



December 3, 2019

Dear Member of Congress:

As you return from Thanksgiving recess and prepare for a busy sprint to the end of the 2019 session, we urge you to consider the broad principles outlined below as the best way to protect taxpayers now and in the future. Special interests from across the ideological spectrum are hoping their preferred legislation hitches a ride on a year-end spending bill. We believe Congress should focus its efforts on responsible governing in the weeks ahead, and turn to broader reforms when lawmakers return to Washington, D.C. in 2020.

To that end, we respectfully ask you to prioritize the following principles as you conclude the first session of the 116th Congress:

- **Pass clean legislation that funds the government.** Appropriators in the House and Senate may reach an agreement on some or all of the 12 appropriations bills needed to fully fund the government. Congressional leaders may decide, instead, that another CR is needed, either for a short term or for the remainder of fiscal year (FY) 2020. However Congress opts to extend government funding, we believe any legislation to fund all or parts of government beyond December 20 should contain no additional policy riders or gimmicks. This is simply keeping with the agreement that President Trump, Speaker Pelosi, Leader McConnell, Leader McCarthy, and Leader Schumer reached in July 2019: “no poison pills, additional new riders, additional CHIMPS, or other changes in policy or conventions that allow for higher spending levels, or any non-appropriations measures unless agreed to on a bipartisan basis by the four leaders with the approval of the President.”<sup>1</sup> Overall, we believe that a government funding bill should be clean and free of riders or poison pills that would threaten to shut down the government in the thick of the holiday season.
- **Pass a clean U.S.-Mexico-Canada (USMCA) trade agreement.** Both the President and the Speaker have expressed a continuing interest in passing USMCA before the end of the year. We would welcome passage of the current version of USMCA, without additional policy riders or poison pills, and believe Congress could do so before the end of the year. The trade agreement should receive a vote on its own merits with no legislative horse-trading. In the event that recalcitrant lawmakers attempt to attach extraneous items to USMCA, the administration can and should implement significant portions of the deal unilaterally.<sup>2</sup>
- **Avoid jamming disruptive, broad health care reforms onto a must-pass bill.** Some lawmakers are urging the inclusion of legislation that addresses surprise medical bills or prescription drug prices into a year-end package. We believe this is a mistake. While many Americans no doubt want their

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<sup>1</sup> Speaker of the House Nancy Pelosi. (July 22, 2019.) “Bipartisan Budget Agreement for Fiscal Years 2020 and 2021.” Retrieved from: [https://www.speaker.gov/sites/speaker.house.gov/files/documents/Bipartisan-Budget-Agreement-July-22-2019.wp\\_.pdf](https://www.speaker.gov/sites/speaker.house.gov/files/documents/Bipartisan-Budget-Agreement-July-22-2019.wp_.pdf) (Accessed November 21, 2019.)

<sup>2</sup> Riley, Bryan. “With Modest Changes, President Trump Could Legally Implement USMCA Without Additional Congressional Action.” National Taxpayers Union Foundation, October 1, 2019. Retrieved from: <https://www.ntu.org/foundation/detail/with-modest-changes-president-trump-could-legally-implement-usmca-without-additional-congressional-action> (Accessed November 21, 2019.)

representatives to pass health legislation, Congress should do so in a prudent and responsible way, by dedicating committee and floor time to specific bills and allowing for full and open debate. Jamming contentious legislation, like H.R. 3 or one of the many surprise billing proposals, into a must-pass spending bill that keeps the government open is irresponsible. It does not treat these sensitive, complex issues with the care and attention they deserve. We are not the only stakeholders who feel this way. In November, NTU led a coalition of 16 taxpayer, consumer, and free-market advocates who called on Congress to avoid forcing surprise billing legislation onto year-end legislation.<sup>3</sup> Even legislation with bipartisan support, like the Lower Health Care Costs Act, comes with provisions that raise concerns. In addition to a dangerous rate-setting proposal for surprise billing disputes, this legislation includes a provision, Section 205, that could unwittingly harm generic drug manufacturers who are attempting to challenge a brand drug's patent. While Section 205 seeks to prevent manufacturers from 'parking' generic applications and preventing subsequent competition from coming to market, what it will actually do is shorten or eliminate the exclusivity period for first generic applicants who are going through a lengthy FDA process, in turn eliminating financial incentives for generic manufacturers. Section 205 is one example of how well-intentioned legislative provisions hastily forced into larger spending bills can make certain policy challenges (in this case, high drug costs) harder to solve.

- **Oppose a massive multiemployer pension bailout.** Lawmakers should also resist demands to include a bailout of pension plans in any form; most importantly, as a condition for passage of USMCA. In November, NTU joined 18 other organizations in urging leaders from both parties to reject H.R. 397, the Rehabilitation for Multiemployer Pensions Act of 2019, whether on its own or attached to any other legislative vehicle.<sup>4</sup> A fiscally-irresponsible bailout, which could put taxpayers on the hook for tens of billions of dollars in failing private pension plans, has no place in a trade agreement meant to facilitate the free movement of goods and services between the U.S. and two of its largest trading partners.
- **In 2020, take up bills that reform a broken budget process, and make FY 2021 a more fiscally responsible year than FY 2020.** While we want Congress to avoid the chaos and added costs of a government shutdown at the end of the year, we do not believe that keeping the government open should be an excuse for another bipartisan deal that balloons federal spending and deficits. When Congressional leaders first announced the Bipartisan Budget Act (BBA) of 2019, NTU Executive Vice President Brandon Arnold noted it was “a horrendous deal and a complete abdication of fiscal responsibility.”<sup>5</sup> The BBA of 2019 will lead to \$320 billion in new government spending, effectively killed the prudent budget caps put in place by the Budget Control Act (BCA) of 2011, included no real spending offsets, and accelerated the nation's path to a fiscal crisis.<sup>6</sup> While we do not believe Congress can salvage the irresponsible spending practices of FY 2020, we do believe there is an opportunity for prudent

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<sup>3</sup> Lautz, Andrew. “Coalition Urges Congress to Avoid Jamming Surprise Billing Into Year-End Package.” National Taxpayers Union, November 14, 2019. Retrieved from: <https://www.ntu.org/publications/detail/coalition-urges-congress-to-avoid-jamming-surprise-billing-into-year-end-package> (Accessed November 21, 2019.)

<sup>4</sup> Braud, Gabrielle. “USMCA & Pension Bailout Bills Don't Mix Well, Taxpayer Advocates Warn.” Americans For Prosperity, November 15, 2019. Retrieved from: <https://americansforprosperity.org/usmca-pension-bailout-bills-dont-mix-well-taxpayer-advocates-warn/> (Accessed November 21, 2019.)

<sup>5</sup> “NTU Condemns “Horrendous” Budget Deal, Will Urge Members of Congress To Oppose.” National Taxpayers Union, July 23, 2019. Retrieved from: <https://www.ntu.org/publications/detail/ntu-condemns-horrendous-budget-deal-will-urge-members-of-congress-to-oppose> (Accessed November 21, 2019.)

<sup>6</sup> Lautz, Andrew. “NTU Urges Members of Congress to Vote Against the Bipartisan Budget Act of 2019.” National Taxpayers Union, July 24, 2019. Retrieved from: <https://www.ntu.org/publications/detail/ntu-urges-members-of-congress-to-vote-against-the-bipartisan-budget-act-of-2019> (Accessed November 21, 2019.)

lawmakers to turn the page in FY 2021 and beyond. When legislators and their staff return to session in January, they should consider some or all of the following: **S. 2765**, the Bipartisan Congressional Budget Reform Act of 2019 from Sens. Enzi (R-WY) and Whitehouse (D-RI), which would institute biennial budgeting and make additional, much-needed reforms to a broken budget process; **H.R. 4959**, the Pro-Growth Budgeting Act from Rep. Hern (R-OK), which would restore dynamic scoring for House legislation; **S. 1877**, the Government Shutdown Accountability Act from Sens. Lankford (R-OK), Hassan (D-NH), Johnson (R-WI), and Braun (R-IN), which would institute an auto-CR during lapses of government funding; **S. 2733**, the TRUST Act from Sens. Romney (R-UT) and Manchin (D-WV), which would establish bipartisan, bicameral “rescue committees” for some of the nation’s ailing federal trust funds; and, perhaps most importantly, **legislation that enacts spending caps for FY 2022 and beyond**, given the BBA 2019 killed the last of the 10 years of budget caps put in place by the 2011 BCA. We stand ready to work with lawmakers on any and all of the above legislation, and additional reforms that put the nation on a fiscally responsible path.

Our principles above can be summed up in a few words: avoid the gimmicks in 2019, focus on broad reform in 2020. Lawmakers will have months to debate these crucial issues (and many more) in the new year. We urge you not to hastily tack unrelated legislation onto a major spending bill or trade agreement. Taxpayers deserve thoughtful deliberation, not last-minute cramming, from their representatives in Congress. Thank you for your consideration, and should you have any questions we are at your service.

Sincerely,

Brandon Arnold  
Executive Vice President