Prepared Remarks of
Michael D. Scott
Executive Director
National Coordinating Committee for Multiemployer Plans
at the
NCCMP 2017 Annual Conference
September 25, 2017

Good morning.

My name is Michael Scott and I am the Executive Director of the National Coordinating Committee for Multiemployer Plans.Thank you for attending NCCMP's 2017 Annual Conference.

Our theme for this year is Back into the Ring, however, we came very close to changing it last week to Come Hell or High Water.

It is a privilege to share my perspective with you on the challenges facing multiemployer plans, as well as the durable solutions that are needed to address them.

We will post the entirety of my remarks on our website later today.

In December of last year, the NCCMP Board placed an enormous trust in me to advocate on behalf of multiemployer plans, and our 10 million pension participants. I know that our work is critical to not only protecting the plans, and the pension and health benefits of our participants, it is vital to the success of the job creating employers of America.

I am deeply committed to NCCMP's mission, and providing the leadership necessary to bring solutions to the significant challenges facing multiemployer plans, employers and labor, participants and beneficiaries, the PBGC, and the broader U.S. Government.

The past nine years, is culminating into the most consequential time, in the history of multiemployer plans. The issues facing the multiemployer community and the U.S. Government, are extraordinarily complex, interconnected, and as I have found through countless discussions, not fully understood.

Today, we have a number of multiemployer plans facing significant financial challenges; the PBGC facing a large and growing net deficit in their multiemployer program; calls for large premium increases to address the PBGC's net deficit; a Treasury Department implementing the 2014 Kline-Miller Multiemployer Pension Reform Act, or MPRA, in ways that are inconsistent with the intent of Congress and the multiemployer community that drafted the legislation; we have systemically important plans where MPRA is no longer a viable option, and whose insolvencies will have enormous economic consequences for everyone; and finally, employer and labor concerns about providing lifetime retirement benefits, without the serious withdrawal liability concerns, that were legislated in the Multiemployer Pension Plan Amendments Act of 1980, and the uncertainty of contribution requirements in defined benefit plans.

These challenges will require comprehensive and durable solutions. They will also require, that all parties have a much deeper level of understanding of the serious challenges that we face, and the consequences of inaction.

What struck me in the first few months of my tenure at NCCMP, was the lack of available hard data that the U.S. Government often insists on, in order to make difficult policy decisions. In order to help educate the multiemployer community, lawmakers, and policymakers on the true state of affairs, as well as what is at stake, NCCMP commissioned Segal to analyze all multiemployer Form 5500's for the data that we would need to provide a clear picture.

We also commissioned the National Institute on Retirement Security, to take this data, and further analyze the tax revenue and economic output generated from multiemployer pensions and wages.

The data is actually very compelling. In 2015 alone, multiemployer plans paid $41 billion in pension benefits to retirees, and $203 billion in wages to actives, which resulted in total economic output of almost $709 billion.

In addition to the 3.8 million actives employed, this economic output supported another 2.3 million American jobs.

The total economic output over the federal government's 10-year budget window, will exceed $7.4 trillion.

By the way, this is completely separate from the employer revenue in 2015 of $1.2 trillion, and the projected $12.7 trillion over the budget window.

But this isn't the end of the analysis.

We operate in a society whose favorite radio station is WIIFM, better known as what's in it for me. Federal lawmakers and policymakers are no different, and in their case, it's tax revenue.

In 2015, the $709 billion in economic output, from the multiemployer system, generated $71 billion in taxes for the federal government, and will generate $749 billion in federal taxes over the 10-year budget window.

This is a major reason for the U.S. Government to be constructive in legislative solutions for multiemployer plans.

State and local government also obtain tax revenue from the multiemployer system, and they received almost $32 billion in 2015, and will receive $335 billion over the 10-year budget window. While state and local governments don't use this budget window, whenever their tax revenue is threatened, there is often a call for the U.S. Government to step in, so it is important for everyone to understand what is at stake for them as well.

I mention these data points, because the issues that we must address have not been fully understood, and the rationale for federal action is most effectively tied to the government's economic interests. So we must be in a position to authoritatively fill in the missing pieces.

We have also been concerned, that there is a false and incomplete narrative on the solutions to failing plans regarding the use of MPRA.

MPRA is a voluntary tool to restore plan solvency and protect the retirees, from the even larger benefit reductions that they will see, if their plan goes insolvent and subject to the PBGC guarantee.

In analyzing the data from 12 of the 15 MPRA applicants, we see that this group has annual contractual benefits of $6 billion, and that they would pay out $4.1 billion annually if their MPRA applications were successful. This represents a 36% reduction in benefits.

No one is confused that this is life altering for those involved.

However, this is a far better outcome, than what will occur under current law, if their MPRA applications are denied and the plans go insolvent. When these plans go insolvent, this group of retirees would receive $2.8 billion in benefits through the PBGC, or a 53% reduction from their contractual benefit.

But this isn't the end of the benefit reductions coming, because approximately when Central States goes insolvent, the PBGC will also be insolvent, and only able to pay out what they take in from premium income.

When this happens, and there are a range of possible outcomes, the PBGC will pay out between $141 million and $353 million to this group of retirees. The reductions that the retirees in insolvent plans will see, range from 94% to 98% from their contractual benefit levels.

This is a terrible outcome for participants, employers, the multiemployer system, the national economy, and all levels of government. Life altering, does not even begin to describe the benefit reductions coming to retirees, if we are not able to implement alternatives.

So we have a huge job in front of us, all of which requires action from Congress, and each is by itself, a very heavy lift.

So I would like to outline NCCMP's key legislative priorities to address the challenges.

The first priority is to pass the Composite Plan legislation.

Composite Plans provide plan sponsors with the legal framework for a new voluntary plan design that fully funds the legacy defined benefit plan, while creating a new type of plan going forward, that incorporates the best features, of both defined benefit and defined contribution plans.

The significant headwinds that multiemployer plans and their sponsors have faced because of the financial crisis, employer withdrawal liability concerns, the uncertainty of contributions, and the market impact of efforts by the Financial Accounting Standards Board to address perceived transparency issues, have highlighted the importance of creating another retirement security option for employers and labor.

The Composite Plan provides this needed tool, and is designed to address the issues that labor and employers face, in providing retirement security through multiemployer plans.

This includes paying for the current promises in the legacy defined benefit plans, as well as being able to attract, and provide confidence to, new employers, by providing contribution certainty and eliminating the concept of withdrawal liability, while providing employees with lifetime income benefits in retirement.

It is important to note that neither the PBGC, nor plans, are disadvantaged by the voluntary election to collectively bargain a Composite Plan. For the PBGC, their premiums are unaffected by Composite Plans. The legacy defined benefit plan continues to pay PBGC premiums for the participants in that plan.

Absent the Composite Plan, new employers would not agree to bargain into the legacy defined benefit plan, so it is not changing PBGC premiums one iota.

Today, by and large, to the extent that new employers are signing CBA's, they are doing so using 401(k)'s, another defined contribution product that does not provide the PBGC with premiums.

Equally important for the PBGC, a frozen legacy defined benefit plan will not accrue new liabilities, so the funding schedule to pay down any unfunded liability will reduce the unfunded liability as each payment is made, and the fact is, that a portion of the contributions from the new employers are being used to fund the legacy defined benefit plan.

From the plans perspective, I have heard concerns about the prospect of having to negotiate against the Composite Plan.

The reality is that everyone has had to negotiate against 401(k)'s since 1978.

When you compare the growth of 401(k)'s and the decline of single employer defined benefit plans, with the decline of multiemployer defined benefit plans, you have fairly strong evidence that the multiemployer community has been effective in retaining the defined benefit plan.

However, this is changing rapidly as the financial impacts on employers in multiemployer plans become clearer, and rating agencies, banks and the capital markets impose their own analysis on multiemployer liabilities.

There is nothing in the Composite Plan legislation that requires adoption, so at most, it would be an available tool to employers and labor.

We expect that the Composite Plan legislation will be introduced, in October, by two new sponsors on the House Ed and Workforce Committee.

Our second priority is to develop and pass a legislative solution for Central States, and similarly situated plans.

This is critical not only to Central States, but to employers, the PBGC, to all multiemployer plans, the multiemployer system, and all levels of government.

It is difficult to overstate how unfortunate Treasury's rejection of Central State's MPRA application was. While it may have felt good to Treasury to "protect" the beneficiaries, from the benefit reductions included in the Central States MPRA Application, the fact is that this decision will predictably trigger a long set of significantly more negative financial consequences for everyone, including even more draconian benefit reductions on retirees.

As you probably know, there are a number of proposals that purport to address the serious challenges facing plans like Central States. Because of the seriousness of the problem, and our analytical discomfort with the alternative proposals, NCCMP has developed its own proposal that borrows from the main idea advanced in the UPS proposal.

This calls for a 30-year, 1% subsidized loan that will allow plans to earn their way through their funding problems, and demonstrate solvency and the ability to fully repay the federal loan.

The proposal requires the plan to demonstrate solvency and repayment using an assumed rate of return of no more than 5.5%. Based on actual experience with similar issues, it is our judgment that OMB and Treasury are unlikely to view more aggressive rates of return as reasonable for the purpose of evaluating a federal loan application where the central premise is investment arbitrage.

We felt obligated to craft our own proposal, because our analysis suggested that each proposal offered a very, very low probability of operational or executive branch success.

It is also a truth in federal credit programs, that failed federal rescues are typically paid for by the entire industry.

Multiemployer plans have enough calls on plan assets and contributions in the form of PBGC premiums, without having to pay for the loan losses of the government because the program was poorly structured.

Further, one proposal also called for massive new fees on the multiemployer community, that are almost two times the current amount paid to the PBGC in premiums, yet these dollars are were designed solely to cover the default risk in the proposed loans.

Given what is at stake for Central States, its participants and employers, other Teamster plans, the entire multiemployer community, and the national economy.

I believe that the concept of a subsidized loan program is, if I may borrow a great line from the movie Argo, by far, the best bad idea available to the U.S. Government.

However, the details matter greatly and federal credit is a very arcane and complicated product.

In the spring, NCCMP retained the preeminent federal credit consulting firm in Washington D.C., Summit Consulting, as well as Treasury's former Assistant General Counsel for Banking and Finance to work with us, to design a federal credit program that will solve the financial problems of critical and declining status plans, and to do so in a way that will solve the numerous issues that Congress and the Executive Branch will have with this type of program, so that when it becomes law, it actually gets implemented.

Our third priority, is to ensure that the PBGC is a credible insurer, that can honor its commitments, but to do so in a way that does not destroy the viability of multiemployer plans.

After the PBGC's insolvency, in order to restore the current guarantee level of $12,870 per year at 30-years of service, premiums would need to rise to levels that are uneconomic for plans, employers, entire industries, and the multiemployer system.

It is not possible, in any reasonable manner, for the PBGC to premium its way out of the problem that Central States presents, let alone the other projected insolvencies.

In 2015, multiemployer plans paid nearly $1.7 billion in administrative expenses, of which $248 million were for PBGC premiums. Under the current law for PBGC premium increases, and an assumed 3% inflation for other administrative expenses, the multiemployer system will pay $50.5 billion in total administrative expenses over the 20-year period ending in 2037.

This is comprised of $8.0 billion in premiums and $42.5 billion in non-premium administrative expenses.

In June 2016, the PBGC published an analysis that indicated, that premium revenues sufficient to meet average expected 20-year obligations, would need to be $50.4 billion. The 20-year average annual premium is $242.74 per participant, or $663.71 per active over the same 20-year period.

This compares with current law premiums of $8.0 billion, which is a 20-year average annual premium of $38.50 per participant or $105.27 per active.

The PBGC's proposed $42.4 billion increase in premiums, would result in total administrative expenses over the 20-year period of $92.9 billion.

The simple fact is that the multiemployer system, including the employers and industries in which they compete, are not able to be economically viable with premiums at these levels.

Most importantly, MPRA provided the statutory tools needed for Plan Sponsors to restore solvency to their plans, which would have removed these plans from the PBGC's net deficit calculation and negated much of the need for premium increases.

The massive premium increases that have been called for by the PBGC, are the result of solving a math problem grounded in the PBGC's reported net deficit, without consideration for the tools that Congress has granted Trustees under MPRA, and additional tools that we will seek because of Treasury's rejection of Central States, all of which will result critical and declining status plans demonstrating solvency, and therefore, in a significant reduction of the PBGC net deficit.

It is also important to recognize, that the amount of pension plan liabilities is currently overstated because of the Federal Reserve's conscience, and continuing, manipulation of long term interest rates through their Large Scale Asset Purchase program.

The Fed has been, and continues to be the primary market purchaser of long dated Treasury securities and 30-year Agency MBS, through their principal reinvestment policy. This program has driven long-dated benchmark yields to record lows, which has a significant negative impact on the valuation of pension liabilities as used by the PBGC.

Last Wednesday, the Fed announced that it will begin the balance sheet normalization program that it described in the June 2017 Addendum to the Committee's Policy Normalization Principles and Plans. This will reduce the amount of principal reinvestment in its portfolio, and result in a shrinkage of their balance sheet. Over an extended period of time, this will allow benchmark yields across the yield curve to reflect actual free market yields.

Given the significantly reduced credit profile, of the U.S. Government and the Agencies since the beginning of the financial crisis, one should expect market based yields on these securities to rise. This will drive higher investment performance on pension assets and lower pension liabilities, which, all other things being equal, will drive a lower reported net deficit at the PBGC.

While I completely understand the Fed's motivation, to massively expand their balance sheet during the financial market crisis, one simply cannot ignore the market manipulation consequences on benchmark yields, that their program and policies have had on pension investors in fixed income securities, on the asset side of the balance sheet, as well as on the liability side.

Our fourth legislative priority is to obtain technical corrections to MPRA, to ensure that this powerful tool actually works. This is in the best interests of plans, participants, employers, the PBGC, and all levels of government.

MPRA provides Trustees with the best way to restore plan solvency, and to protect plan participants from the even larger benefit reductions that they will see when their plans go insolvent.

Our fifth legislative priority relates to healthcare.

We are focused repealing the Cadillac Tax, and ensuring that it is not replaced with a cap on the current employer-sponsored insurance exclusion.

Congress and the Administration's commitment to repeal and replace the Affordable Care Act, was supposed to provide an important opportunity to address the very costly provisions of the ACA, including the Cadillac tax, that impact the health benefit plans provided by employers and labor.

The final version that passed the House repealed most of the ACA taxes, with the notable exception of the Cadillac Tax, which was deferred until 2026.

The delay was welcome, however, the indexing provisions of the ACA are below the actual rate of medical inflation, and will result in more and more plans being subject to the tax over time.

In this way, it is similar to the Alternative Minimum Tax.

The AMT was originally targeted at 155 taxpayers, but because of poor indexing, it now captures 4 million taxpayers.

This will happen with the Cadillac Tax if it's not repealed in its entirety.

With the unsuccessful repeal and replace effort in the Senate, we fully expect that the Cadillac Tax and the cap on the employer-sponsored insurance exclusion, will become front and center in tax reform.

Capping the employer sponsored insurance exclusion is an attractive target, because according to the Congressional Budget Office, the exclusion cost the U.S. Government $266 billion in 2016. This is the single largest tax expenditure in the tax code, and Congress knows that they will need revenue sources to pay for the revenue losses they are likely to see from comprehensive tax reform.

While some in Congress have a view that the private sector over-consumes health care, which in turn drives the high costs of U.S. health care, the reality is far different. As Sean McGarvey laid out in a March 1st letter to Congress, the high costs of private sector employer sponsored health care and medical inflation, are principally driven by the actions of the U.S. Government, not by the private sector and employer-sponsored health care.

The fact is, that the U.S. Government is the largest provider and purchaser of health care in the U.S. through Medicare and Medicaid, programs that collectively spend more than $1.4 trillion dollars annually. These programs significantly under-compensate health care providers to

Medicare and Medicaid for their services, which results in these same health care providers charging more to their private sector clients, in order to recoup their uncompensated federal expenses.

Additionally, the government has mandated coverage and uncompensated coverage that increase the costs of the private sector.

The government also spends another $400 billion for federal employees, the VA, and DoD.

In total, the government is responsible for 60% of the $3 trillion spent for healthcare in the U.S. economy.

In any event, the Cadillac Tax or capping the employer-sponsored insurance exclusion will result in a large tax increase on the middle class.

It will have a significant financial impact, on the 177 million Americans who receive their healthcare through their employers, the employers themselves, and the employer-employee relationship.

This is a critical issue for multiemployer plans, employers and labor, and the NCCMP.

We will be very diligent, as tax reform winds its way through the Congress, as well as for any efforts to revive the repeal and replace of the ACA.

There is one thing that I have learned over the past 16 years, working in government and the private sector on some of the nation's most complex problems, and developing and implementing solutions for them, and that is almost without exception, not everyone is going to be happy with the solutions.

This is just a fundamental fact of complex issues, and this certainly applies to the ones that the NCCMP has in front of us.

For those of you that were familiar of the NCCMP's legislative effort to pass MPRA in 2014, and the 2015 and 2016 effort to pass the Composite Plan legislation, I can assure that we understand that today's legislative agenda is significantly larger than the past.

We also know that there is an urgency to get all of this done.

Time is simply not on our side, whether you're a plan, a participant, an employer, a labor organization, or a professional that supports multiemployer plans.

The issues that we must tackle require everybody's participation, and NCCMP is working hard to reach out to all stakeholders in the multiemployer community.

This includes the job creating employers of America, the employer associations, plans, the professionals that work with our plans, labor, and other interested groups.

We know that in order for us to be successful in our legislative efforts, we must have the financial resources available.

For those of you who are members of NCCMP, we thank you for your commitment to us and the issues.

For those of you that have made a one-time contribution to the communication, education, and legislative effort, we thank you.

We welcome everyone's membership in NCCMP, and have been very active in developing a deeper level of engagement with funds, employers, employer associations, plan professionals and labor.

In closing, I want to thank you for your interest in the challenges and solutions for multiemployer plans.

I look forward to working with all of you.