December 6, 2021

The Honorable John Larson
Chair, Subcommittee on Social Security
House Committee on Ways and Means
2018 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Tom Reed
Ranking Member, Subcommittee on Social Security
House Committee on Ways and Means
1139 Longworth House Office Building
Washington, D.C. 20515

Dear Chair Larson, Ranking Member Reed, and Members of the Subcommittee:

On behalf of National Taxpayers Union (NTU), the nation's oldest taxpayer advocacy organization, I write to express NTU's significant concerns with and opposition to H.R. 5723, "Social Security 2100: A Sacred Trust," as currently written.[1] This legislation relies on budgetary gimmicks to be "fully paid for," and would fall 62 years short of its ostensible goal to make Social Security a sustainable and solvent program through the year 2100. We urge lawmakers to make substantial changes to the legislation before advancing it in Committee, or otherwise abandon this legislation in favor of more durable and taxpayer-friendly approaches to shoring up Social Security solvency.

NTU and its experts have written about previous iterations of the Social Security 2100 proposal, including former Senior Fellow Mattie Duppler's testimony before this Subcommittee in April 2019[2] and in July 2020.[3] In each of Ms. Duppler's statements, she and NTU noted that while it is "laudable" that Social Security 2100 attempts to "put Social Security on secure financial footing," the proposed payroll tax rate increases in previous iterations of this legislation "[reduce] take-home pay for workers" and "[raise] the cost of doing business for employers."[4]

The 2021 edition of Social Security 2100 drops proposed payroll tax rate increases, but in so doing leads the proposal to fall more than six decades short of its theoretical goal: solvency through 2100. Instead, this iteration of the proposal significantly expands Social Security benefits on a temporary basis (in most cases, from 2022-26), funding these temporary expansions with permanent tax increases that could impact employee and employer decision-making for years to come. In so doing, Social Security 2100 creates poorly designed and harmful cliffs that the proponents of the legislation have not proposed how to fund beyond the next five years.

Indeed, a dozen of the benefit expansions proposed in the new Social Security 2100 would only exist through 2026. A reasonable observer of the political dynamics surrounding Social Security could assume that there will be enormous pressure to extend these expanded benefits towards the end of 2026, even though lawmakers ***today*** have not envisioned commensurate offsets to ensure these expanded benefits last beyond 2026.

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[1] Congress.gov. "H.R.5723 - Social Security 2100: A Sacred Trust." Introduced October 26, 2021. Retrieved from: https://www.congress.gov/bill/117th-congress/house-bill/5723 (Accessed December 2, 2021.)
[2] Duppler, Mattie. "Statement of Mattie Duppler, Senior Fellow for Fiscal Policy, National Taxpayers Union." NTU, April 8, 2019. Retrieved from: https://www.ntu.org/library/doclib/2019/04/04082019-WM-testimony-Mattie-DupplerNTU.pdf
[3] Duppler, Mattie. "Statement of Mattie Duppler, Senior Fellow for Fiscal Policy, National Taxpayers Union." NTU, July 15, 2020. Retrieved from: https://docs.house.gov/meetings/WM/WM01/20200717/110904/HHRG-116-WM01-Wstate-DupplerM-20200717.pdf
[4] *Ibid*.

These benefit expansions are large enough that, even with a significant and permanent increase in payroll tax liabilities for certain workers, the legislation's proponents note that projected solvency for the combined Social Security trust funds will only be extended for four years, from 2034 to 2038. It's unclear why this proposal is called "Social Security 2100" when the proposal only settles a small portion of the gap between 2034 and 2100.

It's also not clear that policymakers have fully grappled with the impacts of (and potential taxpayer responses to) the provision levying payroll taxes on income above $400,000 per year.

First, if the intention is to one day close the gap between the current Social Security taxable maximum ($147,000 in 2022[5]) and the $400,000 threshold in Social Security 2100, policymakers should be aware that potentially up to one in five workers could see an increase in payroll taxes during their lifetime.[6] While this provision may affect only "the top 0.4% of wage earners" at present, as noted by the bill's proponents,[7] it may affect a much higher proportion of workers for at least one year of earnings over the long term.

Second, policymakers should be aware that taxpayers may respond to this payroll tax increase in unpredictable ways. The Congressional Research Service (CRS) notes that workers may have an incentive to shift current wage compensation to fringe benefits that are not subject to the payroll tax, such as health insurance.[8] CRS adds that employers that cannot pass their portion of increased payroll taxes on to employees "may react by raising prices to consumers; reducing other nonwage forms of compensation, such as health benefits or pensions; or reducing the number of workers."[9]

Finally, policymakers should consider how this revenue proposal may impact business formation and operation decisions among the self-employed. Sole proprietors typically pay a higher rate on the payroll tax, since they are responsible for both the employee and employer portions of the payroll tax (i.e., 12.4 percent of taxable income), whereas wage and salary employees are only responsible for the employee side (i.e., 6.2 percent of taxable income). As Tax Notes' Marty Sullivan wrote in a 2005 analysis, changes to the payroll tax base -- like those envisioned in Social Security 2100 -- could incentivize sole proprietors to shift to subchapter S status to avoid the payroll tax:

> "...instead of operating as a sole proprietorship, a self-employed individual can incorporate the business and elect subchapter S status. All of the sole proprietorship's income would be subject to payroll tax. An S corporation could pay its employee-owner a reasonable salary and pay the remaining business profit in the form of dividend not subject to payroll tax."[10]

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[5] Social Security. "Contribution And Benefit Base." 2021. Retrieved from: https://www.ssa.gov/oact/cola/cbb.html (Accessed December 2, 2021.)

[6] This is based on estimates of the proportion of workers who "have at least one year of earnings above the taxable earnings base." This was projected to be 20 percent of current and future covered workers in 2020, according to the Social Security Administration. For more, see: Li, Zhe. "Social Security: Raising or Eliminating the Taxable Earnings Base." Congressional Research Service, Updated September 2, 2020. Retrieved from: https://crsreports.congress.gov/product/pdf/RL/RL32896 (Accessed December 2, 2021.)

[7] Congressman John B. Larson. "Social Security 2100: A Sacred Trust." October 2021. Retrieved from: https://larson.house.gov/sites/larson.house.gov/files/Social%20Security%202100%20-%20Fact%20Sheet%20117th.pdf (Accessed December 2, 2021.)

[8] Li, Zhe. "Social Security: Raising or Eliminating the Taxable Earnings Base." Congressional Research Service, Updated September 2, 2020. Retrieved from: https://crsreports.congress.gov/product/pdf/RL/RL32896 (Accessed December 2, 2021.)

[9] *Ibid*.

[10] Sullivan, Marty. "Budget Magic and the Social Security Tax Cap." Tax Notes, 2005. Retrieved from: http://www.lawprofessorblogs.com/taxprof/linkdocs/2005-4972-1.pdf (Accessed December 2, 2021.)

It would be one thing if these revenue proposals were made in service of extending Social Security's solvency for decades, but the permanent revenue-raising provisions in Social Security 2100 only extend the program's solvency for a mere four years, given the legislation includes a dozen temporary expansions of benefits.

Again, we reiterate that it will be extraordinarily difficult from a political perspective for lawmakers to simply allow these expanded benefits to expire in 2026. There will be significant pressure from some stakeholders to further extend the expanded benefits or to make them permanent, which will necessitate an even more difficult discussion of how to pay for such extensions or permanency. NTU fears that the discussion could revert back to a payroll tax rate increase that would, as former NTU Senior Fellow Ms. Duppler has noted, hit low-income workers and entrepreneurs particularly hard.

Unfortunately, this latest iteration of Social Security 2100 contains budget gimmicks, major political and policy cliffs, and payroll tax increases whose effects policymakers have yet to fully debate and grasp. We hope the Subcommittee discusses these matters at its upcoming hearing, "The Fierce Urgency of Now." In the meantime, we urge lawmakers to avoid rushed action on this legislation and go back to the drawing board with taxpayer- and beneficiary-friendly proposals that ensure Social Security's ***long-term*** solvency. The current trade-off -- temporary benefit expansions and permanent tax increases, with a small gain in short-term solvency of the program -- is not worth it.

Should you wish to discuss NTU's alternative proposals to shore up the Social Security program,[11] we are at your disposal. Thank you for your consideration.

Sincerely,

Andrew Lautz,
Director of Federal Policy

CC: The Honorable Bill Pascrell
The Honorable Linda Sánchez
The Honorable Brian Higgins
The Honorable Steven Horsford
The Honorable Earl Blumenauer
The Honorable Terri Sewell
The Honorable Gwen Moore
The Honorable Tom Rice
The Honorable Jodey Arrington
The Honorable Ron Estes
The Honorable Kevin Hern

[11] For more, see: Lautz, Andrew. "Congress Urgently Needs to Stabilize, Reduce Spending in Social Security." NTU, June 15, 2021. Retrieved from: https://www.ntu.org/publications/detail/congress-urgently-needs-to-stabilize-reduce-spending-in-social-security