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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510–6300

July 9, 2024

VIA ELECTRONIC TRANSMISSION

The Honorable Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear President Biden,

As Ranking Member of the Senate Committee on Health, Education, Labor, and Pensions (HELP), I write today to express my concerns with the direction of the Pensions Benefit Guaranty Corporation (PBGC) and the areas on which I believe your next nominee for director of PBGC should be focused when submitted to the United States Senate for advice and consent. As you are aware, former PBGC Director Gordon Hartogensis' term ended on April 30, 2024, and PBGC is currently led by Acting Director Ann Orr. As you consider potential nominees to fill this vacancy, I ask that you choose a nominee who both acknowledges PBGC's historic shortcomings and has concrete plans to solve them in a manner unafflicted by partisan politics.

PBGC is plagued by operational problems that have cost taxpayers money, put pension plans at near-catastrophic levels of underfunding, and caused delays that prevented pension funds from being able to quickly right their financial status, which compounded the costs borne by beneficiaries. The most recent showcase of PBGC's shortcomings came in its rollout of the Special Financial Assistance (SFA) bailout program that Democrats and your administration implemented through the *American Rescue Plan Act of 2021* (ARPA). Among other things, ARPA included a bailout for historically mismanaged multi-employer pension funds and tasked the PBGC with doling out roughly $90 billion to those funds over the course of the last three years. Despite numerous calls from congressional Republicans, however, this bailout did not include necessary reforms to the multi-employer pension system to prevent another solvency cliff down the road.

ARPA tasked PGBC with implementing rules, accepting applications, and sending taxpayer money to multi-employer pension funds to effectuate the SFA program. This bailout, and the rules PBGC hastily put into place, however, resulted in significant overpayments of American tax dollars to those pension funds. In fact, a single fund, the Central States Pension Fund (Central States)—the fund that benefits many International Brotherhood of Teamsters members —received roughly $127 million more than it needed. This overpayment was caused by PBGC's failure to implement a rule that ensured plans' bailout applications did not include dead participants, which the Government Accountability Office and PBGC's Office of Inspector General have long-recommended. Ultimately, my office—despite constant resistance from PBGC and Central States—forced PBGC to officially acknowledge that Central States received a significant overpayment and created an environment in which Central States had to return the $127 million in overpaid bailout money to the American people. Because of my oversight work, PBGC continues to look into this matter to ensure that all pension funds that received more bailout money from the American taxpayers than necessary return that money as soon as possible.

Beyond PBGC's bungled SFA implementation, PBGC has created challenges for single employer pension plans by failing to timely provide necessary information that would help them correct their financial problems. PBGC has received numerous and repeated complaints from pension plans and participants—as well as the PBGC's Participant and Plan Sponsor Advocate—that PBGC takes far too long to resolve issues and to respond to requests for technical assistance from plans, both of which detriment pension plans and participants. When PBGC fails to assist plans in fixing problems in a timely manner, it makes it more likely those plans' problems will quickly compound, eventually resulting in seismic problems that cost plans, beneficiaries, and American taxpayers more money.

In addition to PBGC's internal administrative issues, the next director will likely be tasked with working with Congress as it comes under increasing pressure to address practical concerns such as premium reform for single-employer pension plans. Various PBGC constituencies, including the American Academy of Actuaries and the PBGC's Participant and Plan Sponsor Advocate, have called for PBGC to reassess its premium structure and the effect that structure has on the stability of more secure single-employer plans. Because Congress sets these rates, the next director will play a critical role, working with Congress to make necessary changes. Your nominee must have the trust of members from both political parties to work on behalf of those plans and their participants, unencumbered by partisan affiliation.

I am eager to work with my HELP Committee colleagues to take the legislative actions necessary to fix PBGC and ensure America's pension beneficiaries receive the timely, accurate payments they earned. To do this, the next PBGC director must have the requisite experience to identify PBGC's internal problems, the courage to take the necessary action even when unpopular, and bipartisan trust to ensure PBGC gets the congressional support it needs in the future, regardless of which political party controls the White House or Congress during the next director's term.

Historically, directors of the PBGC have been confirmed on a bipartisan basis. I remain hopeful that your nominee will be someone who carries that tradition forward. To ensure your nominee is the right person to lead this non-partisan, independent agency, I look forward to a public hearing before the HELP Committee so Senators across the aisle can ask relevant questions important to their constituents and fully carry out their constitutional responsibility to provide advice and consent.

I look forward to working with PBGC in the future, and considering your nominee.

Sincerely,

Bill Cassidy, M.D.

Bill Cassidy, M.D.
Ranking Member
U.S. Senate Committee on Health,
Education, Labor, and Pensions