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CONGRESS SHOULD GIVE RETIREES A GUARANTEE TO THEIR SOCIAL SECURITY BENEFITS

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One of the most troubling aspects of the debate over Social Security reform is the attempt to scare senior citizens by implying that reforming the current system will reduce their benefits. While there is no serious reform proposal that would reduce Social Security benefits for retirees or those nearing retirement, opponents of reform have been able to block progress by making this claim. Sadly, by hindering reform, they will increase the likelihood that future generations will not receive even the retirement benefits that past and present retirees can expect.

After paying Social Security taxes over their working lifetimes and planning for retirement with the expectation that they will receive adequate Social Security benefits, many Americans are unaware that their promised benefits are not legally guaranteed. They rightly assume that the federal government, which has taken their payroll tax dollars, has a moral obligation to pay them every cent they are due with an appropriate cost-of-living allowance. But without a written guarantee, Congress theoretically could still eliminate or reduce those benefits.

Regardless of any other reform it considers, to remove the fear of benefit reduction from the Social Security reform debate and to guarantee seniors the retirement benefits they deserve, Congress should establish a legally binding property right to Social Security retirement benefits. An explicit property right would change the relationship between the

federal government and Social Security recipients to one based on a contract that could not be broken or altered without the consent of both parties. Such a guarantee would give seniors peace of mind without making meaningful reform of the system more difficult or expensive.

Legislation is now before Congress to establish this right. For example, Senator Rod Grams (R-MN) has offered the Social Security Benefits Guarantee Act (S. 1102). The bill would require the Secretary of the Treasury to issue to each recipient of Social Security retirement benefits a certificate that includes a legally enforceable, written guarantee of a certain amount of monthly benefit and an accurate annual cost-of-living increase. Such a certificate would constitute budget authority in advance of appropriations legislation. As such, it would obligate the federal government to pay the benefits specified on each certificate and in effect would be a legal obligation similar to a Treasury bond. Retirees would receive their certificates when they first apply for retirement benefits.

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Such a legal right to benefits is necessary because:

- **Seniors' benefits are not protected under law.** The Supreme Court has established that Congress can end Social Security benefits at any time. In 1960, the Supreme Court ruled in *Flemming v. Nestor* that Americans have no property right to their Social Security benefits. In his dissent, Justice Hugo Black observed that this decision "simply tell[s] the contributors to this insurance fund that despite their own and their employers' payments the Government, in paying the beneficiaries out of the fund, is merely giving them something for nothing, and can stop doing so when it pleases." Establishing a property right for retirees would ensure that the benefits of those who depend on Social Security are permanently protected under the law.
- **Promising Social Security benefits is the moral equivalent of issuing a U.S. government Treasury bond.** When the government borrows money from individuals, financial institutions, or other countries, it gives them a bond in return that explicitly promises to repay every cent borrowed at a specific rate of interest. Those who pay into the Social Security system and who count on reimbursement in the form of Social Security retirement benefits have no such guarantee, and Congress could reduce their benefits at any time. There is no moral difference between the government's obligations to those who own its Treasury bonds and its obligations to recipients of Social Security retirement benefits. Congress should enshrine this principle in law.

Establishing a property right would:

- **Guarantee seniors the benefits they deserve.** The Social Security Administration (SSA) has estimated that, after about 2030, the federal government will take in only enough in taxes to pay about 75 percent of the benefits it will be liable to pay. Establishing an explicit property right to Social Security retirement benefits

would prevent a future Congress from cutting the benefit levels for anyone who has already retired or is near retirement. These Americans can least afford a reduction in their promised benefits.

- **Be easy to implement.** A contract simply requires an exchange of value on the part of both parties. The certificate proposed in S. 1102, for example, would guarantee lifetime benefits in return for the Social Security retirement tax dollars that workers pay. The SSA already knows how much each retiree is supposed to receive each month; it should have no difficulty in sending each retiree an engraved certificate guaranteeing those benefits.
- **Have no effect on the cost of reform.** Every responsible reform plan protects Social Security recipients' monthly benefits and cost-of-living increases. Establishing a property right to those benefits would not increase the cost of those reforms.
- **Remove the fear of benefit reduction from the debate.** Instead, debate would focus on real solutions, such as creating personal retirement accounts so that workers can invest a portion of their existing payroll taxes in a secure portfolio. Future generations could see both higher retirement income and greater financial security as a result of this reform.

Conclusion. Giving retirees an explicit property right to their Social Security retirement benefits would protect those who are least able to afford benefit reductions and give them the peace of mind they deserve. Policies like those embodied in S. 1102 are needed to prevent politicians from attempting to defeat reform proposals by scaring senior citizens. By passing an explicit property right to Social Security retirement benefits, Congress could focus the debate on the more important problems with the system itself instead of consuming valuable time trying to quiet unfounded fears.

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