

United States Senate

WASHINGTON, DC 20510-0908

February 9, 2023

The Honorable Joe Biden
President
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Biden:

Your administration, through the Secretary of the Treasury, has the unilateral authority to prioritize payments to avoid defaulting on the federal debt. Past debt limit negotiations have shown this to be true. In 1985, the Comptroller General of the United States wrote in a letter to then-Committee on Finance Chairman Bob Packwood about the Treasury's authority to prioritize payments, stating:

*We are aware of no statute or any other basis for concluding that Treasury is required to pay outstanding obligations in the order in which they are presented for payment unless it chooses to do so. Treasury is free to liquidate obligations in any order it finds will best serve the interests of the United States.*¹

Further, a recent House Financial Services Committee investigation found that the Obama administration knowingly misled the public about the Treasury's ability to prioritize payments. According to the 2016 report, the Treasury, for political purposes, tried to suppress the existence of backup plans that would allow the government to continue making some payments in the event of a partial government shutdown or debt limit situation. Copies of internal records from the Federal Reserve Bank of New York showed that Treasury had not been forthright with Congress or the American people concerning the Administration's debt ceiling contingency planning.²

According to this report, "these documents showed that: (1) Treasury is capable of prioritizing principal and interest payments on the debt and the New York Fed has been running 'tabletop' debt ceiling exercises regarding these sorts of contingencies since at least March 2011, and (2) Treasury also sought to withhold from Congress and the American people information about the Administration's contingency plans, for the

¹ Letter to The Honorable Bob Packwood from the Comptroller General of the United States. B-138524 - October 9, 1985.

² https://financialservices.house.gov/uploadedfiles/debt_ceiling_report_final_01292015.pdf

The Honorable Joe Biden
February 9, 2023
Page Two

purpose of pressuring Congress to acquiesce to the Administration's position that any increase in the debt ceiling not be accompanied by spending constraints."³


Even if you and your administration do not believe that you do have the authority to avoid default on your own, we have a bill that would explicitly allow for just that. The *Full Faith and Credit Act*⁴ would require the following to take priority over all other federally incurred obligations in the event that the federal debt reaches the debt ceiling:

1. The Department of the Treasury to pay the principal and interest on debt held by the public;
2. Social Security payments toward monthly Old Age, Survivors and Disability Insurance benefits under title II of the Social Security Act;
3. Pay and allowances for members of the Armed Forces on active duty and the United States Coast Guard;
4. Payment of compensation and pensions and medical services provided by the United States Department of Veterans Affairs; and
5. Medicare programs.

The bill also requires the Secretary of the Treasury, if the Secretary determines that incoming revenue will not be sufficient to finance the priorities described above over the following two weeks, to notify Congress of the expected revenue shortfall and raise the debt limit by the amount necessary to cover the difference between incoming revenue and the revenue needed to finance such priorities on a two-week basis. The bill would prohibit such a debt limit increase from exceeding the difference between expected outlays for the listed priorities and expected revenue.

We urge you to support this bill and prioritize our debt, our seniors and armed forces before defaulting on the government's obligations. The decision rests with you.

Sincerely,



Rick Scott
United States Senator



Cynthia Lummis
United States Senator

³ *Ibid.*

⁴ S. 82 – *Full Faith and Credit Act*, 118th Congress.

The Honorable Joe Biden
February 9, 2023
Page Three



James Risch
United States Senator



Mike Braun
United States Senator



Ted Budd
United States Senator



Katie Boyd Britt
United States Senator



John Barrasso
United States Senator



Mike Lee
United States Senator