers participating in multiple multiemployer plans. The multiemployer system is also interconnected with the federal, state, and local governments, as well as the national economy. The economic contagion will occur throughout all of these connections.

While accurately assessing the interconnectedness of the multiemployer system is difficult to capture, it is clear that failure of a large, systemically important plan like Central States would have devastating consequences on employers, other Teamster plans, and the multiemployer system as a whole.

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For example, the Western Conference of Teamsters Pension Trust (Western Conference) is a multiemployer plan that is currently one of the largest and best funded. Based on new information that NCCMP obtained in August 2018, we believe that approximately 55 contributing employers to Western Conference face significant withdrawal liabilities to the Central States plan. In 2017, these 55 overlapping contributing employers provided approximately 12.5% of the contributions to Western Conference.

In addition, the largest contributing employer to Western Conference is United Parcel Service (UPS). In 2017, UPS provided over 43% of the employer contributions to Western Conference. This is important because, while UPS withdrew from Central States in 2007 and paid $6.1 billion in withdrawal liability, it agreed to provide coordinating benefits for UPS participants whose last employer was UPS and who had not retired as of January 1, 2008 in the event that benefits are lawfully reduced by Central States.

When Central States goes insolvent and begins receiving PBGC financial assistance, these coordinating benefits are projected to cost UPS $4 billion[99] assuming that the PBGC guarantee is at its current level. However, it is expected that UPS's liability rises with the insolvency of the PBGC as the PBGC's guarantee is then reduced to the amount that can be supported by its premium income.

Further, UPS's share of Western Conference contributions has increased from 35% in 2010 to the current 43% in 2017, an average annual increase of 8%. This is significantly above the average annual increase for non-UPS contributions. Assuming the same contribution growth rate until the projected insolvency of Central States in January 2025, UPS's contributions alone will exceed 52% of all Western Conference contributions. Many of the employers in Central States and

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This view is incredibly naïve for several reasons. First, almost every employer in the multiemployer system relies on bank credit, capital market debt or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the employers based on their proportional share at mass withdrawal (even if it is not invoked), the banks that provide capital to the employers in these insolvent plans will certainly consider the withdrawal liability as part of pro forma financial statements used in making lending decisions. Second, the capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of employers to investors in the market.

Banks, and investment banks that provide access to the capital markets, have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines[100] since 2008, and repurchased massive amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability that would be imputed to the employer in a plan insolvency, whether mass withdrawal occurs or not.

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Separate from the banks and capital markets, the insolvency of Central States and the liabilities that would be imputed to employers will also be a topic for the accounting profession, including the Financial Accounting Standards Board (FASB). Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become increasingly real the closer we are to a systemically important plan insolvency. FASB made changes to multiemployer accounting in 2010, and the insolvency of a systemically important plan may attract interest in this new phenomenon of plans going insolvent without a mass withdrawal.

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The insolvency of Central States and the PBGC will dramatically reduce the pension benefits payable to the retirees in insolvent plans.

2. **How often do employers pay the full withdrawal liability? Does it have to be paid off within a 20-year period? Do employers have the outstanding balance forgiven at 20 years?**

The total amount of an employer's withdrawal liability is not ordinarily payable in a lump sum. The law sets forth a basis for allocating unfunded vested benefits (UVBs) and for calculating an employer's annual payments. Additionally, there is a 20-year payment maximum in the event of a non-mass withdrawal. Because the periodic payments are defined by statute and are unrelated to the employer's actual lump sum withdrawal liability, the amortization period often extends beyond 20 years to fully pay off the liability. Payments owed beyond 20 years, however, are forgiven by law. The only two exceptions to this 20-year withdrawal liability payment cap are if a plan terminates by mass withdrawal and with respect to the United Mine Workers' Pension Funds as the result of a statutory exclusion.

Additionally, multiemployer plan trustees are permitted to reach settlement agreements with withdrawn employers if it is in the best interest of plan participants. In reality, very few employers ever pay the full amount of their withdrawal liability because the 20-year payment maximum often results in employers paying less than their full allocation of UVBs. Withdrawals also are often the result of an employer bankruptcy (plans typically see little recovery) and, in other situations, trustees are willing to accept a discounted settlement if they conclude that it is in the best interest of the plan to do so.

3. What in the current law for withdrawal liability is making these plans riskier? Does withdrawal liability prevent (other) employers from being able to effectively solve the problem?

The Multiemployer Pension Plan Amendments Act of 1980 revised the concept of withdrawal liability in an attempt to protect participant benefits that were under-funded when an employer stopped contributing to a multiemployer pension plan and to discourage employers from ceasing to contribute. In reality, withdrawal liability has often resulted in less participant security. Plan funding has suffered as many employers are unwilling to enter into in multiemployer pension plans because of the fear of withdrawal liability and others are actively seeking means to exit plans out of fear that their withdrawal liability will increase in the future, thereby diminishing the contribution base.

4. How does withdrawal liability change in event of mass withdrawal?

The amount of withdrawal liability is based on a plan's unfunded vested liability. The "unfunded vested liability" refers to the value of vested benefits not covered by assets. "Vested benefits" are the benefits that are considered non-forfeitable.

For plans not in mass withdrawal, an employer's withdrawal liability is a proportionate share of the Plan's unfunded vested liability, allocated in accordance with §4211 of the Employee Retirement Income Security Act of 1974 (ERISA)[101]. The withdrawal liability is reduced by a *de minimis* deductible (which is $50,000 but not more than 0.75% of the plan's unfunded vested liability). The total amount of an employer's withdrawal liability is not ordinarily payable in a lump sum. The law sets forth a basis for calculating annual payments and there is a 20-year payment maximum.

If there is a mass withdrawal, two additional components are included in the employer's withdrawal liability. First, the redetermination liability adds back any amounts from the employer's withdrawal liability that were reduced by the *de minimis* rule and the 20-year payment limitation. Next, reallocation liability is determined by allocating the unfunded vested liability that is recalculated based on interest rates, mortality tables, and expense loading assumptions in accordance with PBGC's regulations[102]. This unfunded vested liability is generally much greater than the unfunded vested liability determined using the actuary's best estimate assumptions for an ongoing plan, because the plan is no longer an ongoing plan and is in effect winding up. At that point, the mass withdrawal liability is intended to approximate the amount that might be necessary to purchase annuities.

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[101] Citation to the ERISA section number and not the United States Code 29 U.S.C. §1001 et. seq., is used herein.

[102] 29 C.F.R. Part 4281, Subpart B.

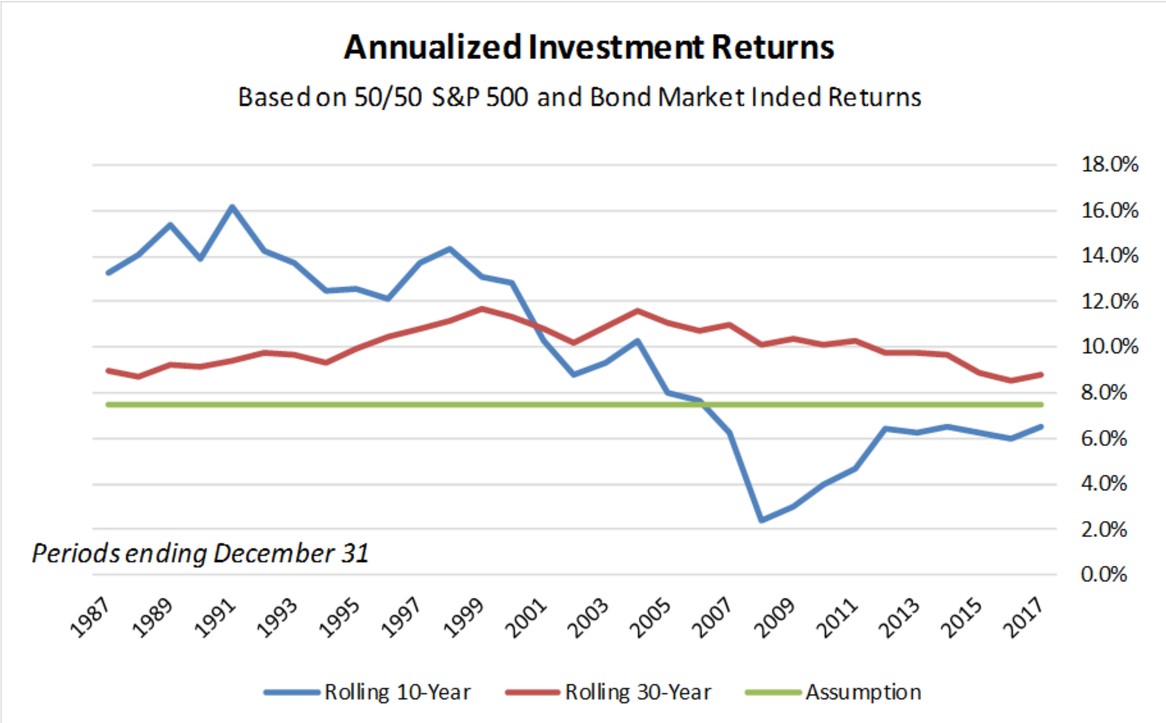
In many cases, an employer's required payment toward its mass withdrawal liability is insufficient to even cover the interest on the amount due. When this happens, the employer is required to continue to make mass withdrawal payments until all liabilities of the plan have been satisfied through purchase of annuities or through the death of the last participant or beneficiary who is ever due a payment from the plan.

5. What do actuaries assume is the rate of return? How often has the actual rate of return been 7-8%? Are actuaries assuming too high a return?

For multiemployer pension plans, the actuarial valuation interest rate assumption usually represents the expected annualized investment return on the plan's assets. For purposes of determining funding requirements for an ongoing, healthy plan, actuaries generally use a long-term horizon in developing this assumption; for example, the assumption represents the forward-looking expected return on plan assets over the lifetime of the plan, taking into account the timing of when benefits are expected to be paid. Typically, this means that actuaries consider the expected rate of return over next 20 or 30 years as investment professionals are unable to supply capital market expectations over longer timeframes. Based on publicly available data, for around 75% of multiemployer plans, the actuary currently uses an investment return assumption between 7.0% and 7.5%.[103]

In fact, actual investment returns over rolling 30-year periods have consistently exceeded a benchmark of 7.5%. For simplicity, these returns are based on a 50/50 blend of S&P 500 and bond market indices. When focused on shorter-term, rolling 10-year periods, actual returns have exceeded a 7.5% benchmark except in the years following 2008. The 10-year return for the 10-year period from 1/1/2008 through 12/31/2017 is 6.5%. However, as noted earlier, actuaries for ongoing, healthy plans look to longer investment horizons when developing the actuarial rate of return assumption.

[103] Form 5500 data for plan years ending in 2016.



Actuaries are guided by Actuarial Standards that relate to consideration of investment return expectations for each component of a plan's asset allocation, looking to long-term forecasts of investment professionals, as well as past experience.

REPRESENTATIVE DONALD NORCROSS

1. **How do you determine the pension numbers for an individual? Is it on a yearly basis? Is it every 10 years? How are assumptions made from day 1 with respect to a participant? Who makes the determination?**

In a defined benefit plan, unlike in a defined contribution plan, contributions are made for all participants in the aggregate. Plan actuaries rely on the assumptions as applied to the group in the aggregate, not for any specific person. Therefore, in valuing liabilities the actuary looks at the individual's age and service and determines the probable liabilities associated with that individual by applying mortality tables, assumptions about when a person with that age and service will retire, and assumptions about when they might leave work that is covered under the plan before retirement. Those amounts are then aggregated for the plan as a whole. No one individual is expected to match the liabilities associated with him or her exactly, but on an aggregate basis the assumptions are intended to be accurate. The process is repeated each following year. The actuary includes in the estimate of the contributions needed in a following year a payment for the difference between the assumptions and the actual experience in prior years. Benefit levels, however, are set based upon a formula found in the plan document. Once a participant retires, his or her benefit will generally remain fixed unless the plan is subsequently amended or becomes insolvent.

2. **If an employer goes into Chapter 7 bankruptcy, what happens to the unfunded liability still in the plan?**

Under the Bankruptcy Code, the claims of creditors are assigned a priority status for payment by the debtor. The Bankruptcy Code does not specifically address how claims such as withdrawal liability are to be treated and there has been considerable litigation with regard to the precise status and treatment. Generally, however, in most Chapter 7 liquidation bankruptcies, withdrawal liability claims are reduced by 50% (pursuant to §4225(b) of the Employee Retirement Income Security Act (ERISA)) [104] and are treated as general unsecured claims receiving, at most, a few cents on the dollar.

Withdrawal liability is joint and several so that if all members of the debtor's controlled group are not in bankruptcy, a plan may seek to collect the withdrawal liability from another member of the controlled group. For this purpose, a controlled group consists of a trade or business under common control with the debtor.

3. **If employer wants to reorganize in Chapter 11, what priority does any claim by the plan have? If plan goes insolvent, what happens to the obligations of employers still in that plan?**

A multiemployer pension plan may have many claims against a debtor, including claims for contributions and withdrawal liability. As with Chapter 7 bankruptcies, there has been considerable litigation over a plan's claims in Chapter 11 reorganizations. Most of the claims filed by a plan are treated as general unsecured claims receiving, at most, a few cents on the dollar. A frequent issue in Chapter 11 bankruptcies is whether the employer can modify or reject the

[104] Citation to the ERISA section number and not the United States Code 29 U.S.C. §1001 et. seq., is used herein.

collective bargaining agreement under §1113 of the Bankruptcy Code[105] and withdraw from the plan. Some courts have allowed the small portion of claims related to withdrawal liability and those related to post-petition contributions to receive priority as an administrative expense (a higher priority status that general unsecured claims).

4. If plan goes insolvent, what happens to the obligations of employers still in that plan?

The insolvency of a multiemployer plan does not affect the ongoing nature of the plan, meaning that employers remain obligated to contribute to the plan and withdrawal liability payments to the plan, if any, continue. Upon insolvency, benefits are reduced to the level that the plan can pay from plan assets. Once the plan's assets are no longer sufficient to pay benefits above the PBGC guarantee level, PBGC provides financial assistance to the plan, so that the plan can pay benefits up to the PBGC level. In the event an employer withdraws after the plan becomes insolvent, the plan may assess withdrawal liability against that employer.

5. Is it correct that if you have a $70,000 pension and the plan goes insolvent, the most you will get is $12,870? If the PBGC multiemployer fund goes insolvent, will the benefit go to zero?

Yes, although it is worth noting that an annual pension in the amount of $70,000 is far in excess of the typical pension paid from a multiemployer plan. Under the current guarantee, PBGC generally guarantees $12,870 annually (based on 30 years of service). Participants with less or more service are subject to proportionately smaller or larger guarantees. The guarantee is not indexed for inflation, and there are no adjustments for the age at which benefit payments begin or for the form of benefit payment.

If no Congressional action is taken to improve PBGC's financial outlook, after 2025 when PBGC becomes insolvent, PBGC will be able to provide financial assistance only at the level supported by premium payments. This means that at PBGC insolvency, financial assistance from the PBGC will represent between a 94% and 98% reduction from a retiree's contractual benefits. For the same participant, the PBGC guaranteed benefit would be reduced from $12,870 per year to between $643 and $1,609 per year – or $54 to $134 per month.

6. Do we need to make structural changes to address the problem (such as in bankruptcy law, the tax rules, or other laws)?

Changes to bankruptcy law alone are unlikely to help those plans that are already in critical and declining status – the ones that will exhaust the PBGC's multiemployer fund and result in participant benefits being reduced to virtually nothing. Some plans have been severely hurt as a result of the bankruptcies (both Chapter 7 and Chapter 11) of major contributing employers. The United Mine Workers of America 1974 Pension Fund is a case in point. Currently, the vast majority of its contributions come from the member of a single corporate group. For bankruptcy reform to have been effective, it would have had to have been enacted years ago, before the bankruptcies of most of its other major contributing employers.

Increasing the priority of the claims of multiemployer pension plans in a bankruptcy proceeding has been proposed for many years, and a review of bankruptcy law is certainly an option. However,

[105] 11 U.S.C. §1113.

changes to bankruptcy law have been perceived as being at the expense of other creditors and other participant benefits (such as health) and have been strongly opposed.

As a practical matter, in any bankruptcy there is a finite pie that can be distributed. In the event that multiemployer pension obligations (and presumably single-employer pension obligations) have higher priority claim status in bankruptcy, there are two very likely market-based consequences. The first is that providers of equity, and creditors that currently enjoy the more senior status in bankruptcy, would provide less capital or extend less credit to employers with multiemployer pension obligations, potentially significantly less. The second is that there would be fewer Chapter 11 reorganizations and more Section 363 sales and Chapter 7 liquidations. In any case, changes in bankruptcy law will not relieve the current situation.

The change in the tax law that would help most was included in the Multiemployer Pension Reform Act of 2014 (MPRA) -- the ability for trustees in plans that are facing insolvency to suspend accrued benefits to restore the plan to solvency. Plans need the ability to reduce already accrued normal retirement benefits if that is the only way the plan can survive (and prevent benefits being reduced to PBGC levels or below).

Changing the funding rules along the lines of single-employer plans will hurt, not help, multiemployer plans whose participants are already heavily weighted toward retirees. The Pension Protection Act of 2006 recognized the distinction between the problems of the two types of plans and the need for different approaches, which remains true today.

7. **Is it reasonable to assume that a loan program can help, and that that the cost of doing nothing could exceed the cost of a loan program?**

NCCMP strongly believes that a properly designed loan program would protect plans, participants, and the U.S. Government, including PBGC, and taxpayers while being fiscally sound.

This is not an open-ended endorsement of a loan program, however. Because of our concerns about the viability and efficacy of the other loan proposal, or the loan and grant proposal currently in Congress, NCCMP retained the preeminent experts in federal credit to design a subsidized loan program using very conservative assumptions regarding investment returns that can achieve the policy objectives of (1) restoring and ensuring plan solvency, (2) protecting the maximum amount of benefits possible for retirees, (3) providing the U.S. Government with certainty on the timely repayment of the loan, (4) having very high confidence that once passed, it will get executed by the Executive Branch, and (5) consistency with the Federal Credit Reform Act of 1990 and related OMB Circulars.

However, the basic structural details of a loan program are incredibly important to ensure that it achieves the policy and programmatic objectives. NCCMP's loan alternative provides for a 1% loan for 30-years, the first 15-years are interest only, and the remaining 15-years are principal and interest. NCCMP specifically provides a number of structural protections, of which the following are particularly important.

- ✓ The plan is only entitled to the investment earnings of the loan account and cannot use the loan proceeds to pay for plan benefits. This is achieved by holding the loan proceeds in a separate loan account which is held in trust for the U.S. Government.

- ✓ The loan program is designed to restore plan solvency and demonstrate full repayment of the federal loan using only the investment earnings of the loan account, and with expected rates of returns that cannot exceed 5.5%.
- ✓ The loan itself (and not the Plan) is required to be rated by two Nationally Recognized Statistical Rating Organizations and achieve at least a BB+ rating from both.
- ✓ Any benefit reductions are paid to the financing account and used to offset the credit subsidy costs calculated under the Federal Credit Reform Act.
- ✓ If investment returns exceed 9% annually, the excess is retained in a reserve sub-account of the loan account and can be used as a buffer in a future period.
- ✓ If investment returns are negative and the corpus of the loan account is below the original amount, the plan forfeits future investment earnings until the corpus of the loan account is restored.
- ✓ In the event of material experience loss that supported the loan approval, the transfer of investment earnings is suspended until the experience loss is covered.
- ✓ In the event of a plan insolvency or mass withdrawal, the loan account is immediately returned to the U.S. Government. Any unpaid amounts on the loan account are covered by plan assets.
- ✓ In the event of an employer withdrawal, the loan account, disbursed investment returns, expected returns, benefit reductions, and certain employer contribution increases are ignored for purposes of calculating withdrawal liability.

The legislative language for NCCMP's loan alternative can be found at http://nccmp.org/wp-content/uploads/2017/11/MPP-leg-draft-03-19-18-discussion-draft.pdf. The background information can be found at http://nccmp.org/wp-content/uploads/2017/11/Loan-Program-Discussion-Draft-Feb-21-2018.pdf.

If the U.S. Government does nothing (which is itself a choice), and allows current law to continue, there are severe consequences for everyone, including the government.

In the event of plan insolvency and PBGC insolvency, participants and beneficiaries will receive benefits far lower than their contractual benefit. When a plan goes insolvent, the PBGC's multiemployer guarantee will result, on average, in a 53% reduction to the retirees' contractual benefits.

Unfortunately, when the PBGC exhausts its multiemployer trust fund (PBGC insolvency), the PBGC's financial assistance is limited to what it takes in from premium income. At PBGC insolvency, retirees will receive between 2% and 6% of their contractual benefit.[106]

[106] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

In the near term, there are two large plans heading toward insolvency, the United Mine Workers of America 1974 Pension Fund (2022) and the Central States Pension Fund (2025). Coincident with the Central States insolvency, the PBGC will also become insolvent (2025).

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One part of analyzing the economic impact on retirees and the national economy if Congress does not act comes from understanding Central States, including the overlap of employers contributing to Central States and other multiemployer pension plans. For example, the Western Conference of Teamsters Pension Trust (Western Conference) is a multiemployer plan that is currently one of the largest and best funded. Based on new information that NCCMP obtained in August 2018, we believe that approximately 55 contributing employers to Western Conference face significant withdrawal liabilities to the Central States plan. In 2017, these 55 overlapping contributing employers provided approximately 12.5% of the contributions to Western Conference.

In addition, the largest contributing employer to Western Conference is United Parcel Service (UPS). In 2017, UPS provided over 43% of the employer contributions to Western Conference. This is important because, while UPS withdrew from Central States in 2007 and paid $6.1 billion in withdrawal liability, it agreed to provide coordinating benefits for UPS participants whose last employer was UPS and who had not retired as of January 1, 2008 in the event that benefits are lawfully reduced by Central States.

When Central States goes insolvent and begins receiving PBGC financial assistance, these coordinating benefits are projected to cost UPS $4 billion[107] assuming that the PBGC guarantee is at its current level. However, it is expected that UPS's liability rises with the insolvency of the PBGC as the PBGC's guarantee is then reduced to the amount that can be supported by its premium income.

Further, UPS's share of Western Conference contributions has increased from 35% in 2010 to the current 43% in 2017, an average annual increase of 8%. This is significantly above the average annual increase for non-UPS contributions. Assuming the same contribution growth rate until the projected insolvency of Central States in January 2025, UPS's contributions alone will exceed 52% of all Western Conference contributions. Many of the employers in Central States and Western Conference contribute to multiple Teamster plans, with UPS being a dominate contributor in a number of Teamster plans.

The bottom line is that Western Conference, a Green Zone plan today, currently has approximately 56% of its current contribution base directly tied to employers with massive liabilities in a Central States insolvency.

When Central States becomes insolvent, it will have dramatic consequences on the financial health of the contributing employers. While it is difficult to know today how this turns out, it is highly likely that a number of employers in Central States will become balance sheet insolvent and need

[107] United Parcel Service 10-K filed with the U.S. Securities and Exchange Commission on February 21, 2018, see "Pension Backstop" page 56, https://www.sec.gov/Archives/edgar/data/1090727/000109072718000009/ups-12312017x10k.htm

to file for reorganization under Chapter 11 or Chapter 7 of the Bankruptcy Code. The PBGC recently argued that future insolvent plans, including Central States, will not terminate through mass withdrawal, and therefore, employers continue to contribute (even though actives will receive very little from their accruals) and will not have to book the withdrawal liability on their balance sheets.

This view is incredibly naïve for several reasons. First, almost every employer in the multiemployer system relies on bank credit, capital market debt or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the employers based on their proportional share at mass withdrawal (even if it is not invoked), the banks that provide capital to the employers in these insolvent plans will certainly consider the withdrawal liability as part of pro forma financial statements used in making lending decisions. Second, the capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of employers to investors in the market.

Banks, and investment banks that provide access to the capital markets, have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines[108] since 2008, and repurchased massive amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability that would be imputed to the employer in a plan insolvency, whether mass withdrawal occurs or not.

The idea that the private market would ignore these liabilities is inconsistent with market behavior during the financial crisis which began as early as August 2007. Suppliers to the employers are highly likely to take the same view as the banks and investment banks.

The idea that the private market would ignore these liabilities, and suppliers to the employers are highly likely to take the same view as the banks and investment banks, is inconsistent with market behavior during the financial crisis which began as early as August 2007. In fact, even the Government Sponsored Enterprises which were "AAA" rated credits saw that market participants will make their own valuation of an issuers' liabilities. In June and July of 2008, the market became very concerned about the value of the mortgages that underpinned Fannie Mae and Freddie Mac mortgage backed securities and their retained portfolios. The market reaction was so swift that Congress enacted the Housing and Economic Recovery Act of 2008 in less than four weeks which authorized Treasury to purchase unlimited amounts of Fannie Mae and Freddie Mac securities. Today, both entities remain in conservatorship, Treasury owns $196.4 billion of Senior Preferred Stock in both and has commitments for another $254 billion if needed, and the Federal Reserve owns more than $1.4 trillion of Fannie and Freddie MBS, all of which says a lot about how the market continues to view the GSE's a decade later.

[108] CBS MarketWatch, Steve Goldstein, "*Here's the staggering amount banks have been fined since the financial crisis*", February 24, 2018. *Accessed at https://www.marketwatch.com/story/banks-have-been-fined-a-staggering-243-billion-since-the-financial-crisis-2018-02-20.*

Separate from the banks and capital markets, the insolvency of Central States and the liabilities that would be imputed to employers will also be a topic for the accounting profession, including the Financial Accounting Standards Board (FASB). Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become increasingly real the closer we are to a systemically important plan insolvency. FASB made changes to multiemployer accounting in 2010, and the insolvency of a systemically important plan may attract interest in this new phenomenon of plans going insolvent without a mass withdrawal.

The insolvency of Central States will damage the ability of employers to make contributions to other funds that are currently healthy in which they currently participate. While it is impossible to say with certainty how severely a currently well-funded plan like Western Conference would be impacted by a financial weakening of its employer base, it is safe to say that the contributing employers will be in a significantly less stable position going forward. The problem will also spread to other Teamster plans as the contributing employer overlap is an issue for other Teamster plans as well.

The contagion can further spread to other parts of the multiemployer system with the insolvency of the largest and most systemically important plan, Central States. This is the type of crisis that is likely to negatively impact capital formation for employers throughout the multiemployer system.

The insolvency of Central States and the PBGC will dramatically reduce the pension benefits payable to the retirees in insolvent plans. It will also affect the current jobs available with contributing employers. The collapse of these plans and the broader contagion within the multiemployer pension system will result in the loss of tax revenue for the Federal Government.

There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are currently being paid wages. Based on NCCMP's report[109] that showed that the system paid $158 billion in federal taxes during 2015 and, adjusting for the impact of the 2017 tax reform, as well as NCCMP's August 14, 2018 updated analysis[110] which provides tax loss ranges based on varying assumptions for employment losses, we believe that the U.S. Government will lose between $31.5 billion and $101.3 billion[111] in tax revenue over the 10-year budget window from the collapse of critical and declining status plans.

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis, we believe that the U.S. Government will lose between

[109] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[110] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018.

[111] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

$67.6 billion and $213.1 billion[112] in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America"[113], when the full pension promises are not kept, there will be additional demands (costs) on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[114]) and only the 653,739 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals $175.5 billion[115] over the 10-year window and $334.8 billion[116] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

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[112] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[113] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah), https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.

[114] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[115] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[116] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

This brings the total federal costs to between $207 billion and $276.8 billion[117] over the 10-year budget window and between $402.4 billion and $548 billion[118] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending are estimated at between $43 billion and $80.4 billion[119] over a 10-year budget window and between $86 billion and $163.4 billion[120] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

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The cost of doing nothing, for the U.S. Government alone, will be multiples of enacting a responsible loan program. NCCMP's loan proposal is expected to score at 38% (using OMB's current single effective rate). The choices that Congress makes about eligibility will drive the size of the needed program. A program that is limited to those plans that cannot use MPRA would need to be about $100 billion of loan authority. A 38% credit subsidy means a $100 billion program would need $38 billion. This reflects a gross number and could be reduced by having any benefit reductions paid into the financing account established for a federal credit program.

To the extent that Congress decided on different eligibility standards, the required size of the program would change, however, the credit subsidy rate would not change under the proposed structure.

[117] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.
[118] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.
[119] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 9.
[120] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.

REPRESENTATIVE DAVID SCHWEIKERT

1. Are there certain characteristics that result in one plan being GREEN and another being RED? What did the GREEN plans do differently-- different financial decisions, yield decisions, NPV?

The specific characteristics affecting most plans that are having funding challenges generally fall into one of two categories:

- "Very mature plans," where the number of non-actives (i.e., retirees and participants who have left the industry but have earned a vested right to a pension when they reach retirement age) exceeds the number of active participants on whose behalf contributions are being made by a significant margin, sometimes 4 to 1, or more. These plans generally are in declining industries, such as the trucking industry, where deregulation severely reduced the number of contributing employers to these plans, and in which many employers went out of business without paying their share of unfunded liability.
- Plans in certain industries and regions that could not sufficiently increase contribution rates to withstand economic downtowns such as investment market losses and recessions.

This does not change the fact that the current financial conditions of these plans are largely the product of the unintended consequences of 44 years of federal laws, regulations, rules, policies, and Treasury's unwillingness to implement the Multiemployer Pension Reform Act of 2014 in a statutorily faithful manner, and the most severe market crash since the Great Depression which led to the Great Recession.

The specific federal laws and policies that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by the anti-cutback rule under the Employee Retirement Income Security Act (ERISA),[121] the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980, the deregulation of the trucking industry through the Motor Carrier Act of 1980, and the excise tax on contributions to fully funded plans as part of the Tax Reform Act of 1986. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries.

Additionally, since 2008 plans have been hurt by the monetary policy of the Federal Reserve has crushed both short-term and long-term Treasury rates, which serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. These lower-than-market rates have caused long-term pension liabilities to be overstated and have also reduced investment earnings on plan assets.

[121] Citation to the ERISA section number and not the United States Code 29 U.S.C. §1001 et. seq., is used herein.

2. **Should I be worried that a number of the green plans, if I actually used a discount rate or net present value that personally I would be more comfortable with, all of a sudden, my math, they start to look a lot closer to the red plans?**

Superficially, yes, requiring the use of a lower discount rate such as a highly-rated corporate bond rate or 30-year Treasuries would mean higher liabilities and lower reported funding levels.

However, the purpose of discounting in finance is to value an asset or liability based on the level of risk involved in that asset or liability. For example, if an investor purchases a 30-year Treasury bond of the United States Government at par, that investor would be expected to value that bond on the purchase date at the rate explicit in that specific security, as it is a risk-free asset backed by the full faith and credit of the U.S. Government. Similarly, if an investor purchased a 30-year junk bond that yields 10% at par, that investor would never discount that junk bond at the 30-year Treasury rate because it neither is risk-free, nor does it have the full faith and credit backing of the U.S. Government. The idea that if we just change the discount rate to the 30-year Treasury or to the average rate of high-quality corporate bonds, we will improve the underlying risk of an asset or liability is simply wrong.

There are significant differences between the single-employer program and the multiemployer program that bear on the discounting and funding approach to the plans. First, in the single-employer program the PBGC is the insurer of first resort, meaning that the PBGC's guarantee is called when the employer pursues a distress termination of a plan or the PBGC's decides to involuntarily terminate the plan in order to protect the plan participants and the agency. In the multiemployer program, the PBGC is the insurer of last resort. This means that the PBGC does not have financial exposure until the plan is insolvent. Insolvency is when the plan assets do not support the full benefit payments in the coming year and is typically associated with the erosion of the contributing employer base (usually from industry decline, bankruptcy, liquidation, or mass withdrawal).

A second critical difference is that the single-employer guarantee (currently $65,045 at age 65, regardless of a participant's years of service) is generally five times higher than the multiemployer guarantee ($12,870 at 30 years of service). This results in the PBGC guaranteeing, on average, 95.5% of a retiree's contractual benefit in the single-employer program. This compares with the PBGC currently guaranteeing, on average, 47% of a multiemployer retiree's contractual benefit, and between 2% and 6% when the PBGC's multiemployer program becomes insolvent.[122] The relative value of the "guarantee" in the multiemployer program is in stark contrast to that of the single-employer program. It is not obvious that the "guarantee" in the multiemployer program today is worth the premiums paid, but it is absolutely clear that today's premiums are not

[122] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

purchasing anything of value based on the 2025 insolvency of the PBGC's multiemployer program.

The basic finance concept of discounting based on the risk of an asset or liability directly impacts how one looks at the PBGC's single-employer program and the multiemployer program. For instance, the PBGC's single-employer program effectively guarantee's 95.5% of the contractual benefits of a retiree in a trusteed plan and we have no reason to doubt the PBGC's ability to continue to do so. This is the rough equivalent of a BBB- bond, so while there is a significant difference between the A, AA, and AAA rated corporate bonds that are used to discount single-employer liabilities, it is at least tangentially tethered to a basis considering the riskiness of the cash flows.

In the multiemployer program, the PBGC's current guarantee for insolvent plans provides for only 47% of a retiree's contractual benefit. This is the rough equivalent of a completely unsecured bond in default ("D" rated), which would never be confused with a risk-free Treasury bond. Additionally, the PBGC has provided the public with every reason to doubt the ability of the PBGC to honor even this meager guarantee as the agency has reported that the multiemployer program will become insolvent around 2025[123], after which it will only be able to pay out what it takes in from premium income. This will be devastating to retirees as it will reduce the PBGC's multiemployer guarantee to between 2% and 6% of the retiree's contractual benefit.

It is also important to recognize that the PBGC is not a full faith and credit obligation of the U.S. Government and, in fact, the statutory terms of ERISA explicitly reject any such liability.[124]Further supporting the fact that the U.S. Government disavows any obligation for the PBGC is the fact that plaintiffs against the PBGC are statutorily denied access to the Judgment Fund.[125]

There is nothing in ERISA or in the PBGC's multiemployer guarantee that suggests that multiemployer pensions are fully guaranteed either by the plan, its contributing employers, the PBGC, or the U.S. Government. In fact, the PBGC's multiemployer "guarantee" demonstrates that it represents enormous risk to the insured. There is simply no credible financial theory that supports discounting multiemployer pension liabilities as if it they were risk-free obligations, or investment grade obligations.

Current Funding Approach Should Continue

Consistent with the long-term nature of pension obligations and the riskiness of the liability of multiemployer pensions, the current discounting and funding practice of using the actuary's best estimate of future expected returns is both a reasonable and sound practice. To put this into

[123] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 11, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[124] Citation to the ERISA section number, here ERISA §4002(g)(2), and not the United States Code is used herein.

[125] 31 U.S.C. §1304. *See* Congressional Research Service, The Judgment Fund: History, Administration, and Common Usage, R42835, March 7, 2013, https://fas.org/sgp/crs/misc/R42835.pdf, See also The Availability of the Judgment Fund for the Payment of Judgments or Settlements in Suits Brought Against the Commodity Credit Corp. Under the Fed. Tort Claims Act, 13 Op. Off. Legal Counsel 362 (1989), https://www.justice.gov/file/24371/download.

perspective, if we created a new pension plan today that was funded with contributions that are expected to earn a return of 7%, that in fact do earn 7%, the obligation would be fully funded. If this same plan was required to discount its liabilities at the 30-year Treasury rate, the plan would report a massive unfunded liability and require significantly higher employer contributions, even though it will be fully funded as long as the actual rates of return are at or above the expected return.

Similarly, if Congress changed the approach to discounting, requiring the use of 30-year Treasuries or the high quality corporate bond scheme used for single-employer plans, the existing plans would report massive new liabilities that would require exorbitant contribution increases from employers, which in turn would make them uncompetitive in the market. Further, it would significantly increase withdrawal liability for employers, requiring them to reorganize under Chapter 11 of the Bankruptcy Code or liquidate under Chapter 7. This would affect every one of the 210,865 employers that participate in the 1,375 multiemployer that exist today. This approach to discounting multiemployer pension liabilities is not only inconsistent with any credibly accepted theory on finance, it would result in the collapse of the multiemployer system, which in 2015 generated $158 billion in federal taxes for the U.S. Government, $82 billion in state and local taxes, $2.2 trillion in economic activity, $1 trillion in GDP, 13.6 million American jobs, $41 billion in pension payments, and $203 billion in wages[126]. Over the 10-year federal budget window, the dollars are roughly 10.5 times the 2015 data.

Comparison to Federal Programs

In addition to the obvious issues raised by the risk inherent in each program, it is instructive to consider the discount rates that the U.S. Government uses for its own account on a similar obligation. The Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds (Social Security) and the actuary at Social Security discounted their January 1, 2017 obligations at 5.3%[127]. This compares with the December 30, 2016 30-year Treasury rate of 3.06%.

Naturally, the obligations of Social Security dwarf the multiemployer system with unfunded obligations of $12.5 trillion[128] (18.6% funded) over the 75-year horizon and $34.2 trillion[129] (7.7% funded) over the infinite horizon. What is particularly instructive in this case is that Social Security is in fact a full faith and credit obligation of the U.S. Government, and even it does not discount its liabilities at the current 30-year Treasury rate. Obviously if the government did that, and if it did not intentionally exclude these and other entitlement program liabilities from its balance sheet

[126] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[127] The 2017 Annual Report of The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, page 111, https://www.ssa.gov/oact/tr/2017/tr2017.pdf

[128] The 2017 Annual Report of The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, page 111, https://www.ssa.gov/oact/tr/2017/tr2017.pdf.

[129] The 2017 Annual Report of The Board of Trustees of the Federal Old-Age and Survivors Insurance and Federal Disability Insurance Trust Funds, page 111, https://www.ssa.gov/oact/tr/2017/tr2017.pdf.

and the related accrued expenses from its income statement as it currently elects to do, the liabilities and accrued expenses of the U.S. Government would be massively higher.

3. Is it fair to think of the trustees as "an investment board"?

Yes. Among other things, the trustees of a multiemployer plan have a fiduciary responsibility to appropriately invest the plan's assets. Furthermore, the exercise of these responsibilities has been overseen by the Department of Labor through its audit and enforcement efforts. To ensure that they fulfill their legal and moral responsibilities to the participants and beneficiaries, trustees have nearly universally retained professional, experienced institutional asset managers and investment consultants, and, in some cases, investment staffs.

4. Do trustees have any personal fiduciary liability? Do they carry insurance?

Yes, and yes. ERISA's regulatory scheme includes comprehensive fiduciary duty rules that apply to a multiemployer plan's labor-management board of trustees and others who are considered "fiduciaries" with respect to the plan they serve. These rules include standards of fiduciary conduct (ERISA Section 404), co-fiduciary duties (ERISA Section 405), and party-in-interest and conflict of interest prohibitions on certain categories of plan transactions (ERISA Sections 406 - 408). These fiduciary rules are enforceable by the Secretary of Labor, by a plan participant, by a plan fiduciary, and others through a civil lawsuit filed in a federal court. ERISA Section 409 provides that a trustee can be held personally liable to the plan for violating the fiduciary duty rules, and prescribes a range of remedies.

ERISA Section 412 prohibits plans from indemnifying fiduciaries, including trustees, but authorizes insuring trustees against ERISA liability under certain conditions. The premiums for fiduciary errors and omissions insurance can be paid from plan assets because insurance proceeds will then be available to restore losses to a plan caused by a fiduciary breach. However, ERISA requires that such insurance reserve to the insurer a right of recourse against a breaching trustee to recover any insurance payment to the plan. Trustees typically obtain no-recourse insurance, but the premiums for such insurance cannot be paid from plan assets and are paid by the trustees personally or by the appointing body.

This carefully balanced system reflects the fact that labor and management trustees are unpaid volunteers. Without the availability of fiduciary insurance, few qualified individuals would be willing to serve as a labor or management trustee and risk their families' personal assets. And, without management trustees, a multiemployer plan could not exist because Section 302(c)(5) of the Taft-Hartley Act requires equal labor and management representation on any board of trustees.

5. For purposes of calculating liability, do actuaries have good information on the characteristics (e.g., mortality by industry) of the plan's population?

Yes. In the U.S., actuaries are bound by professional standards of practice. They must exercise good professional judgment in setting assumptions, and must rely on the plan's actual experience, as well as research and studies produced by other parties as needed. The actuary must also annually determine whether experience has been greater or less than what was expected based on the set of assumptions from the prior year. Assumptions for minimum funding and PPA "status" certifications must always reflect the actuary's best estimate of future experience.

There are several published studies on which actuaries rely in setting demographic assumptions. For example, the Society of Actuaries recently published a set of mortality tables, with variations based on type of occupation (e.g., white collar vs. blue collar) and income level (e.g., high income vs. low income). For purposes of determining the plan's funding obligations under ERISA, the actuary must exercise professional judgment when using the published tables. For example, the actuary may make an adjustment to the rates in a published table to reflect higher or lower expected mortality for the plan's participant population, based on observed industry or plan-specific trends.

It's important to note, however, that actuarial assumptions related to participant demographic characteristics usually have a smaller impact on projected funding levels, when compared to employer contributions and investment returns. Both contribution levels and investment returns also have a higher degree of volatility than demographic factors.

6. Is a loan program really just arbitrage?

This depends on the design of the loan program. In the case of S.2147 ("Butch Lewis Act of 2017") this is actually a grant and loan program. The loan portion is not premised on positive investment arbitrage as the borrower is directed to purchase annuities (which will have a negative spread to the interest cost of the loan) or to invest in cash matching or duration matching fixed income investments (which may have a negative spread or modest positive spread to the interest cost of the loan). For at least the Central States Pension Fund, the loan portion is insufficient to restore the plan to solvency and additional funds are required in the form of a $20-$25 billion grant from the PBGC[130].

While NCCMP supports a responsible loan program that is based on investment arbitrage, its support is not an open-ended endorsement of any loan program. Because of our concerns about the viability and efficacy of the other loan proposal, including the loan and grant proposal currently before Congress, NCCMP retained the preeminent experts in federal credit to design a subsidized loan program that could be successfully implemented using very conservative assumptions regarding investment returns, and that will achieve the policy objectives of (1) restoring and ensuring plan solvency, (2) protecting the maximum amount of benefits possible for retirees, (3) providing the U.S. Government with certainty on the timely repayment of the loan, (4) having very high confidence that once passed, it will get executed by the Executive Branch, and (5) consistency with the Federal Credit Reform Act of 1990 and related OMB Circulars.

However, the basic structural details of a loan program are incredibly important to ensure that it achieves the policy and programmatic objectives. NCCMP's loan alternative provides for a 1% loan for 30-years, the first 15-years are interest only, and the remaining 15-years are principal and

[130] Letter from Mr. Thomas C. Nyhan, Executive Director of the Central States Pension Fund dated November 13, 2017 to U.S. Senator Sherrod Brown and Representative Richard Neal, accessed May 16, 2018 at https://d3n8a8pro7vhmx.cloudfront.net/teamstersforademocraticunion/pages/10476/attachments/original/1510782483/Central_States_-_Letter_to_Sherrod_Brown_and_Richard_Neal_11132017.pdf?1510782483.

interest. NCCMP specifically provides a number of structural protections, of which the following are particularly important.

- ✓ The plan is only entitled to the investment earnings of the loan account and cannot use the loan proceeds to pay for plan benefits. This is achieved by holding the loan proceeds in a separate loan account which is held in trust for the U.S. Government.
- ✓ The loan program is designed to restore plan solvency and demonstrate full repayment of the federal loan using only the investment earnings of the loan account, and with expected rates of returns that cannot exceed 5.5%.
- ✓ The loan itself (and not the Plan) is required to be rated by two Nationally Recognized Statistical Rating Organizations and achieve at least a BB+ rating from both.
- ✓ Any benefit reductions are paid to the financing account and used to offset the credit subsidy costs calculated under the Federal Credit Reform Act.
- ✓ If investment returns exceed 9% annually, the excess is retained in a reserve sub-account of the loan account and can be used as a buffer in a future period.
- ✓ If investment returns are negative and the corpus of the loan account is below the original amount, the plan forfeits future investment earnings until the corpus of the loan account is restored.
- ✓ In the event of material experience loss that supported the loan approval, the transfer of investment earnings is suspended until the experience loss is covered.
- ✓ In the event of a plan insolvency or mass withdrawal, the loan account is immediately returned to the U.S. Government. Any unpaid amounts on the loan account are covered by plan assets.
- ✓ In the event of an employer withdrawal, the loan account, disbursed investment returns, expected returns, benefit reductions, and certain employer contribution increases are ignored for purposes of calculating withdrawal liability.

NCCMP developed specific legislative language for this loan alternative, which can be found at http://nccmp.org/wp-content/uploads/2017/11/MPP-leg-draft-03-19-18-discussion-draft.pdf. The background information can be found at http://nccmp.org/wp-content/uploads/2017/11/Loan-Program-Discussion-Draft-Feb-21-2018.pdf.

However, before Congress considers the option of a loan program, the first question that Congress needs to answer is "What is the U.S. Government's economic interest in this?". To help answer this question, NCCMP commissioned two studies. The first was with The Segal Group that looked at all DOL Form 5500 data from 2015, and the second was with the National Institute on Retirement Security.

NCCMP's report[131] showed that in 2015, the multiemployer system generated $158 billion in federal taxes for the U.S. Government, $82 billion in state and local taxes, $2.2 trillion in economic activity, $1 trillion in GDP, 13.6 million American jobs, $41 billion in pension payments, and $203 billion in wages. Over the 10-year federal budget window, the numbers are roughly 10.5 times the 2015 data. Clearly, the U.S. Government has a lot at stake.

NCCMP has subsequently looked at the plans that were reported to be in critical and declining status to understand the tax revenue loss that the U.S. Government is likely to see if it does not act.

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There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are currently being paid wages. Based on NCCMP's report[132] that showed that the system paid $158 billion in federal taxes during 2015 and, adjusting for the impact of the 2017 tax reform, as well as NCCMP's August 14, 2018 updated analysis[133] which provides tax loss ranges based on varying assumptions for employment losses, we believe that the U.S. Government will lose between $31.5 billion and $101.3 billion[134] in tax revenue over the 10-year budget window from the collapse of critical and declining status plans.

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis, we believe that the U.S. Government will lose between $67.6 billion and $213.1 billion[135] in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America"[136], when the full pension promises are not kept, there will be additional demands (costs)

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[131] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[132] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[133] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018.

[134] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[135] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[136] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah),

on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[137]) and only the 653,739 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals $175.5 billion[138] over the 10-year window and $334.8 billion[139] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This brings the total federal costs to between $207 billion and $276.8 billion[140] over the 10-year budget window and between $402.4 billion and $548 billion[141] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending are estimated at between $43 billion and $80.4 billion[142] over a 10-year budget

https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.

[137] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[138] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[139] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[140] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[141] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[142] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 9.

window and between $86 billion and $163.4 billion[143] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

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This analysis does not consider the economic contagion that will certainly spread throughout the employers and the national economy as a result of the insolvency of the largest and most systemically important plan, Central States.

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One part of analyzing the economic impact on retirees and the national economy if Congress does not act comes from understanding Central States, including the overlap of employers contributing to Central States and other multiemployer pension plans. For example, the Western Conference of Teamsters Pension Trust (Western Conference) is a multiemployer plan that is currently one of the largest and best funded. Based on new information that NCCMP obtained in August 2018, we believe that approximately 55 contributing employers to Western Conference face significant withdrawal liabilities to the Central States plan. In 2017, these 55 overlapping contributing employers provided approximately 12.5% of the contributions to Western Conference.

In addition, the largest contributing employer to Western Conference is United Parcel Service (UPS). In 2017, UPS provided over 43% of the employer contributions to Western Conference. This is important because, while UPS withdrew from Central States in 2007 and paid $6.1 billion in withdrawal liability, it agreed to provide coordinating benefits for UPS participants whose last employer was UPS and who had not retired as of January 1, 2008 in the event that benefits are lawfully reduced by Central States.

When Central States goes insolvent and begins receiving PBGC financial assistance, these coordinating benefits are projected to cost UPS $4 billion[144] assuming that the PBGC guarantee is at its current level. However, it is expected that UPS's liability rises with the insolvency of the PBGC as the PBGC's guarantee is then reduced to the amount that can be supported by its premium income.

Further, UPS's share of Western Conference contributions has increased from 35% in 2010 to the current 43% in 2017, an average annual increase of 8%. This is significantly above the average annual increase for non-UPS contributions. Assuming the same contribution growth rate until the projected insolvency of Central States in January 2025, UPS's contributions alone will exceed 52% of all Western Conference contributions. Many of the employers in Central States and Western Conference contribute to multiple Teamster plans, with UPS being a dominate contributor in a number of Teamster plans.

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[143] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.

[144] United Parcel Service 10-K filed with the U.S. Securities and Exchange Commission on February 21, 2018, see "Pension Backstop" page 56, https://www.sec.gov/Archives/edgar/data/1090727/000109072718000009/ups-12312017x10k.htm

The bottom line is that Western Conference, a Green Zone plan today, currently has approximately 56% of its current contribution base directly tied to employers with massive liabilities in a Central States insolvency.

When Central States becomes insolvent, it will have dramatic consequences on the financial health of the contributing employers. While it is difficult to know today how this turns out, it is highly likely that a number of employers in Central States will become balance sheet insolvent and need to file for reorganization under Chapter 11 or Chapter 7 of the Bankruptcy Code. The PBGC recently argued that future insolvent plans, including Central States, will not terminate through mass withdrawal, and therefore, employers continue to contribute (even though actives will receive very little from their accruals) and will not have to book the withdrawal liability on their balance sheets.

This view is incredibly naïve for several reasons. First, almost every employer in the multiemployer system relies on bank credit, capital market debt or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the employers based on their proportional share at mass withdrawal (even if it is not invoked), the banks that provide capital to the employers in these insolvent plans will certainly consider the withdrawal liability as part of pro forma financial statements used in making lending decisions. Second, the capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of employers to investors in the market.

Banks, and investment banks that provide access to the capital markets, have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines[145] since 2008, and repurchased massive amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability that would be imputed to the employer in a plan insolvency, whether mass withdrawal occurs or not.

The idea that the private market would ignore these liabilities is inconsistent with market behavior during the financial crisis which began as early as August 2007. Suppliers to the employers are highly likely to take the same view as the banks and investment banks.

The idea that the private market would ignore these liabilities, and suppliers to the employers are highly likely to take the same view as the banks and investment banks, is inconsistent with market behavior during the financial crisis which began as early as August 2007. In fact, even the Government Sponsored Enterprises which were "AAA" rated credits saw that market participants will make their own valuation of an issuers' liabilities. In June and July of 2008, the market became very concerned about the value of the mortgages that underpinned Fannie Mae and Freddie Mac mortgage backed securities and their retained portfolios. The market reaction was so swift that Congress enacted the Housing and Economic Recovery Act of 2008 in less than four weeks which

[145] CBS MarketWatch, Steve Goldstein, "*Here's the staggering amount banks have been fined since the financial crisis*", February 24, 2018. *Accessed at https://www.marketwatch.com/story/banks-have-been-fined-a-staggering-243-billion-since-the-financial-crisis-2018-02-20.*

authorized Treasury to purchase unlimited amounts of Fannie Mae and Freddie Mac securities. Today, both entities remain in conservatorship, Treasury owns $196.4 billion of Senior Preferred Stock in both and has commitments for another $254 billion if needed, and the Federal Reserve owns more than $1.4 trillion of Fannie and Freddie MBS, all of which says a lot about how the market continues to view the GSE's a decade later.

Separate from the banks and capital markets, the insolvency of Central States and the liabilities that would be imputed to employers will also be a topic for the accounting profession, including the Financial Accounting Standards Board (FASB). Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become increasingly real the closer we are to a systemically important plan insolvency. FASB made changes to multiemployer accounting in 2010, and the insolvency of a systemically important plan may attract interest in this new phenomenon of plans going insolvent without a mass withdrawal.

The insolvency of Central States will damage the ability of employers to make contributions to other funds that are currently healthy in which they currently participate. While it is impossible to say with certainty how severely a currently well-funded plan like Western Conference would be impacted by a financial weakening of its employer base, it is safe to say that the contributing employers will be in a significantly less stable position going forward. The problem will also spread to other Teamster plans as the contributing employer overlap is an issue for other Teamster plans as well.

The contagion can further spread to other parts of the multiemployer system with the insolvency of the largest and most systemically important plan, Central States. This is the type of crisis that is likely to negatively impact capital formation for employers throughout the multiemployer system.

UPDATED September 13, 2018 END

The cost of doing nothing, for the U.S. Government alone, will be multiples of enacting a responsible loan program. NCCMP's loan proposal is expected to score at 38% (using OMB's current single effective rate). The choices that Congress makes about eligibility will drive the size of the needed program. A program that is limited to those plans that cannot use MPRA would need to be about $100 billion of loan authority. A 38% credit subsidy rate means that a $100 billion program would need a $38 billion appropriation. This reflects a gross number that could be reduced by having any benefit reductions paid into the financing account established for federal credit programs.

To the extent that Congress decided on different eligibility standards, the required size of the program would change, however, the credit subsidy rate would not change under the proposed structure, unless OMB's single effective rate changed.

7. Isn't it true that there are a lot of levers to funding, not just the rate of return?

The two most powerful levers of U.S. private sector pension funding are the rate of investment return and employer contribution levels. It is important to note, however, that for multiemployer plans, contribution rates are negotiated based in collective bargaining, and the total level of contribution income is tied to covered employment levels. Therefore, unlike single-employer plans, multiemployer plans are not able to make sudden, significant changes to contribution income levels to react to near-term investment volatility.

Another potentially significant lever is the design and level of plan benefits. In general, anti-cutback rules protect benefits once they have been accrued by the participant. This is clearly intended to be beneficial to participants. However, for plans that are currently facing insolvency, this rule has severely restricted the ability of Trustees to manage plans in situations where the assets may no longer be able to support the level of benefits that was previously anticipated. Had Trustees in troubled plans been able to make adjustments earlier, well in advance of a projected insolvency, the required reductions to maintain solvency would have been significantly less than those participants are currently facing. Congress passed the Multiemployer Pension Reform Act (MPRA) in late 2014 to provide an exception to the anti-cutback rules in special situations where a suspension of benefits would enable a troubled plan to return to projected solvency. However, MPRA has not provided the relief intended by Congress and the multiemployer community, as most applications to suspend benefits to date have been denied by the U.S. Department of Treasury.

SENATOR TINA SMITH

1. **The reason we have this problem is complicated, right? We've got industry decline, economic stress, and demographic changes, right? And then we have the impact of the 2007-2008 market crash, and then this tax incentive issue. Can you just explain that to me?**

Yes, how we got here is complicated, but the solvency problems currently facing a small number of multiemployer plans are not the result of mismanagement. Multiemployer plans are generally managed by a board of trustees with an equal number of trustees representing the union employees and employers – creating a "checks and balances" system that has worked well. The trustees also rely on credible and credentialed professionals such as investment consultants, professional asset managers, actuaries, attorneys, and accountants as advisors who provide additional checks on the actions of the board of trustees. Furthermore, the Department of Labor has overseen the management of multiemployer plans through its audit and enforcement programs and initiatives.

The current financial conditions in these plans is largely the product of the unintended consequences of 44 years of federal laws, regulations, rules, policies, and Treasury's unwillingness to implement the Multiemployer Pension Reform Act of 2014 (MPRA) in a statutorily faithful manner, and the most severe market crash since the Great Depression which led to the Great Recession.

The specific federal laws and policies that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by the anti-cutback rule under the Employee Retirement Income Security Act of 1974 (ERISA), the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), the deregulation of the trucking industry through the Motor Carrier Act of 1980, and the excise tax on contributions to fully funded plans as part of the Tax Reform Act of 1986. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries.

While these changes were made with the intention of protecting both participants and plans, they have had significant unintended consequences over time. The establishment of withdrawal liability under MPPAA expanded the contributing employers' funding obligations beyond the level that was mutually agreed by management and labor. This has had disastrous consequences for employers and plans. It is a proximate cause of employers leaving the multiemployer system, it has limited the opportunities for owners to sell, merge or pass-down their businesses, and it has made it significantly more difficult to bring new employers into the multiemployer system. Withdrawal liability has exacerbated the poor demographic trends affecting public and private pensions, as well as Social Security.

Likewise, the intent of the ERISA's anti-cutback rule was to protect benefits that participants have accrued, given highly publicized pension failures pre-ERISA. This is clearly intended to be beneficial to participants. However, for plans that are currently facing insolvency, this rule has severely restricted the ability of Trustees to manage plans in situations where the assets may no longer be able to support the level of benefits that was previously anticipated. Had Trustees in troubled plans been able to make adjustments earlier, well in advance of a projected insolvency, the required reductions to maintain solvency would have been significantly less than those participants are currently facing. Ultimately, the anti-cutback rule does not actually protect participants in failing plans from benefit reductions, it just means that those multiemployer participants will face even more severe benefit cuts when their plan becomes insolvent and subject to the PBGC guarantee, and further benefit cuts when the PBGC itself goes insolvent.

The Internal Revenue Code (IRC) requires funding of multiemployer plans. However, the Tax Reform Act of 1986 (TRA ’86) imposed an excise tax on contributions of fully funded plans and limited the deduction an employer may take for contributions.

Multiemployer plan contributions are determined through the collective bargaining process, and employers that do not make those required contributions are in violation of federal labor law. After TRA ’86, if a plan became overfunded because of strong investment gains, employers would not have been able to deduct all required negotiated contributions and would have been subject to an excise tax on the excess. Legislation effective in 2002 (as fortunes turned and plans had investment losses) finally increased the tax deduction limits. However, to address this problem in the 1990s, trustees increased participant benefits (i.e., increased plan liabilities), so that employers would not be subject to the severe excise tax on contributions to a fully funded plan. However, ERISA and the IRC have prohibited plans from reducing already accrued benefits (with minor exceptions granted to Red Zone plans in PPA 2006, and for critical and declining status plans through MPRA in 2014) regardless of the financial health of the plan. So without having been allowed to develop a surplus, the benefit increases that occurred during good times, cannot be undone in bad times.

Treasury’s implementation of MPRA has been completely outside of what Congress and the multiemployer community intended. Treasury’s interpretation of MPRA requirements has been an enormous impediment to restoring plan solvency, protecting the retirees of critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent. Further, MPRA provided the U.S. Government with the best dial to ensure that plans do not come to the PBGC in the first place because every approved MPRA application removes that plan from the list of plans that comprise the PBGC’s deficit, thereby improving the finances of the PBGC’s multiemployer program.

The rejection of Central States’ MPRA application will have serious negative consequences for participants, employers, unions, the multiemployer system, and all levels of government. For critical and declining status plans, every year that goes by without a real solution results in negative cash flow, which reduces the plan’s assets, and moves closer the time to plan insolvency. This rejection also impacted the finances of the PBGC and its multiemployer program. Had Central States been approved, approximately $20 billion of the PBGC’s deficit would have been removed.

It is also important to consider that since the market crash of 2008-2009 and the subsequent Great Recession, the monetary policy of the Federal Reserve has crushed short-term and long-term Treasury rates, which also serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. This has caused long-term pension liabilities to be overstated by these lower-than-market interest rates and have also reduced investment earnings on plan assets.

2. Was there any mismanagement or bad acting?

While there may be isolated instances where there was mismanagement or bad acting, by and large, the issues facing of the vast majority of these plans are described above in the answer to question 1.

3. Are issues around actuarial assumptions also part of the problem?

Actuaries are required to exercise care and professional judgment in selecting actuarial assumptions. Actuarial calculations are inherently estimates, and actual experience may differ from actuarial assumptions – perhaps significantly – over short periods of time. For multiemployer pension plans, actuaries perform valuations each year to reflect emerging experience and to update actuarial assumptions as appropriate based on the plan's experience.

Over the long-term, this actuarial model is designed to provide stable costs and fully fund pension obligations. There will naturally be peaks and valleys (i.e. gains and losses) along the way. However, this funding model only works when plan sponsors are allowed to build up funding cushions to buffer against future adverse experience. Unfortunately, funding and tax rules prevented multiemployer plans from building up cushions following the investment gains of the 1990s that would have helped them ride out the financial challenges of the first decade of the 2000s.

4. What are the "pros & cons" of Ted Goldman's options: (1) benefit cuts, (2) more contributions and (3) sharing of risk (e.g., through loans)?

A. <u>Benefit Reductions</u>

i. Pros – Severe benefit reductions are coming to participants in plans facing insolvency under current law. Under current law, once a plan becomes insolvent, benefits are reduced to the PBGC guaranteed level (maximum of $12,870 per year for 30 years of service, less for fewer years), and will be reduced further to pennies on the dollar once the PBGC itself becomes insolvent (estimated at $643 to $1,609 per year for 30 years of service, less for fewer years). In the case of a federal credit program, the ability to implement benefit reductions would reduce the "credit subsidy cost" inherent in any federal credit program, lowering or eliminating the cost to the federal government and to the taxpayer.

ii. Cons – The cons of benefit reductions are obvious. Participants have planned for these retirement benefits, and count on them to live a dignified retirement. Reductions in the benefits that participants receive can dramatically impact their quality of life, as well as their reliance on the social safety net and thereby increasing the cost to federal, state, and local governments if the reductions are severe.

In addition, many participants have already taken benefit reductions, sometimes severe benefit reductions, as plans have taken actions to address their funding challenges in the years leading up to their current projected insolvency. Those reductions have been borne disproportionately by active participants, because benefits for retirees have been completely protected by ERISA's anti-cutback rule prohibiting reductions in accrued benefits.

B. Increased Contributions

i. Pros – Increasing contributions could provide additional funding to plans headed toward insolvency. It is unlikely, however that contributions could be increased enough to restore plans to solvency, without bankrupting the contributing employers.

ii. Cons – In most plans, contributing employers have already increased contributions dramatically both in response to the recession during 2000-2002, in response the market crash in 2008, and as part of Funding Improvement and Rehabilitation Plans developed to address funding challenges in the years leading up to the plan's current projected insolvency. Increasing contributions further has the potential to severely impact the financial condition of the contributing employers and may competitively disadvantage the employers in terms of labor costs.

C. Sharing of Risk Through Loans

i. Pros – A well designed, fiscally responsible, transparent, and accountable loan program would permit multiemployer plans that are able to demonstrate a credible path to solvency to receive a low interest loan that would allow them to invest in order to earn higher rates of return and use the proceeds to return to solvency, while protecting the interests of both the federal government and the U.S. taxpayers.

ii. Cons – Even if passed, a loan program that is not carefully considered, that does not conform to long-standing laws and policies for federal credit, that is built on unrealistic assumptions, and that does not provide for adequate protections for the federal government and the U.S. taxpayer is not likely to be implemented. This would be a disaster for the plans facing insolvency, the multiemployer system as a whole, and all levels of government. Further, a poorly conceived loan program is likely to result in substantial credit losses. The government would ultimately turn to the multiemployer system to recoup these losses, an outcome that is not financially tenable by the non-borrowers.

REPRESENTATIVE DEBBIE DINGELL

1. Do Unions negotiate smaller current wages to get the later pension benefit? Is that deferred compensation?

Generally, unions negotiate a wage and benefits (pension and health benefits) "package" so any additional money that is allocated to pension benefits means lower wages and/or reductions in health benefits. Pensions are a form of deferred compensation.

2. Can we be clear that we are not dealing with mismanagement as the problem?

Yes. The vast majority of multiemployer plans today are stable and well run. The solvency problems currently facing a small number of multiemployer plans are not the result of mismanagement. Multiemployer plans are generally managed by a board of trustees with an equal number of trustees representing the union employees and employers – creating a "checks and balances" system that has worked well. The trustees also rely on credible and credentialed professionals such as investment consultants, professional asset managers, actuaries, attorneys, and accountants as advisors who provide additional checks on the actions of the board of trustees. Furthermore, the Department of Labor has overseen the management of multiemployer plans through its audit and enforcement programs and initiatives.

The current financial conditions in these plans is largely the product of the unintended consequences of 44 years of federal laws, regulations, rules, policies, and Treasury's unwillingness to implement the Multiemployer Pension Reform Act of 2014 (MPRA) in a statutorily faithful manner, and the most severe market crash since the Great Depression which led to the Great Recession.

The specific federal laws and policies that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by the anti-cutback rule under the Employee Retirement Income Security Act of 1974 (ERISA), the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), the deregulation of the trucking industry through the Motor Carrier Act of 1980, and the excise tax on contributions to fully funded plans as part of the Tax Reform Act of 1986. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries.

While these changes were made with the intention of protecting both participants and plans, they have had significant unintended consequences over time. The establishment of withdrawal liability under MPPAA expanded the contributing employers' funding obligations beyond the level that was mutually agreed by management and labor. This has had disastrous consequences for employers and plans. It is a proximate cause of employers leaving the multiemployer system, it has limited the opportunities for owners to sell, merge or pass-down their businesses, and it has made it significantly more difficult to bring new employers into the multiemployer system. Withdrawal liability has exacerbated the poor demographic trends affecting public and private pensions, as well as Social Security.

Likewise, the intent of the ERISA's anti-cutback rule was to protect benefits that participants have accrued, given highly publicized pension failures pre-ERISA. This is clearly intended to be beneficial to participants. However, for plans that are currently facing insolvency, this rule has severely restricted the ability of Trustees to manage plans in situations where the assets may no longer be able to support the level of benefits that was previously anticipated. Had Trustees in troubled plans been able to make adjustments earlier, well in advance of a projected insolvency, the required reductions to maintain solvency would have been significantly less than those participants are currently facing. Ultimately, the anti-cutback rule does not actually protect participants in failing plans from benefit reductions, it just means that those multiemployer participants will face even more severe benefit cuts when their plan becomes insolvent and subject to the PBGC guarantee, and further benefit cuts when the PBGC itself goes insolvent.

The Internal Revenue Code (IRC) requires funding of multiemployer plans. However, the Tax Reform Act of 1986 (TRA '86) imposed an excise tax on contributions of fully funded plans and limiting the deduction an employer may take for contributions.

Multiemployer plan contributions are determined through the collective bargaining process, and employers that do not make those required contributions are in violation of federal labor law. After TRA '86, if a plan became overfunded because of strong investment gains, employers would not have been able to deduct all required negotiated contributions and would have been subject to an excise tax on the excess. Legislation effective in 2002 (as fortunes turned and plans had investment losses) finally increased the tax deduction limits. However, to address this problem in the 1990s, trustees increased participant benefits (i.e., increased plan liabilities), so that employers would not be subject to the severe excise tax on contributions to a fully funded plan. However, ERISA and the IRC have prohibited plans from reducing already accrued benefits (with minor exceptions granted to Red Zone plans in PPA 2006, and for critical and declining status plans through MPRA in 2014) regardless of the financial health of the plan. So without having been allowed to develop a surplus, the benefit increases that occurred during good times, cannot be undone in bad times

Treasury's implementation of MPRA has been completely outside of what Congress and the multiemployer community intended. Treasury's interpretation of MPRA requirements has been an enormous impediment to restoring plan solvency, protecting the retirees of critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent. Further, MPRA provided the U.S. Government with the best dial to ensure that plans do not come to the PBGC in the first place because every approved MPRA application removes that plan from the list of plans that comprise the PBGC's deficit, thereby improving the finances of the PBGC's multiemployer program.

The rejection of Central States' MPRA application will have serious negative consequences for participants, employers, unions, the multiemployer system, and all levels of government. For critical and declining status plans, every year that goes by without a real solution to their particular circumstance results in negative cash flow, which reduces the plan's assets, and moves closer the time to plan insolvency. This rejection also impacted the finances of the PBGC and its multiemployer program. Had Central States been approved, approximately $20 billion of the PBGC's deficit would have been removed.

It is also important to consider the monetary policy of the Federal Reserve has crushed short-term and long-term Treasury rates, which also serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. This has caused long-term pension liabilities to be overstated by these lower-than-market interest rates and have also reduced investment earnings on plan assets.

3. How much does underfunding contribute to the problem and what was the cause of underfunding?

The cost of a pension plan is generally comprised of the cost of benefits being earned plus administrative expenses plus a payment toward paying down any unfunded liabilities that might exist over a statutory period. Contributions are established to enable plans to meet this cost. The problem arises when additional unfunded liabilities emerge from severe, unforeseen adverse experience, such as large market losses, where the payment required for these additional unfunded liabilities would create contribution levels that would jeopardize both the ability of the contribution employers to compete in the market, as well their own financial stability. The problem is further exacerbated when the number of hours that participants work declines as a direct result of the 2008 recession, or when employers exit the plan. This substantially impedes the ability of the union and the employers to respond to these shocks.

4. Do participants face reduced benefits from the PBGC at insolvency?

Yes. Participants in insolvent plans will face reduced benefits when the PBGC steps in to provide financial assistance under the multiemployer guarantee program. The average reduction will be 53% from their contractual benefit, until the PBGC itself is insolvent. At PBGC insolvency, the average reduction will be between 94% and 98%% of contractual benefits payable.[146]

5. Could you elaborate on your (Ted Goldman) statement that some plans are "too far down the road" to use MPRA?

There are statutory requirements within MPRA that may make it impossible for a plan to be eligible to use MPRA. For example, there is a requirement that benefits cannot be reduced below 110% of the PBGC's guarantee. This provision makes it impossible for some plans to reapply. MPRA also requires that the benefit suspensions provide a certainty in the plan's solvency. This provision has been interpreted by Treasury to mean that a plan must show that, with benefit reductions, the plan remains solvent for an extended period of at least 30 years, and in some cases longer. Depending on the time frame to insolvency as well as the unique characteristics of a plan, this requirement may not be met.

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[146] In terms of the guaranteed amount payable under PBGC's multiemployer program, at the Joint Select Committee hearing on May 17, 2018, PBGC's Director Reeder stated that, upon PBGC insolvency, retirees are expected to receive no more than one-eighth of their PBGC guaranteed amount. This means that rather than receiving the current PBGC guaranteed benefit of $12,870 a year (based on 30-years of service) a retiree would instead receive no more than $1,609 a year or less for fewer years of service. NCCMP's numbers reflect the amount that a retiree will receive relative to the retiree's contractual benefits.

SENATOR JOE MANCHIN

1. How do we fix the bankruptcy laws so that multiemployer plans do not find themselves in this situation again?

Changes to bankruptcy law alone are unlikely to help those plans that are already in critical and declining status – the ones that will exhaust the PBGC's multiemployer fund and result in participant benefits being reduced to virtually nothing. Some plans have been severely hurt as a result of the bankruptcies (both Chapter 7 and Chapter 11) of major contributing employers. The United Mine Workers of America 1974 Pension Fund (United Mine Workers Pension Fund) is a case in point. Currently, the vast majority of its contributions come from the member of a single corporate group. For bankruptcy reform to have been effective, it would have had to have been enacted years ago, before the bankruptcies of most of its other major contributing employers.

Increasing the priority of the claims of multiemployer pension plans in a bankruptcy proceeding has been proposed for many years, and a review of bankruptcy law is certainly an option. However, changes to bankruptcy law have been perceived as being at the expense of other creditors and other participant benefits (such as health) and have been strongly opposed.

As a practical matter, in any bankruptcy there is a finite pie that can be distributed. In the event that multiemployer pension obligations (and presumably single-employer pension obligations) have higher priority claim status in bankruptcy, there are two very likely market-based consequences. The first is that providers of equity, and creditors that currently enjoy the more senior status in bankruptcy, would provide less capital or extend less credit to employers with multiemployer pension obligations, potentially significantly less. The second is that there would be fewer Chapter 11 reorganizations and more Section 363 sales and Chapter 7 liquidations. In any case, changes in bankruptcy law will not relieve the current situation.

2. Where is the fault? Was it the number of bankruptcies and the bankruptcy law? Was it the 2002 downturn and the 2008 market crash?

In the case of the United Mine Workers Pension Fund, the answer is at least partially yes. In the late 1990s, prior to the 2000 to 2002 market decline, the pension plan was fully funded. Even afterwards, by 2006, the plan was 96% funded and well on its way to 100% funded. The 2008 collapse of the financial markets, however, came at a time when it was paying out benefits of approximately $600 million per year. As the result of environmental regulation and other factors, however, the coal industry has substantially declined. As a result, based upon the most current information, there are approximately 33 retirees and terminated vested participants entitled to future benefits for each working participant. As the result of this 33-1 ratio and of the impact of environmental policies on the financial viability of the industry, it is impossible to address the plan's underfunding through increased contributions.

The current financial conditions in most other plans are largely the product of the unintended consequences of 44 years of federal laws, regulations, rules, policies, and Treasury's unwillingness to implement the Multiemployer Pension Reform Act of 2014 (MPRA) in a statutorily faithful manner, and the most severe market crash since the Great Depression which led to the Great Recession.

The specific federal laws and policies that impacted multiemployer plans include the limitation on the ability of Trustees of severely troubled plans to proactively manage benefits over time to remain consistent with the available assets and preserve plan solvency presented by the anti-cutback rule under the Employee Retirement Income Security Act of 1974 (ERISA), the withdrawal liability established as part of the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA), the deregulation of the trucking industry through the Motor Carrier Act of 1980, and the excise tax on contributions to fully funded plans as part of the Tax Reform Act of 1986. Technological advances, global offshoring and trade policy are also crucial factors that led to the decimation of formerly vibrant domestic industries.

While these changes were made with the intention of protecting both participants and plans, they have had significant unintended consequences over time. The establishment of withdrawal liability under MPPAA expanded the contributing employers' funding obligations beyond the level that was mutually agreed by management and labor. This has had disastrous consequences for employers and plans. It is a proximate cause of employers leaving the multiemployer system, it has limited the opportunities for owners to sell, merge or pass-down their businesses, and it has made it significantly more difficult to bring new employers into the multiemployer system. Withdrawal liability has exacerbated the poor demographic trends affecting public and private pensions, as well as Social Security.

Likewise, the intent of the ERISA's anti-cutback rule was to protect benefits that participants have accrued, given highly publicized pension failures pre-ERISA. While this is beneficial to participants it has severely restricted the ability of trustees to manage plans in situations where the assets may no longer be able to support the level of benefit that was previously anticipated.

Ultimately, the anti-cutback rule does not actually protect retirees from benefit reductions in a failing plan, it just means that multiemployer participants will face even more severe benefit cuts when their plan becomes insolvent and subject to the PBGC guarantee, and further benefit cuts when the PBGC itself goes insolvent.

The Internal Revenue Code (IRC) requires funding of multiemployer plans. However, the Tax Reform Act of 1986 (TRA '86) imposed an excise tax on contributions of fully funded plans and limiting the deduction an employer may take for contributions.

Multiemployer plan contributions are determined through the collective bargaining process, and employers that do not make those required contributions are in violation of federal labor law. After TRA '86, if a plan became overfunded because of strong investment gains, employers would not have been able to deduct all required negotiated contributions and would have been subject to an excise tax on the excess. Legislation effective in 2002 (as fortunes turned and plans had investment losses) finally increased the tax deduction limits. However, to address this problem in the 1990s, trustees increased participant benefits (i.e., increased plan liabilities), so that employers would not be subject to the severe excise tax on contributions to a fully funded plan. However, ERISA and the IRC have prohibited plans from reducing already accrued benefits (with minor exceptions granted to Red Zone plans in PPA 2006, and for critical and declining status plans through MPRA in 2014) regardless of the financial health of the plan. So without having been allowed to develop a surplus, the benefit increases that occurred during good times, cannot be undone in bad times

Treasury's implementation of MPRA has been completely outside of what Congress and the multiemployer community intended. Treasury's interpretation of MPRA requirements has been an enormous impediment to restoring plan solvency, protecting the retirees of critical and declining status plans from the far larger benefit reductions they will see when their plans go insolvent and subject to the PBGC guarantee, and the even larger benefit reductions they will see when the PBGC itself becomes insolvent. Further, MPRA provided the U.S. Government with the best dial to ensure that plans do not come to the PBGC in the first place because every approved MPRA application removes that plan from the list of plans that comprise the PBGC's deficit, thereby improving the finances of the PBGC's multiemployer program.

The rejection of Central States' MPRA application will have serious negative consequences for participants, employers, unions, the multiemployer system, and all levels of government. For critical and declining status plans, every year that goes by without a real solution to their particular circumstance results in negative cash flow, which reduces the plan's assets, and moves closer the time to plan insolvency. This rejection also impacted the finances of the PBGC and its multiemployer program. Had Central States been approved, approximately $20 billion of the PBGC's deficit would have been removed.

It is also important to consider that since the market crash of 2008-2009 and the subsequent Great Recession, the monetary policy of the Federal Reserve has crushed short-term and long-term Treasury rates, which also serve as the basis for the pricing of other fixed income investments that are common in pension portfolios. This has caused long-term pension liabilities to be overstated by these lower-than-market interest rates and have also reduced investment earnings on plan assets.

3. When will PBGC go insolvent? Is it on a doomsday path no matter what?

PBGC reported in its FY2017 Annual Report that it is more likely than not that the agency will run out of money by the end of 2025.[147] We have every reason to believe in the PBGC's current projection based on Treasury's unwillingness to implement MPRA faithfully with the intent of the law, and in particular, the rejection of the MPRA application from the largest and most systemically important plan, Central States.

Unless Congress takes swift action to ensure that the solvency restoration tool of MPRA and the additional solvency restoration tool of a thoughtful federal loan program are passed and implemented, the PBGC will go insolvent.

4. Do you have a recommendation as to what we can do for the Miners' pension?

As a result of the unique relationship that the United Mine Workers Pension and Benefit Plans Fund have historically had with the U.S. Government, there are two options for this plan. The first is to utilize the unused portion of the existing permanent appropriation for coal miners' benefits under the Surface Mining Control and Reclamation Act of 1977 to address the pension plan's

[147] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 11, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

funding problems. The second is through a loan program. Senator Manchin, you have introduced legislation that uses both approaches to address the pension fund's funding problems. The loan program proposed by NCCMP also directly addresses the United Mine Workers Pension Fund using both approaches.

5. **We've looked at this loan program. What are your thoughts on the loan? You know the bill that we have in front of us. You've seen it right? Do you support that or not, or would you modify it, or do you have any contribution to that bill that would make it better?**

This depends on the design of the loan program. In the case of S.2147 ("Butch Lewis Act of 2017") this is actually a grant and loan program. The loan portion is not premised on positive investment arbitrage as the borrower is directed to purchase annuities (which will have a negative spread to the interest cost of the loan) or to invest in cash matching or duration matching fixed income investments (which may have a negative spread or modest positive spread to the interest cost of the loan). For at least the Central States Pension Fund, the loan portion is insufficient to restore the plan to solvency and additional funds are required in the form of a $20-$25 billion grant from the PBGC[148].

While NCCMP supports a responsible loan program that is based on investment arbitrage, its support is not an open-ended endorsement of any loan program. Because of our concerns about the viability and efficacy of the other loan proposal, or the loan and grant proposal currently in Congress, NCCMP retained the preeminent experts in federal credit to design a subsidized loan program that would be successful using very conservative assumptions regarding investment returns, and that will achieve the policy objectives of (1) restoring and ensuring plan solvency, (2) protecting the maximum amount of benefits possible for retirees, (3) providing the U.S. Government with certainty on the timely repayment of the loan, (4) having very high confidence that once passed, it will get executed by the Executive Branch, and (5) consistency with the Federal Credit Reform Act of 1990 and related OMB Circulars.

However, the basic structural details of a loan program are incredibly important to ensure that it achieves the policy and programmatic objectives. NCCMP's loan alternative provides for a 1% loan for 30-years, the first 15-years are interest only, and the remaining 15-years are principal and interest. NCCMP specifically provides a number of structural protections, of which the following are particularly important.

- ✓ The plan is only entitled to the investment earnings of the loan account and cannot use the loan proceeds to pay for plan benefits. This is achieved by holding the loan proceeds in a separate loan account which is held in trust for the U.S. Government.
- ✓ The loan program is designed to restore plan solvency and demonstrate full repayment of the federal loan using only the investment earnings of the loan account, and with expected rates of returns that cannot exceed 5.5%.

[148] Letter from Mr. Thomas C. Nyhan, Executive Director of the Central States Pension Fund dated November 13, 2017 to U.S. Senator Sherrod Brown and Representative Richard Neal, accessed May 16, 2018 at https://d3n8a8pro7vhmx.cloudfront.net/teamstersforademocraticunion/pages/10476/attachments/original/1510782483/Central_States_-_Letter_to_Sherrod_Brown_and_Richard_Neal_11132017.pdf?1510782483.

- ✓ The loan itself (and not the Plan) is required to be rated by two Nationally Recognized Statistical Rating Organizations and achieve at least a BB+ rating from both.
- ✓ Any benefit reductions are paid to the financing account and used to offset the credit subsidy costs calculated under the Federal Credit Reform Act.
- ✓ If investment returns exceed 9% annually, the excess is retained in a reserve sub-account of the loan account and can be used as a buffer in a future period.
- ✓ If investment returns are negative and the corpus of the loan account is below the original amount, the plan forfeits future investment earnings until the corpus of the loan account is restored.
- ✓ In the event of material experience loss that supported the loan approval, the transfer of investment earnings is suspended until the experience loss is covered.
- ✓ In the event of a plan insolvency or mass withdrawal, the loan account is immediately returned to the U.S. Government. Any unpaid amounts on the loan account are covered by plan assets.

NCCMP developed specific legislative language for this loan alternative, which can be found at http://nccmp.org/wp-content/uploads/2017/11/MPP-leg-draft-03-19-18-discussion-draft.pdf. The background information can be found at http://nccmp.org/wp-content/uploads/2017/11/Loan-Program-Discussion-Draft-Feb-21-2018.pdf.

However, before Congress considers the option of a loan program, the first question that Congress needs to answer is "What is the U.S. Government's economic interest in this?". To help answer this question, NCCMP commissioned two studies. The first was with The Segal Group that looked at all DOL Form 5500 data from 2015, and the second was with the National Institute on Retirement Security.

NCCMP's report[149] showed that in 2015, the multiemployer system generated $158 billion in federal taxes for the U.S. Government, $82 billion in state and local taxes, $2.2 trillion in economic activity, $1 trillion in GDP, 13.6 million American jobs, $41 billion in pension payments, and $203 billion in wages. Over the 10-year federal budget window, the numbers are roughly 10.5 times the 2015 data. Clearly, the U.S. Government has a lot at stake.

NCCMP has subsequently looked at the plans that were reported to be in critical and declining status to understand the tax revenue loss that the U.S. Government is likely to see if it does not act.

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There are 1,267,767 participants in plans that are in critical and declining status. Of these participants, 653,739 are retirees currently in pay status, and 203,501 are active workers that are

[149] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

currently being paid wages. Based on NCCMP's report[150] that showed that the system paid $158 billion in federal taxes during 2015 and, adjusting for the impact of the 2017 tax reform, as well as NCCMP's August 14, 2018 updated analysis[151] which provides tax loss ranges based on varying assumptions for employment losses, we believe that the U.S. Government will lose between $31.5 billion and $101.3 billion[152] in tax revenue over the 10-year budget window from the collapse of critical and declining status plans.

Since one proposed solution to this crisis includes a federal credit program that offers 30-year loans, it is illustrative to also consider the lost tax revenue on the same basis on which a federal loan would be evaluated. On this basis, we believe that the U.S. Government will lose between $67.6 billion and $213.1 billion[153] in tax revenue on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

However, the loss of tax revenue is only one cost that the government will see from the insolvency of these plans and the PBGC. Retirees will be forced into the social safety net that the U.S. Government and the States provide. As discussed in a United States Senate Committee on Finance report issued in January 2012 by then Ranking Member Senator Orrin Hatch titled, "State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America"[154], when the full pension promises are not kept, there will be additional demands (costs) on "the resources of Federal programs such as Medicaid, The Emergency Food Assistance Program ("TEFAP"), the Supplemental Nutritional Assistance program ("SNAP" or Food Stamps), and the HUD Public Housing Assistance Program, just to name a few. The projected growth of these entitlement programs contributes significantly to the federal government's fiscal problems." The report concludes that "[i]t is simply unrealistic to presume, that no state or local pension plan will fail or ***that such failure will have no effect on federal spending or revenue***." This is equally true for multiemployer pensions where the failure will result in 94% to 98% benefit reductions to retirees.

Based on 2017 data, the U.S. Government spent on average, $24,484 per participant through Medicaid, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low Income Home Energy Assistance Program (LIHEAP), (collectively the federal social safety net). At PBGC insolvency, we estimate that at a

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[150] See Appendix II, National Coordinating Committee for Multiemployer Plans, January 5, 2018, Multiemployer Pension Facts and the National Economic Impact, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf.

[151] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018.

[152] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[153] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[154] United States Senate Committee on Finance, State and Local Government Defined Benefit Pension Plans: The Pension Debt Crisis that Threatens America, A Report by Ranking Member Orrin Hatch (R-Utah), https://www.hatch.senate.gov/public/_cache/files/ecfaf678-a3ec-45a4-a2bf-3bca4fe9475d/Hatch%20Report%20-%20The%20Pension%20Debt%20Crisis%20that%20Threatens%20America.pdf, Page 4.

minimum, new spending on the federal social safety net will exceed $17.5 billion annually. This is based on the current retirees receiving PBGC financial assistance (63,000[155]) and only the 653,739 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals $175.5 billion[156] over the 10-year window and $334.8 billion[157] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This brings the total federal costs to between $207 billion and $276.8 billion[158] over the 10-year budget window and between $402.4 billion and $548 billion[159] on a net present value basis over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending are estimated at between $43 billion and $80.4 billion[160] over a 10-year budget window and between $86 billion and $163.4 billion[161] over the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

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Please note that the analysis above could result in significantly higher federal numbers depending on how the contagion plays out with employers.

It is also important to understand that these numbers do not include the lost tax revenue to state and local governments, or the increased social safety net spending that they will see alongside the federal government. For the states, the combination of the tax revenue loss and increased state Medicaid spending totals[162] $126.6 billion over a 10-year budget window and $248.3 billion over

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[155] Pension Benefit Guaranty Corporation, 2017 Annual Report, page 41, https://www.pbgc.gov/sites/default/files/pbgc-annual-report-2017.pdf.

[156] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[157] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[158] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 7.

[159] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 8.

[160] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 9.

[161] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Congress Doing Nothing, ~~May 16, 2018~~, UPDATED August 14, 2018, slide 10.

[162] See Appendix I, National Coordinating Committee for Multiemployer Plans, The Multiemployer Pension Crisis and the Cost of Doing Nothing, May 16, 2018, slide 8.

the 30-year period of the proposed loan alternative, using the same discounting methodology that OMB uses for federal credit programs.

This analysis does not consider the economic contagion that will certainly spread throughout the employers and the national economy as a result of the insolvency of the largest and most systemically important plan, Central States.

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One part of analyzing the economic impact on retirees and the national economy if Congress does not act comes from understanding Central States, including the overlap of employers contributing to Central States and other multiemployer pension plans. For example, the Western Conference of Teamsters Pension Trust (Western Conference) is a multiemployer plan that is currently one of the largest and best funded. Based on new information that NCCMP obtained in August 2018, we believe that approximately 55 contributing employers to Western Conference face significant withdrawal liabilities to the Central States plan. In 2017, these 55 overlapping contributing employers provided approximately 12.5% of the contributions to Western Conference.

In addition, the largest contributing employer to Western Conference is United Parcel Service (UPS). In 2017, UPS provided over 43% of the employer contributions to Western Conference. This is important because, while UPS withdrew from Central States in 2007 and paid $6.1 billion in withdrawal liability, it agreed to provide coordinating benefits for UPS participants whose last employer was UPS and who had not retired as of January 1, 2008 in the event that benefits are lawfully reduced by Central States.

When Central States goes insolvent and begins receiving PBGC financial assistance, these coordinating benefits are projected to cost UPS $4 billion[163] assuming that the PBGC guarantee is at its current level. However, it is expected that UPS's liability rises with the insolvency of the PBGC as the PBGC's guarantee is then reduced to the amount that can be supported by its premium income.

Further, UPS's share of Western Conference contributions has increased from 35% in 2010 to the current 43% in 2017, an average annual increase of 8%. This is significantly above the average annual increase for non-UPS contributions. Assuming the same contribution growth rate until the projected insolvency of Central States in January 2025, UPS's contributions alone will exceed 52% of all Western Conference contributions. Many of the employers in Central States and Western Conference contribute to multiple Teamster plans, with UPS being a dominate contributor in a number of Teamster plans.

The bottom line is that Western Conference, a Green Zone plan today, currently has approximately 56% of its current contribution base directly tied to employers with massive liabilities in a Central States insolvency.

[163] United Parcel Service 10-K filed with the U.S. Securities and Exchange Commission on February 21, 2018, see "Pension Backstop" page 56, https://www.sec.gov/Archives/edgar/data/1090727/000109072718000009/ups-12312017x10k.htm

When Central States becomes insolvent, it will have dramatic consequences on the financial health of the contributing employers. While it is difficult to know today how this turns out, it is highly likely that a number of employers in Central States will become balance sheet insolvent and need to file for reorganization under Chapter 11 or Chapter 7 of the Bankruptcy Code. The PBGC recently argued that future insolvent plans, including Central States, will not terminate through mass withdrawal, and therefore, employers continue to contribute (even though actives will receive very little from their accruals) and will not have to book the withdrawal liability on their balance sheets.

This view is incredibly naïve for several reasons. First, almost every employer in the multiemployer system relies on bank credit, capital market debt or equity to keep their company a going concern. Given the scale of the liabilities that would be imputed to the employers based on their proportional share at mass withdrawal (even if it is not invoked), the banks that provide capital to the employers in these insolvent plans will certainly consider the withdrawal liability as part of pro forma financial statements used in making lending decisions. Second, the capital markets will be equally unforgiving when it comes to producing pro forma financial statements that would be used to sell the debt or equity issuances of employers to investors in the market.

Banks, and investment banks that provide access to the capital markets, have most assuredly learned a number of lessons from the financial crisis as it relates to their responsibility for borrower or issuer due diligence. They have paid $243 billion in fines[164] since 2008, and repurchased massive amounts of securities that they sold because they did not perform the proper due diligence on the borrower or issuer. The banks and investment banks that these employers rely on for capital formation would simply be negligent if they ignored withdrawal liability that would be imputed to the employer in a plan insolvency, whether mass withdrawal occurs or not.

The idea that the private market would ignore these liabilities is inconsistent with market behavior during the financial crisis which began as early as August 2007. Suppliers to the employers are highly likely to take the same view as the banks and investment banks.

The idea that the private market would ignore these liabilities, and suppliers to the employers are highly likely to take the same view as the banks and investment banks, is inconsistent with market behavior during the financial crisis which began as early as August 2007. In fact, even the Government Sponsored Enterprises which were "AAA" rated credits saw that market participants will make their own valuation of an issuers' liabilities. In June and July of 2008, the market became very concerned about the value of the mortgages that underpinned Fannie Mae and Freddie Mac mortgage backed securities and their retained portfolios. The market reaction was so swift that Congress enacted the Housing and Economic Recovery Act of 2008 in less than four weeks which authorized Treasury to purchase unlimited amounts of Fannie Mae and Freddie Mac securities. Today, both entities remain in conservatorship, Treasury owns $196.4 billion of Senior Preferred Stock in both and has commitments for another $254 billion if needed, and the Federal Reserve

[164] CBS MarketWatch, Steve Goldstein, "*Here's the staggering amount banks have been fined since the financial crisis*", February 24, 2018. *Accessed at https://www.marketwatch.com/story/banks-have-been-fined-a-staggering-243-billion-since-the-financial-crisis-2018-02-20.*

owns more than $1.4 trillion of Fannie and Freddie MBS, all of which says a lot about how the market continues to view the GSE's a decade later.

Separate from the banks and capital markets, the insolvency of Central States and the liabilities that would be imputed to employers will also be a topic for the accounting profession, including the Financial Accounting Standards Board (FASB). Withdrawal liability has been a topic that many accountants have discussed with their employer clients, and those discussions become increasingly real the closer we are to a systemically important plan insolvency. FASB made changes to multiemployer accounting in 2010, and the insolvency of a systemically important plan may attract interest in this new phenomenon of plans going insolvent without a mass withdrawal.

The insolvency of Central States will damage the ability of employers to make contributions to other funds that are currently healthy in which they currently participate. While it is impossible to say with certainty how severely a currently well-funded plan like Western Conference would be impacted by a financial weakening of its employer base, it is safe to say that the contributing employers will be in a significantly less stable position going forward. The problem will also spread to other Teamster plans as the contributing employer overlap is an issue for other Teamster plans as well.

The contagion can further spread to other parts of the multiemployer system with the insolvency of the largest and most systemically important plan, Central States. This is the type of crisis that is likely to negatively impact capital formation for employers throughout the multiemployer system.

UPDATED September 13, 2018 END

The cost of doing nothing, for the U.S. Government alone, will be multiples of enacting a responsible loan program. NCCMP's loan proposal is expected to score at 38% (using OMB's current single effective rate). The choices that Congress makes about eligibility will drive the size of the needed program. A program that is limited to those plans that cannot use MPRA would need to be about $100 billion of loan authority. A 38% credit subsidy rate means that a $100 billion program would need a $38 billion appropriation. This reflects a gross number that could be reduced by having any benefit reductions paid into the financing account established for federal credit programs.

APPENDIX I: MULTIEMPLOYER PENSION CRISIS AND THE COST OF DOING NOTHING

The Multiemployer Pension Crisis
and the
Cost of Congress Doing Nothing

~~May 16, 2018~~

UPDATED August 14, 2018

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Updated Summary Notes

- The following slides provides factual details on the multiemployer system, the benefit reductions that retirees will see under current law relative to their contractual benefits, social safety spending, and the costs for federal, state and local governments if Congress does not enact proactive legislative solutions.
- **August 13, 2018 Update** – The estimates of Federal Tax Revenue Loss and State and Local Government Tax Revenue Loss data are being updated to: (1) allocate retiree and retiree related output tax revenue in direct proportion to the retirees in pay status, and (2) allocate the active employees wage and wage related output tax revenue in direct proportion to the active employees earning wages. Additionally, for the active workers, there are a range of tax loss scenarios modeled. Specifically the data models employment losses in insolvent critical and declining status plans of 15%, 25%, 40% and 100%.
- The social safety net spending lists the safety net programs that would be available to retirees that have lost their pension income, the U.S. Government's 2017 expenditures, the number of participants, and the average benefit payable (slide 6). The average benefit payable is then used to estimate the impact on the current retirees receiving PBGC financial assistance as well as the retirees in pay status at plans in critical and declining status (slide 7).
- The "cost" data is presented in two formats. The first looks at the costs over the traditional 10-year budget window. However, one plan solvency restoration option before Congress is to establish a loan program that would provide for a 30-year loan. Therefore, the second format calculates the costs on a net present value basis over a 30-year period, consistent with the Federal Credit Reform Act of 1990 (FCRA) requirements for a federal loan.
- Under the FCRA, the budget costs for a loan program are calculated on a net present value basis over the life of the loan (and not the 10-year budget window). Therefore, in order to compare the loan option, one would present the non-credit costs that the government would otherwise incur on the same basis as the proposed solution.
- The pension data is based on the number of plans that were identified in the 2015 Form 5500 as certified in Critical and Declining Status. In using this data to determine the tax revenue loss and social safety net spending, we used aggregate numbers without modelling the specific timing of the plans insolvencies.

Summary of Multiemployer Pension Data [1]

Data Set	Total	Critical Status	Critical and Declining Status
Number of Plans	1,296	201	110
Number of Employers [2]	210,865	33,401	5,402
Number of Plan Participants	10,390,058	2,031,561	1,267,767
Number of Active Participants	3,800,018	666,314	**203,501**
Number of Retirees and Beneficiaries in Pay Status	3,663,311	683,400	**653,739**
Number of Terminated Vested Participants	2,926,729	681,847	410,527

Benefits Payable and Reductions Coming to Retirees in Distressed Plans Under Current Law – Examples from MPRA Applications

($ Billions)	Contractual Benefits Payable	Benefits Payable Under MPRA Application	PBGC Current Law (Maximum $12,870 Annually at 30 Years) Benefits Payable	PBGC Benefits Payable at PBGC Insolvency
MPRA Applicants [3]	$6.02	$4.06	$2.83	$0.14 - $0.35
Percent Benefit Reduction from Contractual Benefits Payable	0.00%	36%	53%	94% to 98%

Summary of Safety Net Spending

Federal Safety Net Programs	2017 Federal Spending	Participants	Average Spending Per Participant
Medicaid (Federal)	$389,350,000,000[4]	67,562,271[5]	$5,762.83
Supplemental Security Income (SSI)	$53,038,000,000[6]	8,100,000[7]	$6,547.90
Supplemental Nutritional Assistance Program (SNAP)	$78,488,000,000[8]	42,205,000[9]	$1,859.68
Housing Assistance	$45,821,000,000[10]	4,700,000[11]	$9,749.15
Low Income Home Energy Assistance Program (LIHEAP)	$3,387,316,000[12]	6,000,000[13]	$564.55
Total Federal Safety Net Spending	**$570,084,316,000**		**$24,484.12**

State Safety Net Program	2016 State Spending	Participants	Average Spending Per Participant
Medicaid (State)	$228,240,940,459[14]	67,562,271[5]	$3,378.23
Total State Safety Net Spending	**$228,240,940,459**		**$3,378.23**

Federal Revenues and the Costs of a Do Nothing Policy (i.e., Retain Current Law) (Critical & Declining Plans Only) 10-Year Budget Window 2018-2027 Scenarios

($ Billions)	Do Nothing 15% Employment Loss	Do Nothing 25% Employment Loss	Do Nothing 40% Employment Loss	Do Nothing 100% Employment Loss
Federal Tax Revenues (Total)	**$1,640.5[15]**	**$1,640.5[15]**	**$1,640.5[15]**	**$1,640.5[15]**
Federal Tax Revenue Loss – Pension & Pension Based Output	$19.2[16]	$19.2[16]	$19.2[16]	$19.2[16]
Federal Tax Revenue Loss – Active Wages & Wage Based Output	$12.3[17]	$20.5[17]	$32.8[17]	$82.1[17]
Federal Social Safety Net Spending	$175.5[18]	$175.5[18]	$175.5[18]	$175.5[18]
Contagion Costs	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large
Minimum Costs to the U.S. Government	**$207.0**	**$215.2**	**$227.5**	**$276.8**

Federal Revenues and the Costs of a Do Nothing Policy (i.e., Retain Current Law) (Critical & Declining Plans Only) 30-Year Net Present Value (2018-2047) Scenarios

($ Billions)	Do Nothing 15% Employment Loss	Do Nothing 25% Employment Loss	Do Nothing 40% Employment Loss	Do Nothing 100% Employment Loss
Federal Tax Revenues (Total)	**$3,788.4**[19]	**$3,788.4**[19]	**$3,788.4**[19]	**$3,788.4**[19]
Federal Tax Revenue Loss – Pension & Pension Based Output	$41.9[20]	$41.9[20]	$41.9[20]	$41.9[20]
Federal Tax Revenue Loss – Active Wages & Wage Based Output	$25.7[21]	$42.8[21]	$68.5[21]	$171.3[21]
Federal Social Safety Net Spending	$334.8[22]	$334.8[22]	$334.8[22]	$334.8[22]
Contagion Costs	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large
Minimum Costs to the U.S. Government	**$402.4**	**$419.5**	**$445.2**	**$548.0**

State and Local Government Revenues and the Costs of a Do Nothing Policy (i.e., Retain Current Law) (Critical & Declining Plans Only) 10-Year Budget Window 2018-2027 Scenarios

($ Billions)	Do Nothing 15% Employment Loss	Do Nothing 25% Employment Loss	Do Nothing 40% Employment Loss	Do Nothing 100% Employment Loss
State and Local Government Tax Revenues (Total)	**$891.1**[23]	**$891.1**[23]	**$891.1**[23]	**$891.1**[23]
State and Local Tax Revenue Loss – Pension & Pension Based Output	$12.1[24]	$12.1[24]	$12.1[24]	$12.1[24]
State and Local Tax Revenue Loss – Active Wages & Wage Based Output	$6.6[25]	$11.0[25]	$17.6[25]	$44.1[25]
State Medicaid Net Spending	$24.2[26]	$24.2[26]	$24.2[26]	$24.2[26]
Contagion Costs	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large
Minimum Costs to State and Local Governments	**$43.0**	**$47.4**	**$54.0**	**$80.4**

State and Local Government Revenues and the Costs of a Do Nothing Policy (i.e., Retain Current Law) (Critical & Declining Plans Only) 30-Year Net Present Value (2018-2047) Scenarios

($ Billions)	Do Nothing 15% Employment Loss	Do Nothing 25% Employment Loss	Do Nothing 40% Employment Loss	Do Nothing 100% Employment Loss
State and Local Government Tax Revenues (Total)	**$1,846.8**[27]	**$1,846.8**[27]	**$1,846.8**[27]	**$1,846.8**[27]
State and Local Tax Revenue Loss – Pension & Pension Based Output	$26.1[28]	$26.1[28]	$26.1[28]	$26.1[28]
State and Local Tax Revenue Loss – Active Wages & Wage Based Output	$13.7[29]	$22.8[29]	$36.4[29]	$91.1[29]
State Medicaid Spending	$46.2[30]	$46.2[30]	$46.2[30]	$46.2[30]
Contagion Costs	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large	Not quantifiable, but very large
Minimum Costs to State and Local Governments	**$86.0**	**$95.1**	**$108.8**	**$163.4**

Endnotes

[1] Study by The Segal Group commissioned by NCCMP analyzing U.S. Department of Labor, Form 5500 Data. Data accessed in May and June 2017.

[2] As reported on the Form 5500.

[3] Central States, Southeast and Southwest Areas Pension Plan, New York State Teamsters Conference Pension & Retirement Fund, Western States Office & Professional Employees Pension Fund, Southwest Ohio Regional Council of Carpenters Pension Plan, Iron Workers Local 17 Pension Fund, Teamsters Local 469 Pension Plan, Local 805 IBT Pension & Retirement Plan, Ironworkers Local 16 Pension Fund, Int'l Assoc. Of Machinists Motor City Pension Fund, Alaska Ironworkers Pension Plan, Bricklayers and Allied Craftworkers Local 5 Pension Plan, and the Bricklayers & Allied Craftsmen Local No. 7 Pension Plan.

[4] Office of Management and Budget, Table 23-12 Baseline Net Budget Authority By Function, Category, and Program, https://www.whitehouse.gov/wp-content/uploads/2018/02/23-12-fy2019.pdf.

[5] Center for Medicaid and CHIP Services (CMCS), https://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-enrollment-data/report-highlights/index.html.

[6] Office of Management and Budget, Table 23-12 Baseline Net Budget Authority By Function, Category, and Program, https://www.whitehouse.gov/wp-content/uploads/2018/02/23-12-fy2019.pdf.

[7] Social Security Administration, Annual Statistical Supplement to the Social Security Bulletin, 2017, page 4, https://www.ssa.gov/policy/docs/statcomps/supplement/2017/supplement17.pdf.

[8] Office of Management and Budget, Table 23-12 Baseline Net Budget Authority By Function, Category, and Program, https://www.whitehouse.gov/wp-content/uploads/2018/02/23-12-fy2019.pdf.

[9] U.S. Department of Agriculture, Food and Nutrition Service, https://fns-prod.azureedge.net/sites/default/files/pd/SNAPsummary.pdf, page 2.

[10] Office of Management and Budget, Table 23-12 Baseline Net Budget Authority By Function, Category, and Program, https://www.whitehouse.gov/wp-content/uploads/2018/02/23-12-fy2019.pdf.

[11] U.S. Department of Housing and Urban Development, Press Release dated February 12, 2018, https://www.hud.gov/press/press_releases_media_advisories/HUD_No_18_012.

[12] U.S. Department of Health and Human Services, 2017 Second Release of LIHEAP Block Grant Funds to States and Territories under the Consolidated Appropriations Act, 2017 (P.L. 115-31), https://www.acf.hhs.gov/sites/default/files/ocs/dcl_final_release_statesterrs_table_calculations_fy17.pdf.

[13] U.S. Department of Health and Human Services, Office of Community Services, LIHEAP Fact Sheet, https://www.acf.hhs.gov/ocs/resource/liheap-fact-sheet-0.

[14] Calculated based on Federal Medicaid spending of $398.35 billion, which represents 63.04% of total Medicaid spending and the State's 36.96% share of total Medicaid costs.

Endnotes

[15] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid (Slide 8) are inflated at 1.0% annually between 2016 and 2047. Tax revenue is then reduced by the average tax reform amounts for the period between 2018 and 2047 as projected by CBO's pre-reform and post-reform estimates. The tax revenue is for the period 2018-2027.

[16] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid on Pension Benefits and Economic Output Related to Pension Benefits (Slide 8) are inflated at 1.0% annually between 2016 and 2047. Tax revenue is then reduced by the average tax reform amounts for the period between 2018 and 2047 as projected by CBO's pre-reform and post-reform estimates. The tax revenue loss is the summation of the yearly product of the tax revenue and the percent of retirees in critical and declining status plans presumed to go insolvent. This is for the period 2018-2027.

[17] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid on Wages to Active Employees and Economic Output from Wages (Slide 8) are inflated at 1.0% annually between 2016 and 2047. Tax revenue is then reduced by the average tax reform amounts for the period between 2018 and 2047 as projected by CBO's pre-reform and post-reform estimates. The tax revenue loss is for the period 2018-2027 and are the summation of the yearly product of total taxes generated and the respective employment loss estimates.

[18] Calculated based on the average federal spending per participant of $24,484 (slide 6), multiplied by the sum of the PBGC's current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2018-2027 spending is the summation of these annual amounts.

[19] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid (Slide 8) are inflated at 1.0% annually between 2016 and 2047. Tax revenue is then reduced by the average tax reform amounts for the period between 2018 and 2047 as projected by CBO's pre-reform and post-reform estimates. The tax revenue is the net present value of the tax revenue for the period 2018-2047, discounted at OMB's current single effective rate of 3.21%.

[20] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid on Pension Benefits and Economic Output Related to Pension benefits (Slide 8) are inflated at 1.0% annually between 2016 and 2047. Tax revenue is then reduced by the average tax reform amounts for the period between 2018 and 2047 as projected by CBO's pre-reform and post-reform estimates. . The tax revenue loss is the summation of the yearly product of the tax revenue and the percent of retirees in critical and declining status plans presumed to go insolvent. This is for the period 2018-2047, discounted at OMB's current single effective rate of 3.21%.

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[21] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 Federal Taxes Paid on Wages to Active Employees and Economic Output from Wages (Slide 8) are inflated at 1.0% annually between 2016 and 2047. Tax revenue is then reduced by the average tax reform amounts for the period between 2018 and 2047 as projected by CBO's pre-reform and post-reform estimates. The tax revenue loss is for the period 2018-2047 and are the product of total taxes generated and the respective employment loss estimates. Tax revenue loss is the net present value of the tax revenue loss for the period 2018-2047, discounted at OMB's current single effective rate of 3.21%.

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[23] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 State and Local Government Paid (Slide 9) are inflated at 1.0% annually between 2016 and 2047. The tax revenue is for the period 2018-2027.

[24] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 State and Local Taxes Paid (Slide 9) on Pension Benefits and Economic Output Related to Pension Benefits are inflated at 1.0% annually between 2016 and 2047. The tax revenue loss is the summation of the yearly product of the tax revenue and the percent of retirees in critical and declining status plans presumed to go insolvent. This is for the period 2018-2027.

[25] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 State and Local Government Taxes Paid on Wages to Active Employees and Economic Output from Wages (Slide 9) are inflated at 1.0% annually between 2016 and 2047. The tax revenue loss is for the period 2018-2027 and are summation of the yearly product of total taxes generated and the respective employment loss estimates.

[26] Calculated based on the average state spending per participant of $3,378.23 (slide 6), multiplied by the sum of the PBGC's current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2018-2027 spending is the summation of these annual amounts.

[27] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 State and Local Government Taxes Paid (Slide 9) are inflated at 1.0% annually between 2016 and 2047. The tax revenue is the net present value of the tax revenue for the period 2018-2047, discounted at OMB's current single effective rate of 3.21%.

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[28] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 State and Local Taxes Paid (Slide 9) on Pension Benefits and Economic Output Related to Pension Benefits are inflated at 1.0% annually between 2016 and 2047. The tax revenue loss is the summation of the yearly product of the tax revenue and the percent of retirees in critical and declining status plans presumed to go insolvent. Tax revenue loss is the net present value of the annual tax revenue losses for the period 2018-2047, discounted at OMB's current single effective rate of 3.21%.

[29] Derived from National Coordinating Committee for Multiemployer Plans, Multiemployer Pension Facts and the National Economic Impact, January 5, 2018, http://nccmp.org/wp-content/uploads/2018/01/Multiemployer-Pension-Facts-and-the-National-Economic-Impact-Jan-5-2018.pdf. 2015 State and Local Taxes Paid (Slide 9) on on Wages to Active Employees and Economic Output from Wages are inflated at 1.0% annually between 2016 and 2047. The tax revenue loss is for the period 2018-2047 and are the product of total taxes generated and the respective employment loss estimates. Tax revenue loss is the net present value of the annual tax revenue losses for the period 2018-2047, discounted at OMB's current single effective rate of 3.21%.

[30] Calculated based on the average state spending per participant of $3,378.23 (slide 6), multiplied by the sum of the PBGC's current 63,000 participants in multiemployer plans receiving financial assistance and the current 653,739 retirees in pay status at critical and declining status plans. The 2018-2047 spending net present value of the cash flows for the period, discounted at OMB's current single effective discount rate of 3.21%.

APPENDIX II: MULTIEMPLOYER PENSION FACTS AND THE NATIONAL ECONOMIC IMPACT

Multiemployer Pension Facts and the National Economic Impact

January 5, 2018

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Table of Contents

Summary of Multiemployer Pension Data [1]

Data Set	Total	Critical Status	Critical and Declining Status
Number of Plans	1,296	201	110
Number of Employers [2]	210,865	33,401	5,402
Number of Plan Participants	10,390,058	2,031,561	1,267,767
Number of Active Participants	3,800,018	666,314	203,501
Number of Retirees and Beneficiaries in Pay Status	3,663,311	683,400	653,739
Number of Terminated Vested Participants	2,926,729	681,847	410,527

[1] Study by The Segal Group commissioned by NCCMP analyzing U.S. Department of Labor, Form 5500 Data. Data accessed in May and June 2017.
[2] As reported on the Form 5500.

Benefits Payable and Reductions Coming to Retirees in Distressed Plans Under Current Law – Examples from MPRA Applications

($ Billions)	Contractual Benefits Payable	Benefits Payable Under MPRA Application	PBGC Current Law (Maximum $12,870 Annually at 30 Years) Benefits Payable	PBGC Benefits Payable at PBGC Insolvency
MPRA Applicants [3]	$6.02	$4.06	$2.83	$0.14 - $0.35
Percent Benefit Reduction from Contractual Benefits Payable	0.00%	36%	53%	94% to 98%

[3] Central States, Southeast and Southwest Areas Pension Plan, New York State Teamsters Conference Pension & Retirement Fund, Western States Office & Professional Employees Pension Fund, Southwest Ohio Regional Council of Carpenters Pension Plan, Iron Workers Local 17 Pension Fund, Teamsters Local 469 Pension Plan, Local 805 IBT Pension & Retirement Plan, Ironworkers Local 16 Pension Fund, Int'l Assoc. Of Machinists Motor City Pension Fund, Alaska Ironworkers Pension Plan, Bricklayers and Allied Craftworkers Local 5 Pension Plan, and the Bricklayers & Allied Craftsmen Local No. 7 Pension Plan.

Multiemployer Plans and the National Economic Impact

Economic Impact of Pension Payments, Wages Paid to Actives, and Economic Output

($ Billions)	2015	Federal Budget Window (10-Year)
Pension Benefits Paid to Retirees [4]	$41.0	$438.6
Total Economic Output Generated by Pension Payments [5]	$83.5	$893.7
Wages Paid to Active Employees [6]	$203.1	$2,124.4
Total Economic Output Generated by Wages Paid to Actives [5]	$1,859.2	$19,451.3
Total Economic Activity	**$2,186.8**	**$22,908.0**

[4] Study by The Segal Group commissioned by NCCMP analyzing U.S. Department of Labor, Form 5500 Data. Data accessed in May and June 2017. The Federal Budget Window uses 2015 pension data inflated at 1.5% annually.
[5] National Institute on Retirement Security IMPLAN Study Commissioned by NCCMP.
[6] Calculated from 2015 Form 5500 data. Federal Budget Window uses 2015 wage data inflated at 1.0% annually.

Multiemployer Plans and the National Economic Impact (cont'd)

Impact on U.S. Gross Domestic Product (GDP) [7]

($ Billions)	2015	Federal Budget Window (10-Year)
Total Value Added (GDP) related to Pension Payments	$45.2	$553.3 [8]
Total Value Added (GDP) related to Wages Paid	$970.5	$11,879.9 [9]
Total Value Added (GDP) from Multiemployer System	**$1,015.7** [10]	**$12,433.2**
U.S. Gross Domestic Product [11]	$17,803.0	$217,936.0
Multiemployer System GDP as a % of U.S. GDP	**5.7%**	**5.7%**

[7] National Institute on Retirement Security IMPLAN Study Commissioned by NCCMP.
[8] 2016-2024 pension payments inflated at 1.5% annually.
[9] 2016-2024 wages inflated at 1.0% annually
[10] Multiemployer system GDP of $1,015.7 billion would rank 15th among all nations.
[11] 2015-2024 U.S. GDP as reported in President's FY 2018 Budget, Table S-1. Budget Totals, Page 25, https://www.whitehouse.gov/wp-content/uploads/2017/11/budget.pdf.

Employer Revenues

($ Billions)	2015	Federal Budget Window (10-Year)
Total Employer Revenues	**$1,218.3**	**$12,746.5**

Multiemployer Plans and the National Economic Impact (cont’d)

Impact on U.S. Jobs

	2015
Jobs Supported by Pension Payments [12]	510,408
Jobs Supported by Wages [12]	13,107,633
Total Jobs Related to the Multiemployer System	**13,618,041**
Total Employed Workforce [13]	149,703,000
Multiemployer System Supported Jobs as a % of U.S. Workforce	**9.1%**

[12] National Institute on Retirement Security IMPLAN Study Commissioned by NCCMP.

[13] U.S. Department of Labor, Bureau of Labor Statistics, 2015 Employment & Earnings, Household Survey Data, https://www.bls.gov/opub/ee/2015/cps/tablea19_201512.pdf.

Multiemployer Plans and Federal Taxes Paid

Federal Taxes Paid on Pension Payments, Wages, and Economic Output [14]

($ Billions)	2015	Federal Budget Window (10-Year)
Federal Taxes Paid on Pension Benefits Paid to Retirees	$3.5	$37.2 [15]
Federal Taxes Generated from Economic Output Related to Pension Spending	$6.6	$70.4 [15]
Federal Taxes Paid on Wages to Active Employees and Economic Output from Wages	$148.4	$1,552.9 [16]
Total Federal Taxes Paid	**$158.5**	**$1,660.5**

[14] National Institute on Retirement Security IMPLAN Study Commissioned by NCCMP using tax law in effect in 2015.

[15] 2016-2024 federal taxes paid on pension payments are inflated at 1.5% annually consistent with the inflation factor used for pension payments and output.

[16] 2016-2024 federal taxes paid on wages and wage based economic output are inflated at 1.0% annually consistent with the inflation factor used for wage payments.

Multiemployer Plans and State and Local Taxes Paid

State and Local Taxes Paid on Pension Payments, Wages, and Economic Output [17]

($ Billions)	2015	Federal Budget Window (10-Year)
State and Local Taxes Paid on Pension Benefits Paid to Retirees	$1.9	$20.4 [18]
State and Local Taxes Generated from Economic Output Related to Pension Spending	$4.2	$44.6 [18]
State and Local Taxes Paid on Wages to Active Employees and Economic Output from Wages	$76.4	$798.9 [19]
Total State and Local Taxes Paid	**$82.5**	**$863.9**

[17] National Institute on Retirement Security IMPLAN Study Commissioned by NCCMP using tax law in effect in 2015.
[18] 2016-2024 state and local taxes paid on pension payments are inflated at 1.5% annually consistent with the inflation factor used for pension payments and output.
[19] 2016-2024 state and local taxes paid on wages and wage based economic output are inflated at 1.0% annually consistent with the inflation factor used for wage payments.