AMERICAN BENEFITS
COUNCIL

November 13, 2015

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Paul Ryan
Speaker of the House
United States House of Representatives
Washington DC 20515

The Honorable Harry Reid
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Nancy Pelosi
House Minority Leader
United States House of Representatives
Washington DC 20515

Dear Leader McConnell, Leader Reid, Speaker Ryan and Leader Pelosi,

On behalf of the American Benefits Council (Council), I am writing to express strong objection to the inclusion of increased Pension Benefit Guaranty Corporation (PBGC) premiums in the Bipartisan Budget Act of 2015 (BBA 2015), as well as the process by which the decision was made to do so.

The Council is a public policy organization representing principally major employers and other organizations that assist employers of all sizes in providing benefits to employees. Collectively, the Council's members either sponsor directly or provide services to retirement and health plans that cover millions of Americans.

As active participants in the public policy arena, we understand the challenges of the legislative process, and we have great respect for lawmakers and staff who have to make difficult decisions. We appreciate the opportunities we usually have during the legislative process to share our perspectives. However, congressional enactment of PBGC premium increases for the third time in four years represents extremely ill-advised public policy. The increases do not provide the revenue source Congress anticipates because they erode the base of premium payers. In addition, the manner in which the premium increases were included in BBA 2015 undermines respect for the legislative process.

The PBGC premium increases were written literally in "the dead of night" with no public policy discussion. There were no hearings on an increase in PBGC premiums and no consideration of increases by any of the four committees with jurisdiction and expertise. And when it was determined that the first version of BBA 2015 did not include the requisite level of revenue, PBGC premiums were further increased to close the gap – again without consideration by the appropriate committees.

Indeed, just days before BBA 2015 was enacted, the relevant committees of jurisdiction in the House of Representatives completed work on their portions of the budget reconciliation measure (which then was passed by the full House) and specifically chose not to include pension provisions.

The PBGC premium increases represent a budget gimmick based on faulty economic assumptions. PBGC premiums are paid to the PBGC and, by law, may only be used by the PBGC to support pension plan participants. But repeatedly over the years, and again in BBA 2015, Congress has used PBGC premium increases to support spending by other parts of the federal government; despite the fact that it would be illegal to use the premiums for such other spending. In other words, these increases mask true deficit spending.

The PBGC premium increases were drafted with disregard for the defined benefit pension system and the PBGC itself. In 2014, Quantria Strategies prepared a report for the Council in which it found that PBGC premium increases "are not only unnecessary, but they also threaten the long-term viability of both the defined benefit … pension system and the PBGC's plan termination insurance program by further driving away employers that present no risk to the system." As employers are compelled to leave the pension system, the group of plan sponsors paying premiums to the PBGC will shrink dramatically, leaving a smaller and smaller number remaining to support the agency.

The findings in the Council's report were recently confirmed by a 2015 poll highlighted in a *PLANSPONSOR Magazine* article, which found that almost half of all sponsors of large defined benefit pension plans have taken steps to exit the system in whole or in part. ***And the same poll found that the biggest reason for such exits is PBGC premium increases.***

In light of this, it is imperative that Congress examine the effect of this trend on the PBGC and its premium base as a result of increased premiums. Regrettably, no such examination has taken place. On the contrary, just within the past several weeks, PBGC stated that its pension modeling system "does not model the potential for plans to discharge any significant part of their obligations by purchasing annuities through insurance companies and/or paying lump sums" (i.e., exactly the type of transactions that legitimately are being contemplated by almost half the sponsors of large defined benefit plans in the country.) PBGC further acknowledged that these transactions can

"[reduce] premium receipts" and need to be studied: "PBGC intends to investigate this trend in the future." ***In short, PBGC acknowledges that exits from the pension system can affect the agency's financial health. Yet, BBA 2015 enacted the very measures that are contributing significantly to this trend.***

PBGC's most recent 10-year projections show a very healthy single employer program, which BBA 2015 ignored in its search for revenue. PBGC's most recent Projections Report with respect to the single employer termination insurance program, released a month ago, states:

- There is a 43.4% chance that PBGC will have a surplus in 2024. If interest rates are ½ percentage point higher than expected, the chances of a surplus rise to 54.2%.

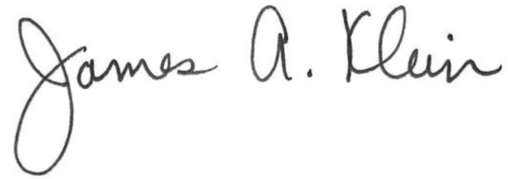
- PBGC ran 5,000 simulations for the next 10 years. PBGC did not run out of money in any of them.

- The only reason PBGC projects a probable small deficit in 2024 is that PBGC adopted a set of mortality tables issued by the Society of Actuaries (SOA). However, subsequent to the PBGC projections, the SOA has acknowledged that those prior tables were incorrect, and has issued new tables that would reduce liabilities.

There is no procedural or evidentiary basis for increasing single-employer plan PBGC premiums. Premium increases were not justified by any review of whether they were needed, nor whether enacting them would help or hurt PBGC's termination insurance program. Regardless of whether or not one has confidence in the methodology by which PBGC makes its projections, one fact is uncontestable: the vast majority of PBGC's current snapshot-point-in-time reported "deficit" is the result of company plan sponsors that have already exited the system. If Congress persists in raising PBGC premiums when it is not warranted, employers with well-funded plans – the vast majority of the pension plan system – will reluctantly feel compelled to take steps to mitigate a cost that they did not cause.

We believe in the ability of Congress to work constructively to find answers to important issues that must be addressed because Congress has a long track record in this regard. However, the trend over the past few years to increase PBGC premiums to offset deficit spending elsewhere in the Federal budget, without regard to the true financial condition of the PBGC, reflects poorly on the legislative process and threatens Americans' retirement income security.

Sincerely,



James A. Klein
President

cc:
Senate Finance Committee Chairman Orrin Hatch
Senate Finance Committee Ranking Democratic Member Ron Wyden
House Ways and Means Committee Chairman Kevin Brady
House Ways and Means Committee Ranking Democratic Member Sander Levin
Senate Health, Education, Labor and Pensions Committee Chairman Lamar Alexander
Senate Health, Education, Labor and Pensions Committee Ranking Democratic Member Patty Murray
House Education and the Workforce Committee Chairman John Kline
House Education and the Workforce Committee Ranking Democratic Member Bobby Scott