TESTIMONY OF MR. WILLIAM NUTI

ON BEHALF OF

AMERICAN BENEFITS COUNCIL

BEFORE THE

COMMITTEE ON WAYS AND MEANS

OF THE

U.S. HOUSE OF REPRESENTATIVES

FOR THE HEARING ON

DEFINED BENEFIT PLAN FUNDING LEVELS AND INVESTMENT ADVICE RULES

OCTOBER 1, 2009

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CHAIRMAN AND CHIEF EXECUTIVE OFFICER
NCR CORPORATION
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Good Morning. My name is Bill Nuti. I am the Chairman and Chief Executive Officer for NCR. I am here today on behalf of NCR and the American Benefits Council. NCR is a member of the Board of Directors of the Council.

I appreciate the opportunity to testify before the Committee today. Chairman Rangel and Ranking Member Camp, I commend you and the Committee for holding a hearing on the need for defined benefit funding relief. This issue is critically important not only to NCR and its employees, but also to every company, every employee, and every community across the United States. This is far more than a pension issue. Fundamentally, it is a jobs issue and a critical economic recovery issue. This Committee and this Congress have the opportunity to save thousands of jobs without spending one penny of government money. In fact, the Education and Labor Committee funding relief bill would actually raise $10 billion. It is not often we can simultaneously save jobs and raise money. I urge you to move quickly and help to save American jobs.

Before I explain further why this is a jobs issue, I want to share some information about NCR and why the defined benefit pension plan issue is important to us. NCR is a 125-year-old global technology company, with approximately 22,000 employees worldwide. We are the leading self-service company focusing on how the world connects, interacts, and transacts with business. We serve the retail, financial, travel, healthcare, hospitality, entertainment, and gaming sectors of the economy, operating in more than 100 countries. Every day, you or someone in your family most likely touches our technology in some way, whether it is checking out at the grocery store, getting cash from an ATM, checking in for a flight, or registering for a medical appointment.

I want you to know that we are committed to fully funding our pension plan. I do not want there to be any confusion about that. Our defined benefit plan has 6,000 active participants, 23,000 retirees and 21,000 deferred vested participants. We made the difficult decision to freeze our plan in 2007. It was a decision we made in the context of the competitive environment in which we do business. Very few companies in our industry maintain defined benefit pension plans. I also want to point out that, at that same time, we froze accruals in our nonqualified executive retirement plans.

We are not here today to ask for a bailout. We are not seeking taxpayer assistance. Nor are we asking to be relieved of our pension funding obligations. NCR will meet its obligations to the participants in the defined benefit pension plan. Rather we and other plan sponsors need more time to amortize the extraordinary market losses of 2008.

Given such time, we can manage the losses our plan sustained in the market downturn, and at the same time make the necessary investments to grow our business and create jobs.

Why is funding relief so critical for NCR and so many other employers? The passage of the Pension Protection Act ("PPA") accelerated our funding requirements, and those of other defined benefit pension plan sponsors, just before the market turmoil and the world-wide economic crisis struck. The new funding rules were effective in 2008, the year the financial crisis began. We continue to support the goals of the Pension Protection Act to increase, over time, the funding levels of defined benefit pension plans. However, the rules were enacted in a more robust economy and did not account for the impact of a scenario where we faced the combined effects of tightened credit and precipitous market losses. The recession has been deep and the recovery challenging. Interest rates are low and funding obligations for NCR's pension plan will increase dramatically. As of January 1, 2008, we were 110% funded. By January 1, 2009, our plan was 75% funded purely as a result of the unprecedented market downturn. Many other plan sponsors find themselves in the same predicament. For example, another company's projected contributions for the next seven years have jumped from $200 million to $1.5 billion due to the economic downturn, an astounding increase of 650%.

Late last year Congress enacted the Worker, Retiree and Employer Recovery Act that provided relief to some, but not all, companies. In fact, the 2008 Act will, under a possible regulatory interpretation of the law that is currently pending before Treasury, actually increase the obligations of some companies. In addition, the Treasury Department has provided some additional relief through regulatory guidance that has helped many companies for 2009, including important guidance issued last week. Unfortunately, the market has not recovered and interest rates remain low. Companies across the country are facing staggering funding obligations for 2010 as a result.

This issue is time sensitive. Under the PPA, the vast majority of plan sponsors' funding obligations will be locked in on January 1, 2010, regardless of what happens in the economy for the remainder of the year. That is a short 3 months away. As a business, we must undertake steps NOW to reserve cash for this very large liability. Our creditors, investors, and business partners want to know NOW how we will pay for this liability. We, and the many other companies in a similar position, will have to make decisions before the end of this year in order to be ready to satisfy the dramatically increased funding obligation we expect to owe. Because this obligation is required by law, we will be forced to divert resources from our business and from job retention and creation. At a time when we can least afford to do so, we will need to divert capital away from critical investments in business growth and toward funding for a long-term obligation. As an example, if a company has to set aside $100 million for its pension plan in one year, that's equal to 2,000 employees earning $50,000 a year. In order for that company to pay that amount in 2011, it might have to lay off those employees near the beginning of 2010. This is why it is critical we take action now.

This would be extremely important, not just for NCR, but for many of this country's oldest and largest employers - and some of its most respected charitable organizations. In working with some of our colleagues under the umbrella of the American Benefits Council, we have learned that these businesses – from energy and transportation companies, to companies in the manufacturing, retail, and technology sectors - are experiencing similar situations. We are also acutely aware of the important interrelationship in our economy that may not be readily apparent, but which has a very dramatic impact on the American people.

Though each of our stories is somewhat unique, all of us are intertwined. When we divert resources away from meeting the demands of the new economy and maintaining and creating jobs, we suffer competitively, which impacts our customers and suppliers as well. For example, when a retailer is forced to shut stores and lay off employees, it reduces its orders for merchandise, advertising, and shipping. That retailer also does not need as many scanners, cash registers, and other products to transact business. In turn, a trucking company that provides services to that retailer now has fewer shipping orders and may, consequently, reduce its orders for new trucks and parts to replace or update its fleet. The company that manufactures the trucks in turn is affected.

In this economic downturn, companies do not have much financial flexibility. Many companies are facing a very difficult choice - fund their long-term obligations under their pension plans or make investments that create jobs. Some companies may have to lay off workers to meet their funding obligations. The need to fund the extremely large, unprecedented 2008 market losses too quickly undermines the creation and retention of jobs. Workers will be displaced or remain unemployed too long. This hurts workers, their families, communities, and the overall economy. Providing funding relief will help to keep Americans working, which in turn allows companies the ability to invest in jobs down the road.

We are very pleased that Representative Pomeroy has issued a discussion draft of legislation that provides relief to plan sponsors and workers. It is focused on providing employers the ability to manage the losses from the recent market turmoil by providing more time to make up those losses. This makes tremendous sense given the sharp downturn in the economy, uncertainty ahead, the number of displaced workers, and the continued tightened credit markets.

The proposal includes a rule whereby employers could pay interest only for two years followed by use of the existing law's amortization period for amortizing losses (the so-called "two and seven" approach). Alternatively, companies can elect an extended amortization period for repaying the extraordinary 2008 losses; this alternative is more costly initially but avoids the sudden increase in funding that can arise in the third year of the two and seven rule. Each company's situation is different and the two approaches provide reasonable choices for companies based on their own circumstances. Both alternatives are based on the principle that we need to remain committed to the goals and intent of the PPA, while providing businesses some relief to deal with an extraordinary set of economic circumstances. The two and seven approach has also been included in legislation reported out of the Education and Labor Committee as well as in savings legislation introduced by Republican Leader John Boehner.

While there have been some suggestions that legislation should be written in a way so as to screen out any companies that might not meet specified criteria, none of the bills have yet to accomplish this goal. We strongly urge this Committee not to include any such "targeting" provisions. The targeting concept ignores the critical fact I discussed earlier -- that businesses are necessarily interrelated. If targeting denies relief to a company, that company may not be able to advertise in media outlets, hire new workers, place orders for new parts and new inventory, or build a new facility. Helping one business helps others. Denying relief to one company can profoundly affect all those businesses that interact with that company.

The Pomeroy legislation includes a provision that would allow companies fuller use of the so-called "smoothing" provision. For many companies, this provision would provide enormous relief because it would allow companies to effectively spread out recognition of the unforeseeable losses over a 24-month period.

It is important to note that the Pomeroy discussion draft includes a number of other provisions that will help provide greater stability to defined benefit pension plans -- including multiemployer plans -- and will correct some critical problems that exist in the implementation of the PPA. Every one of the relief proposals either is essential to the economic recovery of at least one of the Council's members or corrects a clear glitch in the rules.

For example:

- The draft prevents plans from being forced to freeze benefits by reason of the market downturn.

- Without relief, many companies that prepaid their funding obligations would lose the ability to use those prepayments ("credit balances") to satisfy their funding obligations. The draft would solve that problem.

- The draft eliminates an unfortunate glitch in the law that would prevent many companies from providing additional benefits to bridge their early retirees until the retirees are old enough to qualify for Social Security benefits.

- The draft would prevent an outdated reporting rule from artificially triggering a loan default, which could be ruinous for a company.

- The draft would clarify a technical correction contained in the 2008 relief bill, so that companies are not forced to contribute $50 million or more in additional amounts never intended by Congress.

- Some companies were provided delayed effective dates with respect to the PPA funding rules. Since the pre-PPA rules can be even tougher than the PPA rules in some situations, the draft very appropriately applies the same relief to those companies.

We are also very pleased that the Education and Labor Committee has passed funding relief and that Republican Leader Boehner has introduced funding relief legislation. And we look forward to continued constructive discussions of this critical topic with the Senate.

I want to close by talking about something I am very proud of. NCR is opening a new manufacturing facility in the United States. We are creating approximately 900 new jobs in Columbus, Georgia to manufacture our next generation of innovative ATMs.

We believe this will be a big win for our company and our customers. It will help us bring new products to market faster by moving manufacturing closer to our global innovation center. And as a result, we will be more responsive to customer needs.

This is a significant investment for NCR. If we had to make a considerable catch-up contribution to our pension fund this year, we would not be able to meet our investment goals, open up a plant and create new jobs. That is why the Pomeroy bill is so important for NCR and for the many great companies in the same predicament. We are absolutely committed to bringing our pension fund back to 100% funded; what we are asking for is more time to do exactly that.

Over the next three to four years, responsible companies are going to have to choose between making very large payments to their pension funds or making investments that create jobs. Or worse yet, many will find themselves forced to lay off employees as a result of the funding requirements. Passage of the Pomeroy bill helps what is important to us all: the future of American jobs and innovation.

Thank you very much for the opportunity to testify today. I look forward to answering your questions.