Prepared Remarks of
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at
NCCMP's 2018 Annual Conference
September 24, 2018

Good morning. My name is Michael Scott and I am the Executive Director of the National Coordinating Committee for Multiemployer Plans. I would like to welcome each of you to NCCMP's 2018 Annual Conference. We gather at a pivotal moment in the history of multiemployer pensions. What happens, or doesn't happen, in Congress over the next three to six months will have an enormous impact on participants in plans heading toward insolvency, participants in all other plans, unions, employers, the PBGC, plan professionals, as well as the U.S. Treasury.

Multiemployer pensions and the multiemployer system are at a crossroads today. Seven months ago, Congress created the Joint Select Committee on Solvency of Multiemployer Pension Plans. The principal driver for the establishment of this Committee was the inability to achieve a bipartisan agreement in late 2017 and early 2018 on a package of statutory tools to prevent the upcoming insolvencies of the United Mine Workers of America 1974 Pension Fund, the Central States Pension Fund, and the PBGC.

As the Joint Select Committee was formed and began its vital work, we were filled with hope and encouragement as sixteen Members of Congress and a large supporting staff started their deep dive into the very difficult issues affecting a number of plans, including several that are systemically important. Recognizing that very few people have any significant experience with multiemployer pensions, our hope was that Joint Select Committee provided an opportunity to gain the focus and attention of the Members and their staff in a way that rarely occurs in Washington.

As we have seen in the five hearings that have been held, the Committee still has a long way to go in order to understand multiemployer pensions, the significant challenges facing these plans, the reasons for these challenges, and the right statutory tools that will bring real and enduring solutions.

To date, we have seen fact-based analysis ignored in favor of preconceived notions, populist rhetoric, partisan dogma, the pursuit of theories and proposals lacking in analytical rigor, the unwillingness of parties to engage in constructive dialogue with each other on real solutions, and the dogged pursuit of proposals that have no hope of solving the serious problems of plans heading toward insolvency, of gaining the bipartisan support needed to pass Congress, or of being implemented by the Executive Branch.

All of us, and I do mean everyone, have a serious problem that requires real and timely solutions. The time for advocating for proposals that will never solve the problems of Central States, the

Mine Workers, the other plans that cannot use MPRA, and those of the U.S. Government, is over. The consequences of failure are catastrophic.

NCCMP has put considerable resources and effort into providing the Committee, Congress, and the Administration with the statistics and economic facts about multiemployer pensions, what they mean to our economy, the costs that retirees and the government will incur if Congress does nothing and lets the current law work its draconian magic, and detailed rebuttals to some of the very dangerous and fiscally reckless ideas percolating out of the Joint Select Committee.

We have also developed the legislative language for real solutions that can achieve the objectives of protecting healthy plans, protecting retiree benefits to the maximum extent possible, ensuring that a loan program both restores plan solvency and provides for the full repayment to the government, strengthening the multiemployer system, restoring the finances of the PBGC through the use of solvency restoration tools which would dramatically limit the need to further tax plans with higher premiums, all in a manner that is significantly less expensive for the federal government than doing nothing.

Make no mistake, there is an existential threat for employers, unions, plans, and participants in some of the vigorously argued but less thought out ideas advocated by the Committee. One is that the 30-year Treasury rate, or the high-quality corporate bond rate, is the appropriate discount rate for multiemployer plans. The flip side of a related coin that some are advancing is for the government to mandate the asset allocation of plans to exclude “risky-assets”, like equites, except that this is worse in that it limits the ability to actually earn market returns.

Not only is it inappropriate to change the rules of the game after its started, and in our case, at least 44 years after the game started, these two ideas violate well established investment theories for long duration investors. They would also crash 98% of the multiemployer pensions, destroy the pensions of active workers, and put tens of thousands of employers on the path to bankruptcy.

But these aren’t the only bad ideas being considered in Washington. Every decision of the Joint Select Committee is interconnected and has the ability to have tremendous impact on the 90% of plans that are not critical and declining. For example, members on both sides look at the “success” of the PBGC’s single employer program, and the premiums that can be as high as $523 per participant, and believe that this is a possible solution for the multiemployer program.

They fail to recognize the distinctions between the single employer program and the multiemployer program. The single-employer program provides a guarantee at age 65 of more than $65,000 annually. However, the benefits payable in the multiemployer program are at best one-fifth of the single employer program at $12,870 annually, and that assumes 30-years of service. Further, the single employer guarantee covers on average 95.5% of the contractual benefit earned by a retiree in a trusteed plan. While the multiemployer program covers at best 47% of the contractual benefit today, and between 2% and 6% when the PBGC goes insolvent.

The analysis also ignores that for a variety of reasons including accounting standards, funding rules and PBGC premium increases, more than 91% of single employer plans no longer exist. And of the 22,300 single employer plans in 2016, almost 8,300 were frozen or closed to new participants.

However, the financial condition of the PBGC's multiemployer program can be greatly improved by making sure these plans NEVER get to the PBGC in the first place. The government can do this by implementing MPRA as it was intended, reforming MPRA based on the lessons learned since 2015, and adding a new solvency restoration tool in the form of a federal loan program. This new tool is necessary because Treasury rejected the Central States application in 2016 and they are no longer statutorily eligible to use MPRA. The PBGC should also be required to use realistic discount rates to measure liabilities, and not the fictional market rate for annuities that they currently assume, and which is almost 3% lower than what the Social Security Trustees use to discount the full faith and credit obligations of Social Security.

There are those both in Congress and in think tanks that believe that in the event of a federal intervention, the only solution should be putting money into the PBGC to prop up the guarantee. This approach locks in plan insolvencies, and locks in retirees to receiving, on average, a 53% reduction in their contractual benefit at insolvency. Not only is this unnecessary, it is costlier to the retiree, to the active workers in these plans, to employers, and to the government. There are better options available, including MPRA, that while not pain free, maximize the retiree's income while minimizing the government's current and future costs. This will strengthen the multiemployer system for the future.

There are other really bad ideas being considered. One outrageous proposal is coming from the democratic side where at least one member believes that ALL retirees in the multiemployer system should pay for the Butch Lewis Act through a 6% to 7% tax on their retirement benefits. This would be comical if it wasn't so insane, and if we had time to waste on shooting down bad ideas. You had a bill that said no benefit cuts to those receiving the bailout in Butch Lewis, and instead the government will now take 6% to 7% of EVERY retiree's benefit check to pay for this program.

Multiemployer pensions do not provide golden parachute retirements, and a 7% benefit cut is material to every single retiree. Importantly, this would punish the active workers when they retire, even more than they are being punished today. These actives have seen their accrual rates drop significantly since 2001 and will already receive lower benefits than their retired colleagues, while the majority of the contributions being made in their name are used to pay for the current retirees.

We didn't require the banks that didn't access TARP to pay for those that did, we didn't ask homeowners to pay for the rescue of Fannie and Freddie, and we didn't ask the airlines that didn't need a rescue after 9/11 to pay for those that did, and we certainly shouldn't be asking the retirees in all multiemployer plans to be pay for those in insolvent plans.

This is a proposal that will outrage every union leader, every employer, and every participant. Unfortunately, it is indicative of the whack-a-mole set of bad ideas that this Committee is creating for us.

Time is short for real solutions that can save these plans, the multiemployer system, and the PBGC. We need to understand that while individual plans and employers may have a particular interest in a solution to their immediate problem, the Joint Select Committee's work is spanning every issue in the multiemployer system and will impact every single one of us, healthy and deeply troubled plan alike. And we need to care about all of the issues, as ultimately, they are all interconnected. Committee recommendations that include a provision that destroys the rest of multiemployer system is a deal that cannot be agreed to.

Whenever the private sector needs an Act of Congress to solve a problem or stave off impending disaster, it is the obligation of those asking to provide the federal government with a clear and compelling rationale for the government's intervention. This includes those problems that the government was complicit in creating, and multiemployer pensions are one such issue.

In this case, we have provided Congress with the details of the specific laws that contributed to the circumstances impacting those plans in financial distress. These include the "anti-cutback" provision of ERISA, specifically for those plans heading toward insolvency, the withdrawal liability enacted as part of the Multiemployer Pension Plan Amendments Act of 1980, the excise tax on contributions to well-funded pension plans, and the deregulation of the trucking industry in 1980.

We have also documented the multiemployer industry's efforts to overcome all of these statutory and regulatory constraints through self-help in the development, introduction, and passage of the Multiemployer Pension Reform Act (MPRA) of 2014. We took it upon ourselves to solve the financial problems of plans without federal dollars, by providing Trustees with the tools to restore plan solvency and protect the retirees from the even larger benefit reductions that they will see when their plan goes insolvent and subject to the PBGC guarantee. This was tough medicine for everyone involved, but as they say, no good deed goes unpunished. So, when Treasury refused to approve the MPRA application of Central States and others, they pushed us and the nation into the predictable financial Armageddon that we know we will face in 2025.

We have also provided Congress with the detailed financial impact of multiemployer plans for participants and the government. In 2015, the multiemployer system paid $41 billion in pension benefits, $203 billion in wages to actives, generated $158 billion in federal taxes, $82 billion in state and local taxes, supported 13.6 million American jobs, and contributed more than $1 trillion to U.S. GDP. The single year data is important, but for the U.S. Government, the 10-year data that comprises the federal budget window is even more critical. It is approximately 10.5 times the 2015 data.

In any responsible analysis, this is material to the government. The vast majority of critics seem to believe that the government doesn't have a financial interest in multiemployer pensions beyond the cost that they would be asked to bear as part of any intervention. Nothing could be further from the truth. The U.S. Government is the silent senior preferred equity partner in every taxpayer's life, and the multiemployer system provides Uncle Sam with a $158 billion dividend check annually from our work.

This is far more than it receives from the ivory tower think tanks that have little or no experience in building the nation, driving the economy, building businesses, or creating meaningful tax paying jobs. The men and women in the multiemployer system are more than mere "factors of production", as Professor Rauh so eloquently dismissed the Teamster witness at the July 25th hearing of the Joint Select Committee.

As in any bankruptcy, the senior preferred equity owners as well as the creditors participate in the restructuring, else their losses get compounded beyond what is necessary to successfully restructure the entity. The failure of the Congress to act to prevent less bad outcomes for critical and declining status plans will have consequences for itself as the senior preferred equity owner in the multiemployer system.

But it doesn't end there, because the government provides numerous entitlement programs that step in to provide various types of financial support for those in poverty. And I have a news flash for you, the retirees in insolvent plans that will lose between 94% and 98% of their pensions, will be accessing the federal poverty programs.

We are not the only ones who believe this. In 2012, then Ranking Member Orrin Hatch of the Senate Committee on Finance produced a report on the consequences of state and local pension plans failing to honor their obligations, and the demand that these failures would place on the federal poverty programs. Senator Hatch concludes with "[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.***"

However, the demands placed on the entitlement programs will be significantly greater in multiemployer insolvencies because the benefit reductions will represent a 94% to 98% reduction in the promised pension. State and local governments are sovereigns with taxing authority, so not only do they have other tools to use to fix their own problems, any reductions in their pensions due to financial distress is likely to be limited.

As many members have pointed out, this is all about the math. And the math for the U.S. Government, as the silent senior preferred equity owner in multiemployer pensions, is really bad for them if Congress is not constructive in finding real bipartisan solutions to this crisis.

In our August 14th update to The Cost of Congress Doing Nothing, we provide tax revenue loss ranges based on varying assumptions for employment losses. At a minimum, we believe that the U.S. Government will lose between \$31 billion and \$101 billion 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, we also evaluated the lost tax revenue on the same basis on which a federal loan program would be scored. On this basis, we believe that the U.S. Government will lose between \$67 billion and \$213 billion 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 forced into poverty will tap the social safety net that the U.S. Government and the States provide. Based on 2017 data, the U.S. Government spent on average, \$24,484 per participant through Medicaid, the Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), HUD Housing Assistance, and the Low-Income Home Energy Assistance Program (LIHEAP).

At PBGC insolvency, we estimate that at a minimum, new spending on the federal social safety net will exceed \$17 billion annually. This is based on the 63,000 current retirees receiving PBGC financial assistance and the almost 654,000 retirees in pay status in critical and declining status plans today. The new federal social safety net spending totals \$175 billion over the 10-year window and \$335 billion 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 impact from revenue losses and new safety net spending costs to between $207 billion and $277 billion over the 10-year budget window and between $402 billion and $548 billion 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.

Relating this back to the bankruptcy analogy advanced by different members of the Joint Select Committee, even if you discount the safety net spending numbers, the math would drive any senior preferred equity owner who also has financial commitments beyond the equity, to work very hard to make sure the company never needs to file bankruptcy in the first place.

And these numbers do not consider how the economic contagion will play out with employers and with other multiemployer plans. Obviously, the poster child for contagion will be the insolvency of the very large and systemically important Central States plan. At insolvency, the contributing employers in Central States will have exposure to either withdrawal liability or perpetuity payments of historical contributions without any meaningful accrual for their actives.

Another group of employers are those that have withdrawn from Central States and who have provided select participants with a pension backstop if their Central States pension is ever reduced. Whether its withdrawal liability, perpetuity payments for insolvency without termination, or pension backstop liabilities, at insolvency, all of this will be bad for the capital market access and bank credit of the contributing employers, and ultimately impact the plans that they contribute to.

But contagion also has the very real potential to spread throughout the rest of the multiemployer system without fear or favor, affecting plans and employers that have no connection to Central States. With the insolvency of a large systemically important plan, the Financial Accounting Standards Board is likely to review multiemployer pension accounting, which may not be limited to the employers in insolvent plans. Further, the market transparency that will occur with the insolvency of a systemically important plan is highly likely to impact all other employers with respect to bank credit and capital market access.

So, while the problems seem very difficult, the fact is that there are a set of tools that Congress should focus on that will strengthen the multiemployer system for plans, sponsors, participants, the PBGC and the U.S. Treasury. There are tools that can restore plan solvency for the vast majority of critical and declining status plans, and these same tools can eliminate the vast majority of the PBGC's financial exposure, ensuring that these plans never get to the PBGC. This in turn will either significantly moderate or eliminate the need for PBGC premium increases beyond the inflation factor currently in law.

While I cannot be sure of this, I presume that members of the Committee would want new taxes on multiemployer plans to be at least tangentially tethered to a mathematical analysis both of the PBGC and the economic ability of employers to absorb these new taxes. And make no mistake, PBGC premiums are taxes, because the value of the insurance provided is not a transaction that would be entered into voluntarily.

What are the right tools? Because multiemployer pension legislation is rare, any legislation needs to provide tools for healthy and distressed plans. Let's start with healthy plans. We believe that the GROW Act introduced by Congressman Roe and Congressman Norcross is an important new voluntary plan design option for Trustees, and likely the only design that will provide for future growth in new employers for multiemployer pensions.

For distressed plans, we need to ensure that MPRA is a reliable and predictable tool for Trustees to restore plan solvency and protect the retirees from the even larger benefit reductions that they will see when their plan goes insolvent and subject to the PBGC guarantee.

We know from the MPRA applications that the average benefit reduction was 36%. And we know that retirees will receive, on average, a 53% reduction in benefits when their plans go insolvent and subject to the PBGC's guarantee. We also know that the PBGC is going to go insolvent around 2025, which will result in further benefit reductions, and take the average benefit reductions to between 94% and 98% of the original contractual benefit.

It is unfortunate that we needed MPRA, but we did, and the math shows that it provides a better outcome for retirees than having these plans get to the PBGC.

We certainly support corrections to MPRA to clarify the ambiguities that Treasury has interpreted and have provided language to the Joint Select Committee to accomplish this. We are also open to discussing other changes to MPRA based on lessons learned since 2015.

The next tool for distressed plans is to enact a responsible subsidized loan program. All of the proposals seek to solve the problems that critical and declining plans face. If this were just a math problem, there would be a number of ways to get the numbers to work. But loan programs are not developed in a vacuum, and the structural details are incredibly important because federal credit is a very complicated product. There is a 1990 federal law that governs all federal credit programs. There are well-established policies that govern federal credit. There is a way to get a federal credit program passed and actually lending money, and there are countless ways to pass a program that never lends a dime. Since time is of the essence for Central States, the Mine Workers, and others, NCCMP is focused on a program that can gain bipartisan support, and once passed, will actually lend money.

While NCCMP supports a responsible loan program that is based on investment arbitrage, our support is not an open-ended endorsement of any loan program. The subsidized loan program that we designed, which mandates a 1% loan for 30-years, requires demonstrating success using very conservative assumptions with respect to investment returns that do not exceed 5.5%, while achieving 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.

While we mandate the structural details in order to maximize the success of this tool, we leave the critical policy choices to Congress, which will be important enablers for bipartisan support. Three examples include the eligibility requirements, benefit reductions and who bears the costs.

The eligibility requirements will drive the size of the program. If Congress offers loans to only those that have been rejected from MPRA or are statutorily ineligible, the program size is probably $100 billion. If they want to use it in place of MPRA, the program size is between $500 billion and $750 billion.

Congress can also direct the size of any benefit reductions as well as the dollars to pay the credit subsidy costs. We offered three alternatives including no reductions, a 20% reduction, or whatever reduction will result in a zero-subsidy cost for the government. We offered these three alternatives because either the borrower or the government needs to pay for the loan program, and this provides Congress the means to do so. In any scenario, the government's costs will be substantially below the federal tax revenue losses and increased social safety net spending that will occur if nothing is done.

By the way, the program size is not the score that it would receive from CBO or OMB. And while the CBO score is important to Congress, OMB's score is what is most important and will dictate whether a loan gets made or not.

For a full understanding of NCCMP's loan proposal, please see our website which contains both the legislative language and the plain language terms and conditions.

As previously mentioned, the solvency restoration tools of MPRA and a well-designed loan program will ensure that the majority of plans will never need PBGC financial assistance, and this will massively reduce the financial needs of the PBGC and any corresponding calls for premium increases.

In closing, I want to thank you for your commitment to supporting the right tools to address the existential challenges facing multiemployer plans. All of the members of the Joint Select Committee and House and Senate leadership need to hear from you and your colleagues, whether from labor, employers, plans, or participants, imploring them to work on a bipartisan basis and pass the right tools.