Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019
Education and Employment Legislation Committee
Questions on Notice
Electrical Trades Union of Australia Victorian Branch (ETU Victoria)

1.When did the Victorian Branch of the ETU set up the worker entitlement fund 'Protect' with the National Electrical Contractors Association (NECA)? 1998.
a. Was it a 50-50 arrangement to set up this fund? No.
b. Does the fund make distributions to the ETU and NECA? Yes.
i. Is this a 75-25 arrangement between the ETU and NECA, respectively? Yes.
ii. If not, who is the arrangement between and how is it split, in percentage terms?
c. How much has the ETU received from 'Protect' each year for the last ten years?
Prior to the distribution in 2017, triggered by the threat and impact of the Proper Use of Entitlements Bill, the average distribution has been $630K per year.
d. How much has the ETU received from 'Protect' in total for the last ten years? Refer to question "c"
e. Are the ETU's accounts based on calendar years? Yes.
f. In relation to the ETU's 2017 account figures:
i. Did the Victorian Branch of the ETU receive around $8 million in membership subscriptions? Yes.
ii. Did the Victorian Branch of the ETU receive around $9 million in other income? Yes.
iii. Is this income separate from the extraordinary distribution of $32 million referred to in the 2017 account figures? Yes.
g. In your account figures you reference management fees:
i. What is the purpose of the management fee?
The ETU manages to ensure that electrical workers, working in the electrical contracting industry, receive world class income protection.
ii. What is it used for? The management fee is paid straight into a "Distress, Hardship, Welfare and Training Fund". Funds in this trust cannot be used for industrial, political, operational purposes of the union and can only be used for the continuation of services, benefits, such as, counselling, suicide prevention, drug and alcohol education, professional development, etc.
iii. Who pays it? The insurer.
iv. Is it a commission received from payments made by employers to the income insurance arrangements run by 'Protect'? Protect does not run the income protection.
h. Does the ETU have a standard form enterprise agreement that it negotiates with NECA for individual contractors? The ETU negotiates agreements on a regular basis, those employers represented by NECA are less than 50.
i. Does that enterprise agreement require payment for income protection insurance to 'Protect'?
The ETU is has signed over 1,000 agreements some of these require income protection insurance to be administered by Protect.
ii. If an employer pays into the 'Protect' severance scheme, is income protection included in that? No.
iii. If an employer does not pay into the 'Protect' severance scheme, do they make a contribution for income protection insurance alone, at 2 per cent of payroll? No.
iv. Does the ETU receive commission for those payments? As previously stated, there is a management fee associated with the income protection payments.
v. How much is that commission? The management fee is 16% of the total insurance charge.
vi. Do you report this as a management fee? Yes, the management fee is reported as a management fee.
i. Did the Royal Commission say that this reporting as a management fee was

misleading? The report of the Royal Commission is publicly available. The ETU does not agree with the findings of this ideological report.
j. Did the Royal Commission say that 'Protect' provides the necessary administrative services for that insurance, not the ETU?
The report of the Royal Commission is publicly available. The ETU does not agree with the findings of this ideological report.
i. Has this changed since 2015? No, The ETU continues to disagree with the findings of this ideological report.
k. What service is the ETU providing to 'Protect' in exchange for that $2.5 million a year in management fees? The ETU provides services to the insurer, refer "g" above.
i. Is it commission paid by the insurer for the ETU procuring payments under its enterprise agreements? The management fee is paid for the services as in "g" above
ii. Is this filtered through 'Protect'? Protect only administers the management fee.
iii. Is this why the ETU enterprise agreement requires that payment into 'Protect'? The reason some EBA's require payment into Protect is to facilitate effective redundancy payments and world class income protection for electrical workers in their time of need.
iv. Would you receive this commission if other cheaper income protection insurance was provided by the employer? Potentially.
v. So, is the management fee simply a payment of commissions, with respect to payments by employers who are paying for income protection insurance alone?
Refer "g" above.
vi. Given the Royal Commission described this as misleading, what changes had the ETU implemented to address that criticism. Refer "i" above.
l. When an employer pays into the severance part of the fund, is it subject to other arrangements? No.
Does this give rise to the $4.4 million in administration income? No.
m. In 2012, there was no administrative income but $3 million in management fees? Yes
n. In 2013, was there $4.1 million in administrative income?
In relation to administrative income in our financial reports from FY2013 onwards -this coincides with RSM taking over as audit partners.
The ETU is a 75% controlling entity of Protect which means, under principles of consolidation, that income/revenue (in this case administrative income) is consolidated into the controlling entity's financial report for that particular year.
For FY2013, $4,125,849 was reported as administrative income from Protect and consolidated in ETU's financial reports. This administrative income figure from Protect has been consolidated into ETU's accounts every year since 2013.
The important thing to note is that the ETU doesn't receive any physical income/revenue from these reported administrative income amounts.
It is a requirement that, as a 75% controlling entity of Protect, the ETU must consolidate Protect's administrative income into the consolidated financial accounts.
i. Where did this new income come from? See "N"
ii. Who are the administrative services provided to? See "N"
iii. Who pays for those services? See "N"
iv. What services are provided? See "N"
o. In 2017, was there $7 million in 'management fees' and 'administrative income'? See "N"
p. In 2018, was it $2.5 million and $5.3 million, respectively? See "N"
q. In 2017 and 2018, on top of that, are there extraordinary distributions of $44.3 million over two years that 'Protect' have admitted in their submission paying to the ETU? The 2017 Bill, like The Bill currently being examined by the committee, placed unnecessarily restrictive regulation on WBFs and provided little time for the funds and the funds' boards to respond. A result of the 2017 legislation would have been to end the distribution of surplus funds to the sponsors, meaning an end to the benefits and services provided. Considering this, the Protect Board unanimously agreed to distribute the full surplus to its sponsors.

r. Is there income from ‘routine’ trust distributions and directors’ fees on top of that? There are no “routine” trust distributions. Protect has a policy on payment for Directors’ services whether they are paid to the sponsor or paid to the respective Director. Payments for directors’ services are determined and benchmarked by an independent expert in the field, on a triannual basis.

s. How is it that in the ETU accounts there is a figure of $1.4 million for trust distributions to the parent and when consolidated by the addition of other entities the figure is reduced to $0? The ETU’s share of distribution from Protect has been reduced by an amount of $1,332,694 due to the trustee for Protect Severance Scheme distributing this amount directly to Protect Severance Scheme No.2’

t. How much has ‘Protect’ payed to the ETU and its various entities each year for the last ten years? Refer “c” above.

u. What is the total figure for 2017 and 2018? Refer “q” above.