Prepared Remarks of
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at
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Thank you Sean.

2020 and 2021 have been a period unlike any in our nation's history, and mostly for deeply tragic reasons. However, I am mindful of what I have come to believe is one of life's most important lessons. This comes from a passage in Cormac McCarthy's book, The Crossing. I do want to mention that The Crossing lacks the dark theme of McCarthy's more famous book, The Road. Here, McCarthy writes: "So everything is necessary. Every least thing. This is the hard lesson. Nothing can be dispensed with. Nothing despised. Because the seams are hid from us, you see. The joinery. The way in which the world is made. We have no way to know what could be taken away. What omitted."

I joined NCCMP in 2017, and since that time, we have made real progress on educating Members of Congress on the issues facing distressed plans, the catastrophic loss of income that retirees in insolvent plans would face without a solution, the impact on employers and the active workforce, the economic impact of the multiemployer system, and the very real impact falling on the U.S. taxpayer and Government without a solution.

Prior to my arrival, there had been a number of legislative efforts to fix distressed multiemployer plans and to provide trustees more tools to ensure that their plans did not become distressed. Sean went through most of the history, so I am not going to repeat that, but I would like to elaborate on what we have seen since 2017. During 2017, three different loan proposals were considered, one of which, the Butch Lewis Act of 2017, was introduced by then Ranking Member Ritchie Neal in the House, and Senator Sherrod Brown in the Senate.

While the bill did not progress, it did spur the Congress to establish the Joint Select Committee on Solvency of Multiemployer Pension Plans in February 2018. This committee held a number of DC and field hearings through the fall of 2018, but was unable to come to an agreement on legislation that would take advantage of the fast track authority that the committee's work product would have received. That said, the idea of a special partition was born in this process and served to inform the 2019 work of the Senate Committee's on Finance, and Health, Education, Labor and Pensions.

In November 2019, Senate Finance Chairman Grassley and Senate HELP Chairman Alexander issued a White Paper based on the work of the late Chris Allen, Chairman Grassley's top pension staffer and previously co-head of the staff for the Joint Select Committee. Chris tragically passed

away in January 2020, but he was an incredibly open, thoughtful, intelligent and devoted public servant, and one that we miss greatly.

The White Paper provided for the special partition, funding rule changes, and a new plan design option through the GROW Act. It also contained some very controversial items including significantly reduced discount rates, and their idea of shared sacrifice, which included a 16-fold, $4.6 billion annual increase in premiums and taxes from plans, participants, employers, and unions, as well as significant cuts to the pensions of retirees in distressed plans.

While we were clearly displeased with certain aspects of the White Paper, we also found some very positive foundational pieces on which to build a bipartisan piece of legislation. However, Chris's passing and the COVID-19 pandemic changed the legislative process for all of this. Although the pandemic greatly exacerbated the problems for the distressed plans, the CARES Act provided an opportunity to address these issues, along with new issues for multiemployer plans caused by the pandemic and the government mandated shutdown of the U.S. economy. Speaker Pelosi and Leader Schumer worked very hard to get pension relief included in the CARES Act, unfortunately, Republican's balked.

Undeterred, Speaker Pelosi, however, included the special partition structure and the new plan design option in the HEROES Act. While the Republican led Senate refused to take up the HEROES Act after its passage in the House in May, and again in October, Republicans and Democrats did have serious negotiations in early December as the year-end COVID bill was being put together. In fact, significant progress had been made on the reform issues that the Republicans have repeatedly said they wanted and which could – if done right – benefit all plans in the system. However, on December 12th, the Republicans inexplicably walked away from a comprehensive relief and reform deal over what we have come to understand was solely about the money.

This was disappointing because it was a lost opportunity for both relief and reform, and a setback on whether years of efforts had really changed or informed minds on the actual sources of the problems, the consequences of inaction, or real and sustainable solutions.

NCCMP is a non-partisan organization, but our work is clearly front and center in a deeply political and polarized environment. We have felt that it is important to understand that, and to be able to communicate the political impact of the multiemployer system to our nation's leaders, without regard to their political stripe.

Beginning in 2018, we wanted to understand the state-by-state political impact of participants in multiemployer pension funds. So we analyzed the 10.4 million participants and where they lived.

What we found was very interesting and relevant to statewide races for federal positions like President and U.S. Senator. For example, an analysis of the 2016 General Election showed that the Presidential race was decided by 77,744 votes in Michigan, Pennsylvania and Wisconsin. These three states have more than 1 million multiemployer pension participants, also known as voters.

We also determined that that the number of multiemployer pension participants exceeded the margin of victory in the 2018, 2016, and 2014 U.S. Senate races in the key 2020 races, including those in Arizona, Colorado, and Georgia.

We shared this information with the Administration and as well as with both sides in the House and Senate. This was one of the reasons that we thought that there was hope for an agreement on multiemployer pension relief and reform well before November, because those responsible for a solution could run a very effective campaign on "I saved your pensions". Well, I was decidedly wrong in 2020 on that part!

However, the 2020 General Election did see the 5 states of Arizona, Georgia, Michigan, Pennsylvania and Wisconsin, each with more than 100,000 multiemployer voters, provide their votes to the Democratic nominee this time, and with it, the Presidency to Joe Biden. It also saw the Democrats pick up Senate seats in Arizona, Colorado, and two in Georgia, which along with Vice President Harris, provided control of the Senate to Majority Leader Schumer.

Elections can have enormous consequences, and thankfully, the January 5th Georgia run-off races for the Senate provided the opportunity that we have in front of us today. This was a long and unexpected journey, but I come back to McCarthy's message, "So everything is necessary. Every least thing."

I would also observe, that the 2022 and 2024 races will provide a significant political opportunity for Democrats to feature campaign themes that include "I Saved Your Pensions". This is for good reason, because this issue matters to voters. And a successfully implemented program will be foremost in voter's minds in both 2022 and 2024.

The simple fact is that not a single Republican voted for the reconciliation bill, but they did speak up about opposing the multiemployer pension provisions. And many of them were angry based on their assertion that this had nothing to do with the COVID pandemic, despite clear evidence that there have been COVID related impacts to plans, participants, and employers. It's odd though, I do not recall any such Republican anger over the $210 billion in retroactive tax breaks for corporations and the super wealthy that was included in the March 2020 CARES Act.

And this is one of the reasons that it is so important for Congress and the Biden Administration to pay attention to the PBGC's guidance and execution. I know that President Biden understands this, because he told the nation on March 12th that "It's one thing to pass the American Rescue Plan. It's going to be another thing to implement it." He followed up with "We have to get this right. Details matter". And the details of the PBGC guidance or regulations will matter greatly to the execution and success of the special financial assistance program.

This brings us back to some people who deserve enormous credit and thanks for the multiemployer provisions of the American Rescue Plan. This was the brainchild of Speaker Pelosi, Majority Leader Schumer, Chairman Richie Neal, Chairman Bobby Scott, Chairwoman Patty Murray, Chairman Ron Wyden, and particularly their staffs. This includes Katherine Monge, Anna Taylor, Kara Getz, Kevin McDermott, Kendra Isaacson, and Drew Crouch. We are going to hear from some of them later, but after the results of the Senate races in Georgia, they

quickly pivoted from multiemployer pension relief and reform, to drafting a solution that could fit within the strict confines of a reconciliation bill.

The special financial assistance in the American Rescue Plan is designed to ensure that eligible plans can cover 30-years of benefit payments, and as Majority Leader Schumer said from the floor, "to ensure plans receiving financial assistance under the new program are not placed in a worse long-term funding position than they are today or are projected to be into the future" and that "this new program is intended to be a long-term solution for these ailing plans, a solution that protects retiree benefits as well as the health of the plans themselves." Fully and successfully implemented, this will provide more than 1.3 million participants with certainty of their pension benefits, and tens of thousands of employers and their active workforces with new stability and certainty that did not exist before this bill's passage.

This was the most significant piece of multiemployer legislation for distressed plans since the passage of ERISA. And I want to come back to the life lesson in The Crossing, because so much work had been done in the last 4-years, that even though the solution that passed was not what had been on the table before January 5th, all of the prior work laid the foundation for the need and the solution provided in the reconciliation bill, the rationale for politically taking the opportunity when it became available, and for providing real political leadership in the face of naysayers.

It was disappointing that critics failed to appreciate the fiscally conservative nature of this program, as it is certain that whatever the actual cost of this program, it will cost the U.S. taxpayer less than allowing the distressed plans and the PBGC to go insolvent.

It was also disappointing to me that some failed to understand that the COVID-19 pandemic has significantly hurt these pensions, their participants, and the employers that jointly sponsor them.

The government mandated shutdown of the economy has resulted in an unprecedented economic collapse, decimating the finances of workers, families, employers, and their plans. This economic shutdown put more than 81 million hardworking Americans out of work in the fifty-one weeks ending March 6th. In comparison, during the worst fifty-one weeks of the 2008-2009 Great Recession, 29 million Americans lost their jobs.

Because multiemployer pension plans generally receive contributions based on the hours worked, as hardworking Americans are unemployed, more employers are no longer contributing to the pension plans, or to the health plans. These lost employer contributions are devastating for all multiemployer plans, but particularly for those plans already in financial distress.

COVID-19 has also resulted in the Federal Reserve taking actions that directly and negatively impact pension plans. These actions include expanding its balance sheet by $3.1 trillion, or more than 73 percent since last March. This extraordinary support, and the Fed's commitment to keep it in place for years, has resulted in negative real yields, bond yields after accounting for inflation, on Treasuries, Agencies and other fixed-income securities. This will also be an issue to consider for the segregated assets of the special financial assistance fund for those that take relief, because of the bill's restriction on how these funds can be invested.

The Fed's actions are the principal reason for the positive stock market since the shutdown, although a number of non-calendar year plans have posted losses for their plan years that ended in 2020. Furthermore, given the role that fixed income securities play in a well-diversified portfolio, a requirement under ERISA, the Fed's actions have negatively impacted a large portion of the investment portfolio of pension plans as well as the PBGC's valuation of pension liabilities.

A long-term solution to COVID-19 and its successful implementation is underway. But what remains unclear is how many of the 81 million Americans who have suffered unemployment will get their jobs back, or, for those who do, whether their wages or hours will approach pre-COVID levels. Many of the industries that participate in multiemployer pensions, including hospitality and entertainment, continue to suffer devastating unemployment due to government COVID restrictions.

While last week's jobs report was encouraging for March, new unemployment claims totaled 719,000, which is higher than the WORST week during the 2008-2009 Great Recession. And it is notable that during the COVID pandemic, this has been true for 51 of the last 52 weeks.

Most employers in the multiemployer system are small businesses and this pandemic will continue to tremendously hurt their finances and their multiemployer pension plans. With the Fed indicating that the recovery will take years, multiemployer system employers are unlikely to be any different from the broader economy, taking years to get back to the pre-COVID-19 levels of employment, business activity, and pension contributions.

After years of significant attention, including a nearly year-long Joint Select Committee and now an unprecedented public health crisis and economic catastrophe, all significantly worsened by the prior Administration's mismanagement, we are thankful that Congress addressed what they could through reconciliation. It is my hope that we can now see a stop to the nonsensical and demonstrably false explanations of the origins of, or solutions to, this crisis, and return our focus to the unfinished business, which are the constructive parts of reform.

As Sean talked about, there are so many within the multiemployer community who deserve recognition and thanks for everything that they have contributed for the past 15-years, and this includes many of you joining us today. I have appreciated the tremendous efforts of numerous General Presidents and their teams, company executives, lobbyists, fund administrators, and the plan professionals that provide legal, actuarial, and investment advice. Another influential group has been the retirees who organized and fought so hard to get their personal stories to Members of Congress and the Administration. As you go through the list of everyone involved, it is just incredible to think how long this journey has been and how far we have come.

We have achieved some very significant wins in the past 15 months. In December 2019, we got the United Mine Workers of America pension fixed, fixes to the mineworker's retiree healthcare, and a repeal of the Cadillac Tax.

The American Rescue Plan provided the special financial assistance program so that participants in eligible plans are paid full benefits through 2051, without reduction. The eligible plans include: All plans that are critical and declining in 2020-2022, i.e., they are projected to become insolvent within 20 years; All plans that have suspended benefits under MPRA and those suspensions are unwound and repaid; All plans that are currently insolvent and ongoing, which we believe impacts at least one plan; and All plans that are currently critical status, less than 40% funded on a current liability basis, and have a worse than 2:3 active to inactive ratio. CBO estimated that there were 300 critical plans including 100 critical and declining. Based on work that Segal did for NCCMP, we have a similar expectation.

For the employers in eligible distressed plans that are successful in applying for special financial assistance, this relief ensures that their plans do not face insolvency concerns for at least this period, eliminating the going concern issues that could arise from mass withdrawal liability at insolvency or perpetuity payments at insolvency to plans that do not terminate at insolvency, which would likely trigger on-balance sheet recognition of the present value of the liability of the perpetuity payments.

There is relief for all plans related to investment losses and lost contributions, which is an important COVID related issue, and which now may be smoothed over 30 years in the development of the funding standard account and over 10 years in the development of the actuarial value of assets. Further, the upper limit on the actuarial value of assets is increased to 130% of market value of assets.

For plans in critical or endangered status, their rehabilitation or funding improvement plans, may be extended for 5 years.

Plans may also freeze their zone status to allow trustees and the bargaining parties more time to develop a plan to address the impact of COVID-19.

Finally, PBGC premiums are increased to $52 per participant in year 10. This sounds like a significant increase from the current $31 premium; however, the current premium is indexed to wage inflation annually. In year 10, the current premium is estimated to be between $43-$45, so this is really a net increase of between $7-$9. I know that large premium increases have been a central concern for unions, employers, and plans, but I think that a fully and successfully implemented special financial assistance program would be worth the increase that we will see 10 years from now, and substantially better than the $300-$450 premium that the Republicans have sought.

The bill also provides for full COBRA subsidies for 100% of the cost of COBRA premiums through September of this year, which is a huge help to our affected participants and their health plans. Finally, for employers with fewer than 500 employees, the law provided a tax credit for paid sick and family leave under certain conditions.

As we all know, there are important issues that could not be addressed in reconciliation, and Speaker Pelosi, Majority Leader Schumer, and their leadership teams understand the need for those reforms. We look forward to working with them and the Republicans to get these done. My

hope is that with what has always been the most significant impediment to a broader deal settled, specifically the money, a bipartisan agreement this year on the issues that strengthens the system and plans would be easier to craft.

As many of you know, in 2017, NCCMP commissioned the National Institute on Retirement Security and The Segal Group to develop the economic impact of multiemployer pensions as well as the broader multiemployer system. We used this to help Congress and the Administration understand that the U.S. Government has a significant financial interest in solving the distressed plan problem and a successful multiemployer system.

We are not the only ones who look at it this way. In Berkshire Hathaway's 2019 annual letter, Warren Buffet told his shareholders that "Like it or not, the U.S. Government "owns" an interest in Berkshire's earnings of a size determined by Congress" and that the "Treasury Department holds a special class of our stock – call this holding the AA shares – that receives large "dividends" (that is, tax payments) from Berkshire."

Our 2017 data and the 10-year and 30-year projections have been widely shared with Congress and the last Administration, including in Mariah Becker's testimony before the House Committee on Education and Labor's Subcommittee on Health, Employment, Labor and Pensions in March of 2019. In preparation for a hearing this year that ultimately became unnecessary, we worked with Segal to update the Form 5500 data to include 2016, 2017 and 2018. What we found was that based on the actual data, our projections of the multiemployer pension system's economic impact in 2019 were significantly understated. Now, this is pre-pandemic, but we believe that this still represents the best source of baseline data to develop future projections from.

In the latest four years for which U.S. Department of Labor Form 5500 data is available (2015-2018), the multiemployer system, through the job creating employers of America and labor that jointly sponsor these pension plans, the retirees and the active workforce, as well as the economic impact from their spending, has generated more than $698 billion in taxes for the U.S. Government and $374 billion in taxes for state and local governments. These plans also provided $169 billion in pension income to our retirees, and paid more than $927 billion in wages to 3.8 million active workers. Combined, the pension and wage income supported 17.2 million American jobs annually, and generated $4.6 trillion in U.S. GDP.

The projections for each of these metrics in the 10-year budget window exceed 2.5 times the 2015-2018 data.

Had the Congress not passed the American Rescue Plan, the expected plan insolvencies would cause more than 1.3 million Americans to lose about 98 percent of their pension income and be forced onto the federal government's poverty safety net programs.

This would have also forced thousands of businesses into bankruptcy or liquidation, costing tens of thousands of active workers their jobs. Over the next decade, this would have resulted in the U.S. Government losing between $46 billion and $138 billion in tax revenue, while seeing new mandatory safety net spending expand by approximately $138 billion. Combined, these costs

dramatically exceed the 10-year cost of this bill. The 30-year cost of doing nothing makes an even more compelling case.

While it may seem unnecessary to know this information with the passage of the America Rescue Plan, in fact, it remains important for the Administration and Congress to understand. This is because the PBGC and Treasury guidance has not been issued, and there is a range of decisions that could lead to less than full implementation of this bill. This is something that we all need to be mindful of, and vigilant about over the next few months.

Toward that end, NCCMP worked for almost three weeks after the passage of the bill with a large group of technical experts, many of who are with us today, to draft recommendations for the PBGC and Treasury to consider in their issuance of guidance or regulations. We submitted this 30-page document to the PBGC, Labor and Treasury on March 30th. In the most unreasonable reading of the bill and contrary to the intent of Congress, there are interpretations that would result in very bad outcomes for eligible plans as well as their participants and employers.

For example, one interpretation is that plans may be able to make payments through 2051 and be insolvent in 2052. Plans could also be unable to make payments through 2051, and could see this shortened by 12 to 15 years because of the investment restrictions placed on the segregated assets of the special financial assistance. The discount rate used to calculate the special financial assistance could be the interest rate limit, currently at approximately 5.5%, despite being directed to invest the proceeds of the special financial assistance in investment-grade bonds that yield less than 2% nominally, and that are negative yielding on a real basis. It is simply inconceivable that Congress meant for plans to run out of money years before 2051 or to become insolvent in 2052, and we must make sure that the guidance or regulations do not make either of these outcomes a reality.

Two more potential outcomes of an odd reading of the bill involve MPRA. In the case of successful MPRA applicants, trustees may find that their plan would be worse off in the future if they unwound the suspension and repaid the benefit reductions, creating a fiduciary duty dilemma. This may also lead to a scenario where MPRA remains an active and important tool for trustees of otherwise eligible plans

So I come back to the importance of PBGC and Treasury getting the guidance right upfront.

And it remains true that the government's financial interest in preventing a crisis from becoming a catastrophe is aligned with ours, which means that they continue to have a significant stake in being constructive with guidance that fully implements the American Rescue Plan.

For 47 years, NCCMP has been working to make sure multiemployer pension, health and welfare plans can thrive, and our vital work continues. As a membership organization, we rely on membership to provide the funding for our vital work. We appreciate all of the plans, unions, and employers that are members.

Thank you. I am now pleased to take any questions that you may have.