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DISABILITIES

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Senate Finance Committee
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Testimony of

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ON BEHALF OF:
Advancing Independence: Modernizing Medicare and Medicaid (AIMMM)
American Association on Mental Retardation
American Congress of Community Supports and Employment Services
American Network of Community Options and Resources
Association for Persons in Supported Employment
Bazelon Center for Mental Health Law
Brain Injury Association of America
Inter/National Association of Business, Industry and Rehabilitation
International Association of Psychosocial Rehabilitation Services
NAMI—National Alliance for the Mentally Ill
National Association of Developmental Disabilities Councils
National Association of Protection and Advocacy Systems
National Council for Community Behavioral Healthcare
National Industries for the Blind
National Organization of Social Security Claimants' Representatives
Paralyzed Veterans of America
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Chairman Baucus, Senator Grassley, and Members of the Committee, thank you for this opportunity to discuss the Final Report of the President's Commission to Strengthen Social Security, *Strengthening Social Security and Creating Personal Wealth for All Americans*, from the perspective of people with disabilities.

I am Marty Ford, Director of Legal Advocacy for The Arc of the United States, a national organization of and for people with mental retardation and related developmental disabilities and their families. I am here today in my capacity as a co-chair of the Social Security Task Force of the Consortium for Citizens with Disabilities.

The Consortium for Citizens with Disabilities is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Task Force on Social Security focuses on disability policy issues and concerns in the Supplemental Security Income program (Title XVI) and the disability programs in the Old Age, Survivors, and Disability Insurance programs (Title II) of the Social Security Act.

For more than 60 years, the Social Security program has been an extremely successful domestic government program, providing economic protections for people of all ages. It works because it speaks to a universal need to address family uncertainties brought on by death, disability, and old age. The Social Security system has evolved to meet the changing needs of our society and will have to change again in order to meet changing circumstances in the future. However, we believe any changes must preserve and strengthen the principles underlying the program: universality, shared risk, protection against poverty, entitlement, guaranteed benefits, and coverage to multiple beneficiaries across generations. We believe that the three proposals put forward by the President's Commission violate these principles.

People With Disabilities Have A Major Stake In Social Security Reform

The Title II Old Age, Survivors, and Disability Insurance (OASDI) programs are insurance programs designed to reduce risk from certain specific or potential life events for the individual. They provide a basic safety net by insuring against poverty in retirement years; insuring against disability limiting a person's ability to work; and insuring dependents and survivors of workers who become disabled, retire, or die. While retirement years can be anticipated, disability can affect any individual and family unexpectedly at any time. According to the Social Security Administration, a twenty-year-old today has a 1 in 6 chance of dying before reaching retirement age and a 3 in 10 chance of becoming disabled before reaching retirement age.

People with disabilities benefit from all three programs in Title II under several categories of assistance. Those categories and the source of their benefit payments include:

- disabled workers and their dependents, including disabled adult children, draw benefits from the disability insurance program;
- retirees with disabilities draw retirement benefits;
- disabled dependents of retirees, including disabled adult children, draw their benefits from the retirement program; and
- disabled survivors, including disabled adult children and disabled widow(er)s, draw their benefits from the survivors program.

More than one-third of all Social Security benefit payments are made to 17 million people who are non-retirees, including over 5 million disabled workers, over 1.6 million dependents of disabled workers, over 200,000 disabled widow(er)s, and nearly 730,000 disabled adult children covered by the survivors, retirement, and disability programs. Other non-retirees include non-disabled survivors and dependents. For the average wage earner with a family, the Social Security Administration (SSA) has estimated that OASDI insurance benefits are equivalent to a $300,000 life insurance policy or a $200,000 disability insurance policy.

Beneficiaries with disabilities depend on Social Security for a significant proportion of their income. The *National Organization on Disability / Harris 2000 Survey of Americans with Disabilities* revealed significant data on employment of people with disabilities. Of those aged 18 to 64, people with disabilities are much less likely to be employed (either full-time or part-time) than people without disabilities (32 percent versus 81 percent respectively). The capacity of beneficiaries with disabilities to work and to save for the future and the reality of their higher rates of poverty must be taken into consideration in any efforts to change the Title II programs. While the Commission acknowledged the inability of workers with disabilities to contribute to their private accounts, the Commission's proposals make no accommodations for this concern.

The CCD Task Force has developed a list of criteria against which we analyze the major components of various reform proposals. In reviewing various proposals, or their components, we look at whether the proposal:

- Maintains the OASDI programs as insurance programs;
- Ensures solvency of the Social Security Trust Funds and prevents substantial transition costs from affecting the rest of the federal budget;
- Ensures a benefit formula that does not force more people with disabilities into greater poverty;
- Provides protection against inflation;
- Protects disabled adult children and other family members with disabilities;
- Protects the disability insurance program from increased pressures caused by raising the retirement age; and
- Adequately considers the impact on people with disabilities.

Where individual accounts are established, we also consider whether the proposal:

- Provides adequate benefits at retirement age;
- Includes protection if annuities and/or disability insurance must be purchased; and
- Minimizes risk and addresses capacity to manage accounts.

Effects of Proposals in *Strengthening Social Security and Creating Personal Wealth for All Americans*

The CCD Social Security Task Force took great interest in the deliberations of the President's Commission to Strengthen Social Security. We submitted information for the record, met with staff, and requested to testify at the public hearing. We were disappointed that the Commission members believed that the Commission's mandate did not encompass the disability program and, therefore, we were not given an opportunity to testify publicly on the record. We did take advantage of the opportunity to meet "off the record" with several of the Commission members prior to their final deliberations. Nevertheless, the Commission discussed the disability program on several pages at the end of the final report, including comments about substantive statutory and policy matters.

In addressing the Commission's proposals, we find substantial problems in the following areas:

1. Maintaining Old Age, Survivors, and Disability Insurance as Insurance Programs -- The nature of the OASDI programs as insurance against poverty (for survivors; during retirement; or due to disability) is essential to the protection of people with disabilities. The programs are unique in providing benefits to multiple beneficiaries and across multiple generations under coverage earned by a single wage earner's contributions. Proposals that partially or fully eliminate the current sharing of risk through social insurance and replace it with the risks of private investment will be harmful to people with disabilities who must rely on the OASDI programs for life's essentials, such as food, clothing, and shelter.

For purposes of this discussion, we view "privatization" to mean the conversion of Trust Fund dollars or current or future payroll tax receipts (that would go into the Social Security Trust Funds) into funds for private accounts. Whether it is total or partial, this conversion or privatization of Social Security Trust Fund dollars shifts the risks, either fully or partially, that are currently insured against in Title II from the federal government back to the individual. We do not use the term privatization to include proposals for the federal government to invest a portion of the trust funds in the private market. Those proposals contemplate shared investment with no shift of the risks from the government to the individual.

Combining privatization with benefits cuts , as the Commission's proposals do, could have a devastating impact on people with disabilities and their families as they try to plan for the future. Through benefit cuts and otherwise, the basic safety nets of retirement, survivors, and disability insurance would be substantially limited and individuals, including those with limited decision-making capacity due to cognitive or other disabilities, would be exposed to the fluctuations of the financial markets.

2. **Solvency of the Social Security Trust Funds and Impact on the Federal Budget --** Solvency plans which are likely to produce substantial pressure on the rest of the federal budget in the future could have negative impact on people with disabilities, ultimately reducing the other services and supports upon which they also must rely. Plans which spend the current or projected Social Security trust fund surpluses on building private accounts would be harmful because the resulting deficits in the Trust Funds would endanger the continued payment of benefits. Plans which create private accounts from non-Social Security sources must be viewed in the context of the total budget and weighed against other priorities, such as preserving Medicare. Since we are currently facing deficits again, it is hard to imagine the source of the funds necessary to make up the Trust Fund losses from the establishment of private accounts in the Commission's plans. The Commission's plans would place substantial pressure on the rest of the federal budget for decades into the future.

3. **Transition Costs** – The Commission's plans try to address the very high transition costs associated with privatization through deep cuts in the current program. These cuts will negatively affect people with disabilities who draw benefits from all three parts of Title II. In addition, while the Commission admitted that it did not address the Disability Insurance program issues, all of the proposed changes, including benefits cuts, would apply equally to people with disabilities. Such cuts are proposed even though the Commission acknowledged that many people with disabilities are significantly limited in their ability to contribute to those accounts for themselves and their families.

4. **Specific Plans** -- Each of the Commission's three proposals would have a negative impact on people with disabilities through the interaction of several features, as follows:

Plan 1: Individuals could elect to direct 2 percentage points of their payroll taxes (FICA) to an individual account. At retirement, a benefit offset would occur, i.e., funds in the account would cause a reduction in Social Security benefits. Retirees would not receive both their Social Security benefit and the total value of their accounts. According to the report, if the rate of return exceeded 3.5 percent per year, the retiree would be able to keep the excess. If the rate did not exceed 3.5 percent, the retiree would be worse off. Trust Fund revenues would be used to fund the accounts, which would dramatically worsen the Social Security deficit over the next several decades.

Plan 2: Individuals could elect to direct 4 percentage points of their payroll taxes (FICA) to an individual account, capped at $1,000. This cap would be reached once a worker had earned

$25,000 in wages. A benefit offset also would occur -- one that is more generous to retirees than Plan 1 but less beneficial to Social Security. Retirees would be able to keep any difference between what their account actually earned and a 2 percent rate of return.

This plan includes benefit changes and reductions for all future beneficiaries, not just those with an account:

- Indexing the benefit formula by price growth rather than wage growth. This would significantly reduce benefits for future beneficiaries, including those with disabilities.
- The report indicates that benefits for low-wage workers would be increased.
- The plan also calls for a benefit increase for surviving spouses; however, because these benefits are tied to the basic formula which would be reduced under this plan, spouse's benefits also would be reduced.

The benefit reductions alone would restore solvency to the Social Security system. But if payroll taxes are diverted to individual accounts, the system would be insolvent and would require general revenue transfers or long-term loans.

Plan 3: Individuals could elect to have an account but would be required to contribute an additional one percent of their pay to establish an account. The new contribution would be matched by monies taken from the Trust Funds equal to 2.5 percent of their pay, capped at $1,000. There would be a benefit offset slightly less generous than under Plan 2 – retirees would be able to keep any difference between what their account actually earned and a 2.5% rate of return.

Like Plan 2, this plan includes benefit reductions for all future beneficiaries:

- The benefit formula would be adjusted to reflect increasing life expectancy, which is equivalent to increasing the retirement age. This would gradually but significantly reduce benefits for new beneficiaries and increase pressure on the Disability Insurance program.
- Benefits for middle and high earners would be reduced by adjusting the part of the benefit formula that applies to workers earning more than about $43,000. This would affect not only the retirees, but also all of their dependents and survivors. It would also affect the benefits of disabled workers who had been middle and high income earners.
- Benefits would be reduced for early retirees.

There is a benefit increase for low-wage earners, but lower than under Plan 2. The same increase for surviving spouses is included.

Like the other two plans, additional revenues or borrowing would be required, but this plan requires both loans and transfers from general revenues to make the system solvent. The source of general revenues is not identified other than that "Congress would be able to choose from a variety of sources for making such revenues available to the Social Security system".

5. Additional Concerns -- The Commission's proposals also raise some concerns in areas that are not readily apparent, as follows:

Disabled Adult Child Benefits -- An individual who is eligible as a disabled adult child (DAC) has a severe disability with onset prior to age 22. Cash benefits based on DAC eligibility will not begin until a parent who is a covered worker becomes disabled, retires, or dies. Once the parent has become disabled, retired, or died, the disabled adult child receives benefits as a dependent of the parent. The DAC benefit is based on the parent's benefit amount (up to 50 percent of the parent's benefit while the parent is living and up to 75 percent of the parent's benefit when the parent dies). Often the DAC benefit is greater than the maximum allowable SSI benefit. The disabled adult child will be eligible for Medicare after a 24 month waiting period. As mentioned above, beneficiaries who receive DAC benefits draw benefits from the retirement, survivors, and disability programs, depending on their parents' benefit status, with the majority coming from the survivors program. Changes made to the benefit formula which affect the parents' benefit will automatically affect the disabled adult child's benefit. The Commission's plans do not address the impact on beneficiaries with DAC benefits.

Adequate benefits at retirement age -- The Commission did acknowledge that changes in defined benefits to OASI beneficiaries also would be applied to DI beneficiaries, i.e., reductions in benefits, given the "close integration" between the programs. While the Commission recognized that people with disabilities would be limited in their ability to contribute to personal accounts, no recommendation is made regarding the loss of income from the benefit cuts other than that the personal accounts would not be available until retirement.

Include protections in annuities – For disabled adult children who may live for decades beyond their parents, the parents' personal accounts in the Commission's plans would not make up for the loss of a guaranteed benefit for the life of the disabled adult child. Annuities purchased with the amount in the parents' personal accounts would be unlikely to provide enough income to the retiree, a surviving spouse, and then a disabled adult child for life. This would be a significant loss of Social Security's social insurance coverage that the Commission does not address.

Risks in account management -- The increased risk associated with retirement that depends upon individual account earnings is an issue for everyone. In addition, the capacity of an individual to manage these accounts profitably is similarly an issue and involves many factors including education, money management skills, and risk-taking. The risks and management issues become a much more significant concern for people with cognitive impairments, such as mental retardation or mental illness, which create substantial barriers to making wise and profitable decisions over a lifetime. In many cases, the person may be unable to make any financially significant decisions. In addition, management of individual accounts that will have a significant impact on the quality of retirement years is not a responsibility that should be shifted to representative payees. Individual accounts remove the shared-risk protection of social insurance and place these individuals at substantial personal risk.

Other DI program issues -- The Commission notes that, due to demographic changes, DI program outlays are projected to exceed DI tax revenues much sooner than in the OASI program. It discusses "other factors" that "are more complex and may require a unique set of solutions". However, the Commission's application of its proposals to all beneficiaries with disabilities, would ensure that these other issues will be even harder to resolve.

The Commission also raises two issues: (1) that standards used to determine disability vary across geographic regions and across different levels of the adjudicative process, and (2) that "fundamental questions" exist whether the law has responded adequately to helping DI applicants and beneficiaries participate in the workforce. We believe that these questions are separate and apart from the concerns about whether the programs continue to be adequate social insurance programs. The quality and nature of the disability determination process and the response of the law to changes in technology and the economy are issues that are continually addressed by the Congress and SSA. The "solutions" for these issues will continue to evolve over time as the system responds to change. These issues should not serve as an excuse to ignore the very real needs of people with disabilities who must rely on Social Security's social insurance system.

6. **Supplemental Security Income** -- The Commission also discussed the role of SSI in Social Security retirement reform and indicated that "a comprehensive retirement security system should provide improved poverty protection for the aged, either through SSI or some combination of Social Security and SSI". We believe that SSI should not be considered as a way to make up for reduced Social Security benefits; OASDI is an insurance program based on wages while SSI is a needs-based program funded through general revenues. Most importantly, in a set of proposals designed to "create personal wealth for all Americans", the Commission would solve some of the problems it creates for people with disabilities by relegating them to a program that, with its limits on earnings and resources, would ensure that they live in poverty. Asset depletion necessary for many beneficiaries with disabilities to qualify for SSI violates the basic tenets of the Commission's work. Nevertheless, the Commission "recommends that Social Security reform plans should also encompass reforms in SSI policy, to improve retirement incomes for those persons who might not otherwise attain poverty-level income in old age".

On the whole, we believe that the Commission's recommendations fall far short of addressing important questions about coverage for people with disabilities. Indeed, some would endanger the security of people with disabilities. We believe that these proposed plans cannot be supported.

We strongly recommend that Congress only consider proposals that: maintain the basic structure of the current system based on workers' payroll taxes; preserve the social insurance nature of the disability, survivors, and retirement programs; guarantee benefits with inflation adjustments; and preserve the Social Security trust funds to meet the needs of current and future beneficiaries. Certainly changes will be necessary within the basic structure to bring the trust funds into long-term solvency. However, those changes must not be so drastic as to undermine or dismantle the basic structure of the program.

The disability community urges Congress to request a **beneficiary impact statement** from SSA on every major proposal, or component of a proposal, under serious consideration. In a program with such impact on millions of people of all ages, it is simply not enough to address only the budgetary impact of change; the people impact must also be studied and well understood before any change is initiated. For people with disabilities, their very lives depend on such analyses.

Again, I thank the Committee for considering our viewpoints on these critical issues. People with disabilities and their families will be vitally interested in the Finance Committee's work. The CCD Task Force on Social Security pledges to work with you to ensure that disability issues remain an important consideration in reform analysis and solution development.

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