



## AMERICAN BENEFITS COUNCIL

April 23, 2018

The Honorable Elizabeth Warren  
United States Senate  
317 Hart Senate Office Building  
Washington, DC 20510

The Honorable Steve Daines  
United States Senate  
320 Hart Senate Office Building  
Washington, DC 20510

Dear Senators Warren and Daines:

Thank you for your work to address the pressing issue of missing and unresponsive participants in retirement plans. We welcome the introduction of your legislation, the “Retirement Savings Lost and Found Act of 2018”, and appreciate the opportunity to have communicated regularly with your staff as you developed this bill.

The American Benefits Council’s (Council) members are primarily large employer sponsors of retirement and health benefit plans, as well as other organizations that provide services to plans of all sizes. Virtually all employer-sponsored benefit plans in the United States are either sponsored directly, or serviced, by Council member companies and firms. Our members devote a great deal of effort and financial resources in sponsoring retirement plans and in searching for those who have unclaimed benefits. We wholeheartedly share your goal of reuniting plan participants with their retirement benefits.

We commend your legislation for establishing a set of rules, for the first time, that a plan administrator should follow when a participant or beneficiary is missing or unresponsive. The Council believes strongly in the need for comprehensive guidance on plan fiduciary responsibilities with respect to unresponsive and missing participants. The safe harbor provisions in your bill with respect to required minimum distributions and fiduciary obligations are a very important step forward.

We note that the bill would create a registry intended to help individuals locate the administrator of any plan in which the person is a participant or beneficiary. The provision that would modify Form 8955-SSA reporting for terminated deferred vested

participants and for participants whose benefits are cashed-out to populate this new registry would, among other things, address the problem of the Social Security Administration reporting the existence of plan benefits that were actually previously paid-out. In establishing the registry, the Commissioner of Social Security and the Secretary of Treasury would be required to take all necessary and proper precautions to ensure that individuals' plan information is protected and that persons other than the individual cannot fraudulently claim benefits to which any individual is entitled.

Internal Revenue Code section 411(a)(11) permits plans to distribute small balances immediately at termination of employment; and we commend the bill's provision that would raise the dollar limit on such balances. This limit has not been updated in more than 20 years. Accordingly, as your bill advances through the legislative process, we encourage a further increase in the limit to fully reflect inflation over that time. The Council has expressed support for similar legislation introduced by Representative Tim Walberg and Delegate Gregorio Sablan (H.R. 4158) that would address this specific problem.

Collectively, the provisions of the Retirement Savings Lost and Found Act could make important progress in addressing the problem created when individuals lose track of their retirement benefits at the time they change jobs, and the former employer is not able to locate the person. The creation of a consistent approach for fiduciaries is much needed and greatly appreciated.

We look forward to continuing to work with you as we collect additional input from our members on the bill and to address issues we have raised on their behalf. Their extensive experience with missing and lost participants provides a valuable resource for policymakers, including input with respect to participant communications, default investments for cashed-out small accounts, strategies to improve cooperation and consistency among agencies with regulatory authority for missing and unresponsive participants, adding flexibility and integrating private sector and government solutions to the problems identified by your legislation.

Sincerely,

A handwritten signature in cursive script that reads "Lynn D. Dudley".

Lynn D. Dudley  
Senior Vice President,  
Global Retirement  
and Compensation Policy  
American Benefits Council