AMENDMENT TO RULES COMMITTEE PRINT 116-24 OFFERED BY MR. ESTES OF KANSAS

In section 4(c)(1), strike "and" at the end of subparagraph (D), redesignate subparagraph (E) as subparagraph (F), and insert after subparagraph (D) the following:

(E) provide disclosures or answers to each of the following:

(i) PLAN ADMINISTRATION.—

(I) What are the qualifications needed to be a plan trustee?

(II) What is the process by which plan trustees are selected?

(III) What is the process by which plan trustees may be removed?

(IV) May plan trustees or employees also be current or former officers, directors or employees of or service providers to the employers or unions sponsoring the plan?

(V) Are there any restrictions on whether plan trustees or employees may subsequently work for the union or the employers?

(VI) Provide a written description of each pension trustee, with material information including: the trustee's current and past professional employment; the trustee's education and any specialized training or accreditation relevant to the role of trustee, the trustee's age and physical city location, the trustee's previous service as trustee for any other pensions.

(VII) Provide a written description for each trustee of any potential or actual conflicts of interest, including any employment, contractual or other business, financial or investment relationships between any trustee and any investment manager, planner, consultant or other party subject to decisions by the trustees.

(VIII) If the pension invests in any entities or projects that employ, contract with, or have other business, financial or investment relationships with the trustee, including any household or family member of a trustee, that shall be disclosed and the terms, including financial terms shall be fully provided in the written description for trustees.

(IX) All such relationships by any household or family member of a trustee shall be imputed to the trustee and provided in that written description for the trustee.

(X) Provide a written discussion of key employees of the pension who are employees or in a contractual relationship with, or have other business, financial or investment relationships with any business or union funding or sponsoring the plan, or any affiliated business or union, and the amounts such employees are paid or receive in other forms of compensation. The conflict of interest agreements, policies or requirements that apply to trustees and employees, including key employees shall be included.

(XI) Provide an annual ethics disclosure by each trustee with a listing of all information relevant to any potential conflict of interest.

(XII) How are the plan's actuaries chosen?

(XIII) How often does the plan evaluate its choice of actuaries?

(XIV) How does the plan evaluate recommendations of actuarial assumptions made by its actuaries?

(XV) How are the plan's investment policies chosen?

(XVI) How often are the plan's investment policies re-evaluated?

(XVII) Does the plan have any policy with regard to hiring actuaries or other consultants who believe that liabilities should not be discounted based on expected rates of investment return on assets?

(XVIII) Does the plan participate in the BDS movement against Israel?

(XIX) Does the plan have any policy on Economic, Social, Governance (hereinafter referred to as "ESG") investing?

(XX) Does the plan have any ESG investments?

(XXI) Does the plan invest in projects that employ plan participants?

(XXII) Does the plan have any investments in any of the plan's participating employers?

(XXIII) How are the plan's investment advisers chosen?

(XXIV) How does the plan evaluate investment fees?

(XXV) Provide in spreadsheet form all fees paid by the firm, broken out by to whom paid and for what purpose, and include a separate statement of all investment fees and expenses, regardless of whether such costs are embedded in other costs.

(XXVI) In what manner does the plan disclose to potential employers potential withdrawal liability?

(XXVII) In what manner does the plan disclose to active, separated, and retired participants the possibility that their benefits will be reduced if the plan is not able to achieve its target rate of return on investments or employers withdraw from the plan?

(XXVIII) For employees who do not wish to take on this risk, are employee provided with options to bear less risk, such as the choice of having their contributions going either into a separate pool with lower discount rates or more conservative investments, or a 401(k) plan in which the employee can make his or her own retirement decisions?

(XXIX) Does the plan disclose to participants whether any portion of their contributions are in excess of the value of their accruals (based on the plan's assumptions), if any? How is such disclosure, if any, made?

(XXX) How does the plan disclose to participants the benefit amount they are likely to receive based on current plan funding?

(XXXI) For each of the last ten years, how many employees or service providers to the plan are also employees or service providers to the union co-sponsoring plan or any affiliated union?

(XXXII) How much are such employees or entities paid?

(ii) PLAN EXPERIENCE GAINS AND LOSSES.—

(I) List each of the plan's experience gains and losses in each year in spreadsheet form.

(II) What would the plan's assets be if the plan had investment returns equal to the expected rate of return in each year beginning with the year 2000.

(iii) MORTALITY.—

(I) What are the mortality assumptions used by the plan and how have the plan's assumptions changed since the year 2000?

(II) How do mortality assumptions for the plan compare to the prescribed single employer /current liability mortality tables?

(III) How has that changed if any, each year since the year 2000?

(IV) What have the mortality gains and losses in each year for the plan been since the year 2000?

(V) To what extent have those gains or losses been to actual deaths that occurred or did not occur versus changes to the underlying mortality assumptions?

(VI) What actual mortality developments (whether within a plan or in the wider population) cause the plan to change its mortality assumptions?

(VII) Provide a complete population census of each participant in the plan, their date of birth, dates of service, employer, participant status, and any other relevant data.

(VIII) Provide the actual mortality experience in the plan for each of the last 20 years.

(iv) EMPLOYERS, CONTRIBUTIONS, AND ACCRUALS.—

(I) What due diligence does the plan perform before accepting an employer as a sponsor of the plan?

(II) Does the plan take into account the likelihood of volatility in funding and contribution levels that may result from the plan's investment policies in determining which employers should be accepted as a sponsor of the plan?

(III) In spreadsheet form, list each employer who has participated in the plan in each year or that is a plan signatory, the contributions made in each year by each employer and the contribution rate in each year for each employer, the health care compensation, and total compensation paid by each employer under the collective bargaining agreement.

(IV) For each employer, list the employer identification number and entity name for the entity within the employer's control group that files the tax return. Treasury shall keep the employer identification number confidential.

(V) When did the plan last conduct a payroll audit?

(VI) How did the plan determine which employers to audit?

(VII) What was the result?

(VIII) What percentage of such employers in each plan, and in the aggregate are publicly traded?

(IX) What is known about the financial status of each employer that participates in the plan?

(X) What due diligence does the plan perform before accepting an employer as a sponsor of the plan?

(XI) How does the plan determine the accrual rate for new benefits?

(XII) Does the plan take into account any changes in the market price for group annuities when setting accrual rates each year?

(XIII) What were the benefit accrual rates in the plan for each plan year?

(XIV) What were the contribution rates, contribution base units and total contributions in each year?

(XV) How does the plan determine what contribution rate in a collective bargaining agreement is acceptable?

(XVI) List each year, if any, in which the plan did not receive its minimum required contribution.

(XVII) What measures were taken to collect the additional amount?

(XVIII) What adjustments were made in the following plan year?

(XIX) For each year in which the plan was underfunded, how did the plan determine how high it could require increased contribution rates or lower accruals in collective bargaining agreements?

(XX) List pension benefits that are attributable to service with each employer in each year the employer has participated in the plan.

(XXI) What contributions did each employer make to the plan in each year and what was the value of the accruals promised to each employer's workers in each year if the contributions had been used to buy Treasury bonds with a duration matched to the duration of the liabilities?

(XXII) For each year, what were the plan's assumptions about the future levels of contribution base units?

(XXIII) For each year in which the plan was in critical or endangered status, how did the plan determine how high it could require increased contribution rates or lower accruals in existing collective bargaining agreements in order to come into come into compliance with the funding improvement plan or funding rehabilitation plan?

(XXIV) If the plan has a funding deficiency, on what basis did the plan determine that it could not increase contribution rates or lower accruals in order to avoid the funding deficiency?

(XXV) Would the plan have been able to require higher contributions or lower accruals if the laws for withdrawal liability had not contained any limitation based on past contributions rates and contribution base units and the total level of unfunded liabilities were measured using a Treasury discount rate?

(XXVI) For each of the last twenty years, what percentage of total compensation in each collective bargaining agreement has gone to the pension plans and for health care, respectively?

(XXVII) Provide a detailed written description of any policies that exist for lost, missing or otherwise unaccounted pension beneficiaries, including what procedures exist to determine whether a pension beneficiary is decided to be deceased, including whether any verification is performed of such a death, and whether the pension publicly discloses on its website or otherwise a list of all pension beneficiaries who are lost, missing, or otherwise unaccounted for or who are determined to be deceased. The description shall also include a description of the use of funds intended for pension beneficiaries who are lost, missing, or otherwise unaccounted.

(v) PLAN RESILIENCE.—

(I) What would be the consequences to the plan if investment returns average an annualized negative 5 percent over the next three years?

(II) In the case of a plan not already in the critical status, what annualized investment return does the plan need for the next 10 years in order to avoid moving into critical status

(III) What annualized investment return does the plan need for the next 10 years in order to avoid projecting a funding deficiency for the 10 succeeding years?

(IV) What if any existing credit balances were disregarded?

(V) What assumptions about the contribution base are contained in that projection?

(VI) How would that change if the contribution base were to stay constant?

(VII) What if the contribution base were to decline by 5 percent annually?

(VIII) If the plan were to become underfunded this year, by what maximum amount and what percentage would the plan be able to raise contributions in the following 5 years?

(IX) How would that answer change if the withdrawal liability rules were changed so that an employer's withdrawal liability were equal to its share of the unfunded liabilities using a Treasury discount rate to measure the liabilities and were due in full upon withdrawal?

(vi) WITHDRAWAL LIABILITY.—

(I) Which employers have withdrawn from the plan in each year since 1974?

(II) What have withdrawal liability payments been by each such employer to the plan?

(III) How do withdrawal liability payments compare to each withdrawing employer's share of the unfunded liabilities on an actuarial basis? On a Treasury yield curve basis?

(IV) What is the plan's policy on what terms it offers employers who withdraw with a lump sum, or other period less than 20 years, rather than paying over 20 years?

(vii) ASSETS.—

(I) What portion of each the plan's assets consist of items that have a readily ascertainable market value, such as publicly traded stock, Treasury bonds, or cash, versus items whose value is not readily ascertainable?

(II) List all assets using eXtensible Business Reporting Language (XBRL) in a manner to be specified by the Department of the Treasury.

(viii) LIABILITIES.—

(I) For portions determined actuarially, provide a schedule of all underlying assumptions, and a schedule of the pension beneficiary population with data regarding mortality and morbidity characteristics relevant to a modeling of annuity costs.

(II) Provide the expected benefit payments by each plan for each of the next eighty years and what portion of the payments in each year by each plan which would be covered by the guarantee of the Pension Benefit Guaranty Corporation.

Add at the end the following:

SEC. 13. ADDITIONAL DISCLOSURES FOR LARGE MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Section 6058 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) ADDITIONAL DISCLOSURES FOR LARGE MULTIEMPLOYER PLANS.—In the case of a multiemployer plan (as defined in section 414(f)(1)) the fair market value of the assets of which is at least $1,000,000,000, the return required under this section shall include the disclosures and answers required by section 4(c)(1)(E) of the Rehabilitation for Multiemployer Pensions Act of 2019.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns required to be filed after the date of the enactment of this Act.

☒