NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

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Ways and Means Committee, Subcommittee on Social Security
Protecting and Strengthening Social Security for Women
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Chairman McCrery, Ranking Member Levin, and members of the Subcommittee, thank you for this opportunity to testify on behalf of the National Women's Law Center.

As Co-President of the National Women's Law Center, I have worked for three decades to protect and strengthen Social Security for women. I organized the first Washington, D.C.-based coalition on women and Social Security in 1978, served on the technical committee on Earnings Sharing in Social Security, and co-edited a landmark report on Social Security and women in 1988. I also served on the Social Security subgroup of the House Select Committee on Aging, which in 1992 developed several incremental proposals to provide more adequate Social Security benefits for women, particularly low-income women. And I have been honored to have the opportunity to testify before Congress several times on Social Security issues.

And from that perspective, I can say that the stakes for women in the Social Security debate have never been as high as they are today: not because Social Security itself faces a crisis—because it does not—but because the proposals to create private accounts out of Social Security would dismantle the safety net that Social Security provides, particularly for women and families of all generations. Social Security does face a long-term shortfall that should be addressed, and there are benefits that can be improved for women and other vulnerable beneficiaries. I discuss ways to strengthen and improve Social Security later in my testimony. But, in the context of the proposals currently on the table, the most important recommendation is to first do no harm to this critical program.

Social Security is Important to All Americans—but Especially Women

Social Security is the largest source of income for most Americans in retirement; two-thirds of beneficiaries receive over half their income from Social Security. And, with lower earnings, more time out of the labor force for caregiving, smaller pensions and savings, but longer life spans, women are even more reliant on Social Security than men.

For more than four out of ten nonmarried women 65 and older, including widows, Social Security is virtually all they have to live on, providing 90 percent or more of their income; nearly six out of ten single African American and Latina women 65 and older get 90 percent or more of their income from Social Security. Without Social Security benefits, more than half (53 percent) of all women 65 and older (and 42 percent of men 65 and older) would be poor.

Social Security is More Than a Worker Retirement Program—Especially for Women

Social Security looks very different from a woman's perspective. For men, Social Security looks like a worker retirement program: 80 percent of male beneficiaries get benefits solely as retired workers. For women, Social Security is a family insurance plan. Only 33 percent of women get benefits solely as retired workers. Another 10 percent receive benefits as disabled workers. But 55 percent of women receive Social Security benefits, at least in part, as a spouse, or former spouse of a retired, disabled, or deceased worker.

Social Security assures the spouse of a retired worker a benefit equal to 50 percent of the worker's benefit; it assures the surviving spouse a benefit of 100 percent, assuming both spouses retire at full retirement age. Divorced spouses and divorced surviving spouses, if married to the worker for at least ten years, are entitled to the same benefits as current spouses. Collectively, these benefits are referred to here as spousal benefits. Spousal benefits are paid in addition to benefits for the worker; they do not reduce the Social Security benefit the worker receives, or the benefit the current spouse (or ex-spouse) of the worker receives.

Retired women receive spousal benefits for two reasons. There are millions of women who rely entirely on the spousal benefit, because they have not been in the paid labor force for the ten years (forty quarters) necessary to earn Social Security retirement benefits on their own work record. For example, about 7.5 million women age 65 and older receive Social Security benefits as widows, and half of them do not qualify for any other benefit. There are also millions of women who have earned a benefit on their own work records, but—because their lifetime earnings are lower than their husband's, their worker benefit is increased to the level of a spouse's or widow's benefit.

In the future, because more women are working in the paid labor force, more women will qualify for benefits on their own work record. But because women still earn less than men and still are more likely to take time out of the labor force for caregiving, their lifetime earnings well into the future are still likely to be lower than their husbands'—whom they are still likely to outlive. Thus, the Social Security actuaries project that forty years from now, about 40 percent of women age 65 and older will still be receiving benefits as a spouse or widow, not just on their own work records.

And Social Security spousal benefits are not only important to women of retirement age. More than 182,000 young widowed mothers and 150,000 wives of disabled or retired workers caring for children receive Social Security benefits, along with over three million children. The surviving spouse of a deceased worker or the spouse of a disabled worker caring for children is eligible to receive benefits until the children turn 16; the children of the worker receive benefits until they turn 18 (19 if in school).

Though Social Security is rarely viewed as a children's program, it is one of our nation's largest and most successful safety net programs for children. Social Security provides family income to more children (5.3 million) than does Temporary Assistance for Needy Families (less than 4 million). And it does more to reduce child poverty overall than any other federal program, including TANF, the Earned Income Tax Credit and Food Stamps.

Relying on Benefit Cuts to Achieve Solvency Would Hurt Millions of Americans

While Social Security faces a long-term financing shortfall, it hardly qualifies as a crisis. Social Security can pay 100 percent of promised benefits for over 35 to 45 more years. At that point, Social Security is not flat bust; it can pay 70 to 80 percent of promised benefits from payroll taxes. In contrast, when Congress acted on the recommendations of the Greenspan Commission in 1983 to extend the solvency of Social Security and build up the Trust Fund, Social Security was within months of exhausting the Trust Fund and being unable to pay full benefits. To put Social Security's financing challenges into perspective: the cost of eliminating the long-term shortfall is just one-fifth to one-third the cost of making the 2001 to 2003 tax cuts permanent. So, while it is better to deal with the shortfall sooner than later, Congress has the time to get this right.

Improving Social Security's solvency is important—it assures current and future workers that they will get the benefits they have earned and are counting on for themselves and their families. But achieving solvency—making Social Security's books balance over an extended period—is not an end in itself. Solvency can be achieved simply by cutting benefits deeply enough. But restoring solvency to the Social Security program primarily by cutting the Social Security benefits Americans depend on is a cure that's worse than the disease.

"Sliding scale" benefit cuts would harm the overwhelming majority of Social Security beneficiaries – especially widows and surviving children

The White House has acknowledged that private accounts do nothing to restore solvency to Social Security (indeed, as discussed later in this testimony, they make the problem worse). At a press conference on April 28, 2005, President Bush outlined his proposal for partially addressing the solvency of Social Security. He proposed cutting benefits on a sliding scale for workers currently under age 55.

These cuts occur because the proposal would change the current wage indexing of initial benefit levels to price indexing. Since prices generally increase slower than wages, benefits based on price indexing will be lower than current benefits based on wage indexing. The Administration's plan has sometimes been referred to as "progressive price indexing" because workers making less than $20,000 a year today are exempt from benefit cuts (at least as retired workers) and higher earners face progressively higher cuts. But this label is misleading, because the plan cuts benefits for 70% of retired workers, whose partially price-indexed benefits would no longer keep pace with wage growth and increases in the overall standard of living. Many middle-income workers who rely heavily on Social Security benefits would face deep cuts. And many beneficiaries with incomes under $20,000—especially widows and surviving children—would in fact have their benefits cut because their benefits are based on the record of a worker who earned over $20,000 a year.

In testimony to the full Committee on Ways and Means on May 12, 2005, economist Jason Furman illustrated the effects of the President's proposal. For a worker with medium earnings ($36,300 today) retiring in 2055, the proposal would mean a 21 percent cut in scheduled benefits, from $22,097 to $17,545 (in 2005 dollars). For a worker with average earnings retiring in 2075, benefits would be cut 28 percent (from $27,344 to $19,715 in 2005 dollars).

For a moderately high earner—$58,560 today—the benefit cut would be deeper. For such a worker retiring in 2055, benefits would be cut 31 percent below scheduled levels (from $29,296 to $20,214 in 2005 dollars); in 2075, benefits would be cut 42 percent (from $36,254 to $21,100 in 2005 dollars).

There are several important points to note about the benefit cuts under this proposal:

- they apply whether or not a worker chose to contribute to a private account;
- they grow deeper over time, so younger workers face the deepest cuts; and
- they apply not just to worker retirement benefits, but to benefits for spouses, divorced spouses, surviving spouses and surviving children.[1]

To repeat, these are deep benefit cuts for 70% of retired workers and their families, especially given the significant reliance so many beneficiaries have on Social Security. But for widows and surviving children, whose reliance on Social Security is even greater, they are devastating.

The risk of poverty for women 65 and older rises dramatically with widowhood. Just three percent of married women 65 and older receiving Social Security benefits are poor. The poverty rate is five times higher – 15 percent—among widowed women, and 27 percent of widowed women have incomes below 125 percent of poverty. Widowhood makes women economically vulnerable – even if they were secure before. Under current law, although a widow is entitled to the higher of her own worker benefit or 100 percent of her husband's benefit, her Social Security income as an individual is at best one-half to two-thirds of what the couple had been receiving. Any pension benefits the husband was getting may end, or be cut in half (ERISA guarantees a 50 percent survivor benefit for spouses in defined benefit pension plans, but such plans are disappearing), and women are much less likely than men to have their own pension benefits. And the couple's assets may already have been depleted, especially by illness.

When a worker dies before retirement age, the family can be just as, or even more economically vulnerable. The worker and spouse together may have been making a middle-income wage—but when part or all of that income disappears, a formerly middle-class family is at risk of becoming poor. Social Security benefits for surviving spouses and surviving children replace part of that lost income. Current benefit levels allow many, though not all, widows and children to stay out of poverty and maintain their dignity—if nothing like their former standard of living.

[1] The Administration recently confirmed that its proposal would reduce benefits for surviving children and widows (Associated Press, Survivor Benefits Face Cut, Official Says, May 12, 2005), and it is therefore reasonable to assume it applies to spouses, divorced spouses, and surviving divorced spouses as well.

Later, this testimony suggests ways that Congress could improve benefits for widows, the largest group of poor elderly women. But at the very least, Congress should reject plans to cut these benefits.

The Administration has said that benefits for a disabled worker would be protected from these sliding scale benefit cuts, but not necessarily fully protected when the disabled worker retires (Associated Press, "White House Leaves Disabled Benefits Open," May 13, 2005). It has said that the details can be worked out through the legislative process. But these details are not easy to work out. And the Administration has been silent on whether these cuts apply to the spouses and children of disabled workers, as it has conceded they do to surviving spouses and surviving children.

Social Security is an integrated social insurance program that uses the same basic formula to calculate benefits for retired workers, workers who become disabled, and family members who are eligible for benefits on a worker's record. So, for example, when a disabled worker reaches retirement age, the benefits continue seamlessly. If a worker's disability but not retirement benefits were protected from cuts, a disabled worker could face a steep cut in benefits upon reaching retirement age. On the other hand, maintaining the unreduced benefit for disabled workers throughout retirement, while benefits for retired workers who contributed to Social Security for a full working life are being cut, would raise new equity issues and create an incentive for workers to claim disability before retiring. Similar rules and considerations apply for the spouse and children of a disabled worker who receive benefits based on the worker's earnings record. If they are not protected, the disabled worker and his or her family suffers a reduction in income. But if they are protected, there is the anomalous result that benefits are reduced for a child whose parent dies, but not reduced for a child whose parent becomes disabled.

Finally, as the White House has conceded, these sliding scale benefit cuts address only part of the current system's 75-year solvency shortfall and none of the increase in that shortfall created by the borrowing needed for his plan for private accounts. The White House originally said that the sliding scale reductions would close 70 percent of the current system's shortfall. But that estimate was developed for the Pozen plan, which cuts disability benefits. With protections for disability benefits and a small improvement in the minimum benefit, which the White House has said are also components of its plan, the sliding scale benefit cuts would close only 59 percent of the current 75-year shortfall in Social Security (Testimony of Jason Furman to the Committee on Ways and Means, May 12, 2005).[2] Because the creation of private accounts worsens Social Security's solvency over the next 75 years, the combination of sliding scale benefit cuts and private accounts would close just 30 percent of the shortfall (Furman testimony). Since the President has ruled out tax increases to address these shortfalls, it appears his plan will have to include more benefit cuts, compounding the impact of both these cuts and the cuts described below that are part of his private accounts plan. These deep and painful benefit cuts should be rejected.

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[2] The White House has subsequently acknowledged that its statement that sliding scale reductions "would solve 70 percent of the funding problems facing Social Security" refers to the deficit in the 75th year (2079), not to the cumulative deficit over the next 75 years.

Creating Private Accounts Within Social Security Would Worsen Social Security's Financing and Unravel the Social Security Safety Net That is Especially Critical to Women and Their Families

Americans are counting on the benefits they earn through Social Security to protect themselves and their families. Trying to achieve solvency primarily by cutting benefits would deny them that protection. Adding private accounts financed by Social Security revenue and designed to substitute for Social Security benefits to such a proposal, far from being a "sweetener," would actually make matters worse. Private accounts would hurt the solvency of Social Security—and the rest of the federal budget—and the economic security of Americans who depend on Social Security, especially women and their families.

Private accounts would hurt the solvency of Social Security and add trillions to the national debt, forcing cuts to services vital to women and their families

As the Administration now acknowledges, private accounts do nothing to restore solvency to Social Security, even over the very long term. And over the shorter term—the next several decades, during the peak years of the baby boomers' retirement—they make the current shortfall in Social Security much worse. If payroll taxes are diverted from Social Security into private accounts, Social Security has *less* money to pay promised benefits to current and near retirees, disabled workers and their families, widows, and children. Creating private accounts out of Social Security would accelerate the date that the Trust Fund is depleted by 11 years (2030 instead of 2041), even with the sliding scale benefit cuts recently proposed by the President (Testimony of Jason Furman to the Committee on Ways and Means, May 12, 2005).

To fill the hole that private accounts would create in the Trust Fund, and make good on promises to pay full benefits to those currently age 55 and older, the Administration's and most other private accounts plans would require the transfer of trillions of dollars from the rest of the budget to Social Security. Since the general budget is already running record deficits, that money will have to be borrowed. To make matters worse, the added burden of financing the costly and prolonged transition to private accounts would hit at the same time as the government faces growing health care costs and other pressing national needs.

Americans of all ages—the young especially, because the debt will be with them for their whole lives, but also those who have already retired—will have to bear the burden of paying off the added debt to finance private accounts, in the form of higher taxes, cuts in vital services, and higher interest rates that make it harder to finance a home, a car, a college education. Women and their families will be particularly hard hit, because they disproportionately rely on supports such as Medicaid, child care, Food Stamps, housing—programs that already are facing cutbacks.

Private accounts would undermine retirement security for workers—especially working women

There are many problems with expecting a private account to provide the kind of disability and family protections that Social Security provides, as the next section of this testimony explains. But trading the secure benefits that Social Security provides—benefits that do not fluctuate with the stock market, that cannot be outlived, and that keep pace with inflation—is also a bad deal for retired workers, especially women.

A crucial—but often misunderstood—aspect of the Administration's plan for private accounts is that they would *not* provide income on top of Social Security, the way an Individual Retirement Account (IRA) or an account with the federal employees' Thrift Savings Plan would. Under the Administration's proposal, workers who choose to contribute to an account would pay back every dollar contributed—at an interest rate of three percent above inflation—out of their remaining Social Security benefit. This pay-back requirement—sometimes referred to as the "offset" or "privatization tax"—represents a second cut in the Social Security benefit, on top of the sliding scale benefit cut or any other benefit cut made to achieve solvency.

In his testimony to the full Committee on Ways and Means on May 12, 2005, economist Jason Furman illustrated what the President's plan (including the sliding scale benefit cut) would mean for a medium earner (average wage, or $36,000) retiring in 2075, whom I'll call Jamie. All dollar amounts are 2005 dollars.

Under current law, Jamie's retirement benefit would be $27,344. This would be cut by $7,629 under the sliding-scale benefit reduction. If Jamie contributed to a private account, the offset would cut the benefit by an additional $12,414, leaving Jamie with a traditional Social Security benefit of $7,301—a 73 percent reduction in the scheduled benefit. The rest of Jamie's retirement benefit would depend on the private account—and the market.

Relying on private investment accounts to replace Social Security benefits involves real risks—as anyone who has watched the stock market over the past few weeks or the past five years can attest. Thus, the Congressional Budget Office uses a risk-adjusted methodology to estimate the returns on private accounts (and on public pension investments by the Railroad Retirement Fund). CBO expects private accounts to earn an annual return of 3.0 percent above inflation, after adjusting for risk.[3] So, assuming a return of 3.0 percent above inflation, and that Jamie converted the account to a single-life annuity, Jamie would get $12,414 a year from the account—enough to cover the benefit offset, but with nothing left to mitigate the sliding-scale benefit cut. The combination of the doubly reduced Social Security benefit and the private account would provide Jamie with $19,715 a year, a 28 percent reduction from the scheduled benefit.

[3] CBO assumes a risk-adjusted return on investment of 3.3 percent above inflation—CBO's projected return on Treasury bonds—minus 0.3 percent for administrative expenses. Congressional Budget Office, Long-Term Analysis of Plan 2 of the President's Commission to Strengthen Social Security (July 21, 2004, updated Sept. 30, 2004).

Jamie might be a luckier investor than in this example. A group of leading financial economists surveyed by the Wall Street Journal estimated future rates of return at 3.4 percent above inflation. That would give Jamie $14,125 from the account—an extra $1,711 per year. But Jamie also could do worse. Financial economist Robert Schiller estimates that workers investing in life cycle accounts (which the Administration has said would be the investment option selected if account holders did not designate otherwise, and would be required beginning at age 47) would lose money on the accounts 71 percent of the time, using returns he believes are a more realistic projection of future returns than historic returns.[4] (Robert Shiller, "The Life Cycle Personal Accounts Proposal for Social Security: An Evaluation" (March 2005)). Or Jamie could earn a slightly better rate of return—but find that all the gains were wiped out by investment costs that exceed the 0.3 percent assumed in these examples. (The Thrift Savings Plan has administrative costs of 0.6 percent.)

If Jamie is a woman, she could face other problems relying on a private account to replace her Social Security benefits. With a private account, the timing and size of contributions, as well as overall investment returns, affect the size of the accumulation. If Jamie took several years out of the labor force early in her working life to raise children, she will likely have a smaller account, because of the loss of compounding on contributions in the early years. In contrast, Social Security helps counteract the lifetime earnings gap between men and women, caused by women's lower wages and more time out of the labor force for caregiving, because it has a progressive benefit formula that provides lower earners with a higher percentage of their pre-retirement income, counts only the 35 highest years of earnings toward the average used to determine benefits, and makes the timing of earnings irrelevant.

In addition, unless Congress acts to overhaul the private annuity market as part of a private accounts plan, Jamie could face other problems when she tries to turn her account into an annuity that will provide income for life. Social Security pays monthly benefits on a gender-neutral basis; in the private annuity market, if a woman and man each buy an annuity with the same sum of money, the woman will get lower monthly benefits. Such gender discrimination must be prohibited in any private accounts plan in Social Security. Social Security provides annual cost of living adjustments; this is especially important for women, to prevent the value of benefits from being eroded by inflation over the cost of a long lifetime. No private annuities currently offer full protection against inflation, and experts believe they are unlikely to offer such a product without the involvement of the federal government, even if the market for annuities expanded under a private accounts plan (See National Academy of Social Insurance, *Uncharted Waters: Paying Benefits from Individual Accounts in Federal Retirement Policy, Study Panel Final Report*, Reno, Graetz, Apfel, Lavery, and Hill, eds., 2005)(hereafter NASI, *Uncharted Waters*). Moreover, there is a risk that a private annuity company might go out of business before all benefits are paid, as in the case of the Executive Life Insurance Company (see NASI, *Uncharted Waters*). Workers will need an assurance that the annuity they purchase from a private annuity company will be there for the rest of their lives—just like Social Security. This is especially important for women, who are likely to live longer than men but whose lower incomes mean they have less in savings for retirement. According to the Employee Benefits Research

[4] He estimates a median return of 2.6 percent above inflation.

Institute, among those aged 21 to 64, the typical woman's 401(k) balance is 59 percent of the typical man's ($10,000 v. $17,000); the typical woman's IRA balance is two-thirds of his ($8,800 v. $13,000); and women are less likely than men to have either a 401(k)-type plan or IRA.

In short, under a private accounts plan, it is likely that the federal government will have to play an active role in the annuities market, and probably act as a guarantor, to make sure that the annuities purchased with private accounts—which Americans would be counting on to provide their basic retirement security—are nondiscriminatory, adjusted for inflation, and secure for the rest of their lives. But Social Security does that already, and at much lower cost than could be achieved through a new system.

Private accounts would further jeopardize benefits for retired spouses and widows

As described above, workers under age 55 face two benefit cuts under the President's plan: a "sliding scale" benefit cut, except for the lowest-income workers, whether or not they participate in a private account, and a second benefit cut if they do.

The Administration has recently confirmed that the first benefit cut would also apply to surviving spouses, and by analogy spouses. And it is very likely that the second benefit cut—the offset—will apply to the benefits of the spouses and surviving spouses of workers who contribute to a private account as well. Benefits for spouses and surviving spouses are based on the worker's benefit. And all the plans with offsets that have been developed so far would reduce the benefits for a retired spouse and surviving spouse, as well as the worker who chose an account. (See NASI, *Uncharted Waters*.)

Workers subject to the offset would at least have a private account to try to make up for the additional cut in their Social Security benefits. But spouses and surviving spouses do not appear to be guaranteed any payments from a spouse's private account under the President's plan. The President has said that workers could leave an account "to anyone": so a widow might not inherit the account. The President has said that workers could be required to purchase an annuity for themselves to ensure that they do not spend their accounts too quickly and end up poor. But the President has never said that married workers would be required to purchase an annuity that provides a benefit to the surviving spouse. So wives and widows may end up paying for a spouse's choice of an account with further reductions in their Social Security benefits, even though they get nothing from the account.

To illustrate what the combination of sliding-scale benefit cuts and private accounts for Social Security might mean for women when they are widowed, let's consider the situation of Michael and Sarah, a couple who retire in 2075. Michael's income puts him in the medium earner category. Sarah has less than ten years in the paid labor force and is therefore not eligible for a Social Security benefit as a worker. Michael contributed to a private account.

Michael's benefits would be the same as Jamie's in the previous example. After the sliding scale benefit cut and the offset, his traditional Social Security benefit would be reduced from $27,344 to $7,301 a year. If Sarah's widow's benefit is based on his traditional benefit, it also would be $7,301. If Michael bought a single life annuity for himself—to assure himself of a modest $19,715 a year income—there would be nothing in the account for Sarah to inherit and no payments from the account for Sarah. Sarah would have a benefit of just $7,301—a 73 percent cut.

Michael could purchase an annuity with survivor benefits for Sarah. But to get an annuity with survivor benefits, he (and they) would have to accept lower payments during his lifetime.[5] If Michael and Sarah are the same age, and Michael purchased a symmetrical two-thirds joint and survivor annuity (an annuity that pays two-thirds of the previous benefit to the survivor, whether or not the survivor is the primary annuitant), Michael's annuity payments would be 93 percent of what they would be with a single life annuity. The survivor—Michael or Sarah—would get two-thirds of that, or 62 percent of the single-life annuity payment. So, the survivor would have a traditional Social Security benefit of $7,301 plus an annuity from the account of $7,697 (.62 x $12,414) or $14, 998: a 45 percent cut, even worse than the 28 percent benefit cut single average earners can anticipate.

If Sarah is a few years younger than Michael, rather than the same age, the payments will be lower still to account for her longer life expectancy. If he also has to make provision for a minor or disabled adult child, the account will provide even less income to him and Sarah.

If Sarah were a career low earner (under $20,000), who qualified for a worker benefit, she would not be subject to the sliding scale benefit cut. Her Social Security benefit as a lifetime low earner would be $16,599, higher than she would get as the widow of a worker with medium earnings and a private account. However, if Sarah contributed to a private account for herself, her own worker benefit would be cut by the offset to $11,022. She would also have her private account which could provide her with an annuity of $5,577 a year, leaving her with $16,599, a 39 percent reduction from her scheduled widow's benefit. (If Sarah worked less than a full career at low wages, but enough to qualify for a Social Security benefit, her Social Security benefit and annuity would be lower than this example.)

Given the importance of spousal benefits to women, now and in the future, it is disturbing that the effect of private accounts on these benefits has received so little attention. But there may be a reason for the silence on these issues. With private accounts—which represent a finite pool of assets—there are real and difficult trade-offs involved. The Administration recently acknowledged that 15 percent of all retirees and 30 percent of lower earners would have to annuitize their entire account to assure themselves of a poverty level income, leaving no inheritance—or survivor's benefits. Social Security can provide supplementary benefits for surviving spouses and children, as well as other protections, because it is a broad-based social insurance plan. A private retirement account cannot.

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[5] The annuity adjustment factors in the example below were developed by the Social Security actuaries. *See* National Academy of Social Insurance, Uncharted Waters: Paying Benefits from Individual Accounts in Federal Retirement Policy, chapter 3 (2005).

Private accounts would further jeopardize benefits for young widowed mothers and surviving children

The Administration has confirmed that benefits for young widowed mothers and child survivors would be subject to the sliding scale benefit cut under the President's plan. And private accounts are likely to provide little if any assistance to these women and children. The account of a worker who dies at a young age would be small. It would provide little additional support for a woman raising young children, even if she had access to the funds in the account when disaster struck– and she might not. The Administration has said that accounts could be left to anyone, so a young widow might not inherit. Even if she did inherit, the Administration has said that accounts must be saved until retirement, so a young widow might not have access to the funds until she retired. It also is unclear whether a widow would inherit the account free and clear, or if she would also inherit the offset that goes with it.

Private accounts would further jeopardize the benefits of divorced spouses and divorced surviving spouses

The Administration has confirmed that surviving spouses are subject to the sliding scale benefit cut and by analogy divorced spouses and divorced surviving spouses. As described above, Social Security provides benefits to divorced spouses and divorced surviving spouses who have been married for at least ten years. Benefits for divorced spouses are calculated in the same way as benefits for spouses and surviving spouses, based on the full work history of the higher-earning spouse, not just the earnings during the period of the marriage. As with other spousal benefits, they can be as much as 50 percent of the higher-earning spouse's benefit while the higher earner is alive, and 100 percent when the divorced spouse is widowed. About a million women receive benefits, at least in part, as a divorced spouse or widow, and these benefits are a crucial source of income for this economically vulnerable group of women.

Among the many unanswered questions about private accounts is how they would be affected by divorce. The Administration has said that accounts could be divided at divorce, but it is unclear whether that division would be automatic or whether a spouse would have to get the court to divide the account(s) during the divorce. Many women already lose out on a share of their spouse's retirement plan, either because they had no lawyer and didn't know to ask, or because their lawyer was not knowledgeable about dealing with pensions. It is also unclear whether accounts would be divided in half or in some other manner. And it is unclear what would happen at divorce if only one spouse had chosen to contribute to a private account—especially if the spouse with the account was the lower earner.

If the divorced spouse gets a share of an account at divorce, there are likely to be other consequences. If a divorced wife gets a share of her husband's private account, she is likely to get the offset that goes with it – which she would have to repay out of her own, probably smaller, Social Security benefits.

Social Security's current system of spousal benefits has reduced conflicts and administrative costs. To receive benefits as a divorced spouse, an applicant provides documentation of the marriage and divorce to the Social Security Administration when she applies for Social Security benefits. There is no need to seek these benefits during the divorce, and no need for the Social Security Administration to track changes in marital status across the lifespan. Moreover, the payment of Social Security benefits to a divorced spouse does not affect the benefits paid to the worker or his or her current spouse or surviving spouse, eliminating tension and disputes.

Issues of spousal rights in private accounts raise many new and complex questions. If the accounts are property, are they subject to state laws concerning marital property—leading to different rights for spouses in community property and common law states—and for couples that move from state to state? What happens when one member of a couple chooses to participate in an account, but the other does not? These questions, too, must be answered.[6]

Options for Strengthening and Improving Social Security

The first and most important element of any plan to strengthen Social Security must be to avoid weakening it by shifting trillions of dollars from Social Security into private accounts. If Congress decides not to create private accounts out of Social Security, the long-term shortfall is manageable, and there are various options for strengthening Social Security's finances that would not require deep benefit cuts for the vast majority of Americans. For example[7]:

Only earnings up to $90,000 are subject to Social Security taxes. A clerical worker earning $25,000 a year pays Social Security taxes on 100 percent of her wages; a manager earning a salary of $270,000 pays Social Security taxes on only a third of his. Raising the tax cap would raise revenue and improve the progressivity of Social Security.

According to the Office of the Chief Actuary of Social Security, if all wages were taxed and counted toward benefits using the current formula, 93 percent of the long-term shortfall would be eliminated. With an adjustment in the benefit formula for the very highest earners, this approach could eliminate 100 percent of the shortfall. If the tax cap was raised gradually, over the next decade, so that 90 percent of wages were subject to tax as they have been historically, 40 percent of the shortfall would be eliminated. If this change were made effective immediately, or the tax cap were raised above 90 percent, more than 40 percent of the shortfall could be closed

Alternatively, or in addition, other revenue could be dedicated to Social Security. (Note that the financing of plans for private accounts relies heavily on general revenue transfers, without specifying the source of funds.) For example, retaining the estate tax at the 2009 level—when it will apply only to estates worth over $3.5 million for an individual, $7 million for a couple, exempting all but about 0.5 percent of estates—and dedicating the revenue to Social Security would close about 27 percent of the long-term shortfall. The cost of not making the recent tax cuts permanent for the wealthiest one percent of Americans (income above $300,000 a year) would generate about enough revenue to close the long-term shortfall.

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[6] *See* Uncharted Waters, *supra* note 4.
[7] The options that follow are discussed in Reno and Lavery, National Academy of Social Insurance Issue Brief No. 18, Options to Balance Social Security Funds Over the Next 75 Years (2005).

While Social Security is running surpluses, and assets in the Trust Fund will continue to grow for another two decades, the rest of the federal budget is running huge deficits, primarily as a result of large recent tax cuts. Getting the rest of the government's fiscal house in order by restoring the revenue base will make it easier on the rest of the budget when the time comes to redeem the Treasury bonds held by the Social Security Trust Fund.

Precisely because Social Security is so important to women and their families, and because Social Security, as a broad social insurance program, can provide family insurance benefits that private accounts cannot match, a true reform plan should strengthen and improve Social Security benefits. The National Women's Law Center and many other women's organizations have proposed various ways to improve Social Security benefits for women over the years. This testimony highlights two: improved benefits for people with low-lifetime earnings—including women who have taken time out of the labor force for caregiving and for widows and widowers.

President Bush's Social Security plan includes an adjustment to benefits for low-earners. The details of this proposal have not been released by the Administration, but during his press conference on April 28, 2005, the President stated, "If you work hard and pay into Social Security your entire life, you will not retire into poverty."

The President's recognition of the need to improve Social Security benefits for low earners is an important contribution to the debate. But if "paying into Social Security your entire life" means that a worker must have 40 years in the labor force—or even 35—to qualify for a poverty-level benefit, few low-wage men and even fewer women would be protected.

The low-wage labor market, for men and women, is characterized by instability: high turnover, temporary and seasonal employment, and part-time work that lead to gaps in employment. And many women take time out of the labor force for caregiving, some by choice and some because they cannot afford quality child care or caregiving help for an elderly family member.

Congress created a Special Minimum Benefit in 1972 to "provide long-term workers with an income that would free them from dependency on welfare."[8] But a career of 30 years—the length of time required to get the maximum from the Special Minimum Benefit—is relatively rare among low earners. On average, the 25 percent of workers with the lowest lifetime earnings had only 17 years with any earnings.[9] In large part because increases in the initial benefit because of the Special Minimum Benefit are price-indexed—while determination of the initial benefit under the regular Social Security benefit formula is wage-indexed—the value of the Special Minimum Benefit as an alternative to the regular benefit for lifetime low earners has also been steadily diminishing. Fewer people are being helped by the Special Minimum Benefit, and the added benefit it provides is shrinking; by 2013, the Special Minimum Benefit is expected to phase out entirely.[10]

[8] *See* Olsen and Hoffmeyer, *Social Security's Special Minimum Benefit*, Social Security Bulletin 64(2) (2001-2002).
[9] Analysis was for workers born between 1926 and 1960. *See* FitzPatrick, Hill and Muller, National Women's Law Center, Increasing Social Security Benefits for Women and Men with Long Careers and Low Earnings (2003).
[10] *Id.*

There are various ways to improve the Special Minimum Benefit. The National Women's Law Center co-authored a paper that explores various options, including lowering the number of years required to receive the maximum from 30 years to 25; lowering the earnings requirement to get credit for a year of service; and/or counting partial years of coverage.[11] Caregiving years could be counted toward the Special Minimum Benefit.[12] There are ways to adjust the regular benefit formula to increase benefits for low-income workers and their families—not just shield some of them from benefit cuts.[13]

The economic security of widows, the largest group of poor, elderly women, could be improved by adjusting the Social Security survivor benefit to allow survivors to keep a larger fraction of the couple's benefit.[14] As previously described, the amount of the Social Security survivor benefit currently ranges from 50 to 67 percent of the combined benefits received by the couple. The proportion of the couple's benefits received by the survivor depends on the relative earnings of the husband and wife. The closer their earnings levels, the larger the drop in Social Security income at widowhood. Increasing the survivor benefit to 75 percent of the couple's benefit would—other things being equal—increase benefits for surviving spouses. The survivor of a two-equal-earner-couple would get the greatest increase under this proposal, reducing the disparity in survivor benefits between one- and two-earner couples with similar combined lifetime earnings. This proposal could be targeted to those with lower earnings by capping the amount that anyone could receive from the proposed alternative calculation of the survivor benefit.

However, increasing the survivor benefit to 75 percent of the couple's benefit will not necessarily mean higher benefits for widows if the higher percentage is applied to reduced benefits, as it was under Model 2 of the President's Commission to Strengthen Social Security. For example, suppose a couple is scheduled to receive $3,000 a month in combined Social Security benefits, and the plan reduces benefits for average earners by 28 percent. Seventy-five percent of the new combined benefit would be less than two-thirds of the original benefit ($3,000 x 2/3 = $2,000 v. $3,000 x 82% x 75% = $1,845 a month).

I urge this Subcommittee to consider benefit improvements for women and other vulnerable beneficiaries. But the improvements must be real, not window-dressing. If a plan purports to improve traditional Social Security benefits for women—but simultaneously destroys the foundation of the traditional program by draining Social Security to create private accounts—the improvements are a sham. If benefit adjustments fail to increase scheduled benefits—if they merely keep the cuts in the plan from being as deep for some beneficiaries—they are not real improvements.

[11] *See* FitzPatrick *et al., supra* note 7.

[12] *See* Campbell, Report of the Social Security Subgroup of the Women and Retirement Study Group of the House Select Committee on Aging on Social Security Structural Issues (1992).

[13] For a discussion of various options, *see* Hartmann and Hill, Strengthening Social Security for Women: A Report from the Working Conference on Women and Social Security (1999).

[14] *See* FitzPatrick and Entmacher, National Academy of Social Insurance Issue Brief No. 9 Widows, Poverty, and Social Security Poverty Options (Aug. 2000).

Conclusion

Through Social Security, Americans contribute while they are working to earn protections for themselves and their families when income is lost due to retirement, disability, or death. Risks are shared, across the country and the generations. This system—especially vital to millions of women and families—should not be dismantled by shifting to a system of private accounts that would leave individuals to face life's risks on their own.