STATEMENT OF
STAFF TO THE 1981-83 NATIONAL COMMISSION
ON SOCIAL SECURITY REFORM

HEARING ON BIPARTISAN PROCESS PROPOSALS
FOR LONG-TERM FISCAL STABILITY

THE BUDGET COMMITTEE
U.S. SENATE

NOVEMBER 10, 2009

Chairman Conrad, Ranking Member Gregg, and Members of the Committee:

This statement represents the views of eight individuals who helped craft and secure the enactment of the Social Security Amendments of 1983.[1] Those amendments, which followed the recommendations of the National Commission on Social Security Reform (the so-called Greenspan commission), eliminated Social Security's then-projected short-range and long-range shortfalls. Our involvement with the Commission's work may provide useful insights into the advisability of using a commission or task force to eliminate, as part of an effort to control the overall federal deficit, the long-range shortfall now being projected for Social Security. Social Security's current projected shortfall, it should be noted, is much less immediate and severe than the shortfall Congress eliminated twenty-six years ago.

Fast-Tracking Social Security Legislation Is Unprecedented

An expedited procedure, which limits debate and prohibits all amendments, would be unprecedented: Since its enactment in 1935, Social Security legislation has always had the benefit of (1) full hearings before the House Ways and Means Committee and the Senate Finance Committee; (2) executive sessions which provided all members the opportunity to offer amendments; (3) unlimited debate and opportunity for amendments in the Senate; and (4) debate and amendment in the House of Representatives, consistent with its rules. This was the

[1] Seven of the eight signatories of this statement served on the staff of the Greenspan commission. Nancy J. Altman, J.D. served as executive assistant to Alan Greenspan, who chaired the Commission; Merton C. Bernstein, LL.B.., Coles Professor of Law Emeritus, Washington University, served as principal consultant to the Commission; Suzanne M. Blouin served as executive assistant to Robert J. Myers who was executive director of the Commission; Elizabeth T. Duskin served as Senior Staff Adviser to the Commission; Lori L. Hansen served as technical adviser to Commission Member Robert M. Ball; Eric Kingson, Ph.D., Professor of Social Work, Syracuse University, served as policy advisor to the Commission; and Bruce D. Schobel, FSA, served as staff actuary to the Commission. The eighth signatory of this statement is Patricia E. Dilley, J.D., LL.M, Professor of Law, University of Florida, who served as professional staff to the Subcommittee on Social Security of the Ways and Means Committee of the U.S. House of Representatives from 1981 to 1987, and worked closely with the staff of the Greenspan commission.

procedure that was followed in the enactment of the Social Security Amendments of 1983, which eliminated the then-projected Social Security deficit.

Throughout Social Security's long history, advisory councils have been used frequently to recommend changes. Congress has always used the normal legislative process when considering those recommendations. The normal legislative process was followed in 1983, when Congress considered the Greenspan commission recommendations. Indeed, the decision to raise the retirement age was the result not of a commission recommendation, but of an amendment offered by Representative J.J. "Jake" Pickle (D-TX) during consideration of the legislation on the floor of the House of Representatives.

<u>The Greenspan Commission Succeeded Because of its Broad, Diverse Composition</u>

In addition to recommending that the normal legislative process be employed, we advise that any task force or commission that is established with respect to Social Security be broadly representative, including members from business, labor, and the general public. This was the composition of successful Social Security advisory councils and commissions of the past, including the Greenspan commission.

Part of the success of the Greenspan commission was its diverse membership, which included the then-President of the AFL-CIO, Lane Kirkland; four business leaders, including the then-President of the National Association of Manufacturers, Alexander Trowbridge; a leading advocate for the elderly, then-Congressman Claude Pepper (D-FL); and a leading women's advocate, former Congresswoman Martha Keys (D-KS). We believe that good public policymaking demands that any Social Security task force or commission be broadly representative of labor, business, seniors, women, and other groups vitally affected by Social Security.

<u>Base Closure and Realignment Commission Analogy Overlooks Fundamental Differences</u>

Those who advocate a fast-tracked procedure for reform of Social Security and other entitlements frequently invoke the example of the Base Closure and Realignment Commission ("BRAC"). The political context and constitutional structure of BRAC, however, are completely different. Because the national interest in closing unnecessary bases was in sharp tension with preventing the adverse and localized economic consequences of closing a particular base, success depended on all members agreeing to elevate national interest over local interest This posed a classic prisoner's dilemma: If only some members acted in the national interest and against the localized interest of those they represented, while others acted solely in defense of their localized interest, the ones acting in the national interest would "lose," because the national interest would be defeated but their local interest would not be protected. Consequently, without a mechanism to require everyone to act in the national interest, the natural tendency would be to engage in logrolling, forming alliances to prevent one's own base from being closed, and the obvious result would have been that no base would be closed. BRAC provided a mechanism which permitted escape from this prisoner's dilemma. An impartial expert panel determined which bases to close and Congress agreed in advance to accept the entire package of recommendations unless a majority of both Houses objected in a single up-or-down vote.

In stark contrast to base closings, where local and national interests may diverge, local and national interests are aligned perfectly with respect to Social Security, because every state and every district includes beneficiaries and FICA-paying workers. Consequently, every member of Congress has comparable interests and concerns, though, of course, they may differ on principles and preferences. Those principles and preferences should be open to full unrestricted deliberation in the Congress. Members have been elected to apply their principles and preferences to hard decisions; a commission with responsibility over Social Security, where its recommendations are considered under expedited procedures with no power to amend, improperly shifts responsibility and shields members from accountability.

In the case of the base closings, Congress could have simply provided guidelines and delegated the decision to the Department of Defense. Instead, Congress chose to retain greater control and accountability by establishing a commission and preserving the power to reject, on an all-or-nothing basis, its determination. Unlike the decision about which specific bases to close, Congress lacks the constitutional authority simply to delegate the decision to change Social Security's income or outgo. Exercise of the power to tax and spend under Article I of the Constitution requires that Congress itself, not a delegate of Congress, make the relevant decisions and take full constitutional responsibility for them, together with full accountability.

Establishing a commission and considering its recommendations under expedited, extraordinary rules blurs accountability and therefore breaches the spirit of that basic principle of constitutional accountability. History shows that Social Security reform can take place through the normal legislative process, without recourse to extraordinary arrangements. We witnessed it in 1983.

<u>Social Security's Vital Importance to the Nation Requires Public Accountability</u>

Because Americans in the last year have lost trillions of dollars in home equity and retirement savings, it is more important than ever that Social Security reform be addressed in the sunshine. Social Security today provides an economic lifeline more crucial than ever to the millions who receive its benefits and the millions more who are insured in the event they, or workers on whom they depend, lose wages as a result of disability, premature death, or old-age. In 2009, more than 52 million people are receiving monthly benefits, including 33 million retired workers, 2.4 million spouses or divorced spouses of retired workers, 4.4 million aged widow(er)s, 7.7 million disabled workers, and 4.1 million children of deceased, disabled or retired workers.

Our brave soldiers wounded in Iraq and Afghanistan receive Social Security benefits, as do their spouses and children, and so do the families of soldiers who have given their lives in defense of the nation. Though little noted, Social Security continues to provide benefits to the families of those who lost their lives in the 9/11 attacks. Its benefits -- which are crucial to the vast majority of its beneficiaries and the communities in which they live and spend -- are modest by any measure. Indeed, average benefits are less than what is paid for full-time minimum-wage work. Nor is there waste: the program is efficient, returning in benefits more than 99 cents of every dollar collected in income.

The importance of Social Security demands that proposals for change receive careful consideration, with public participation through its representative groups, so that the implications of all changes are closely examined and clearly understood. Any kind of expedited procedure would be a disservice to the American people.

Social Security, Currently in Surplus, Is Not Part of the Deficit Problem

Moreover, there is no need for hasty action with respect to the program. Social Security is currently in surplus. According to the 2009 Annual Report of the Board of Trustees, published May 12, 2009, Social Security ran a surplus of $180 billion last year and had accumulated a reserve of $2.4 trillion. (Even excluding the interest income, there was still a surplus of $64 billion.)[2] The Trustees' Report projects that Social Security's accumulated reserve will continue to grow until about 2024,[3] and, the program can continue to pay full benefits until 2037 to the millions of children, disabled workers, retired workers, and spouses (including widowed and divorced spouses) dependent on those benefits. Indeed, the most recent projections of the Congressional Budget Office, published in August, forecast that full benefits can continue to be paid until 2043. Consequently, Congress has the time to undertake careful, deliberate action through the normal legislative process.

Social Security Is Already Prohibited under Current Law from Deficit Spending

Though few realize it, Social Security already contains an automatic built-in trigger to restore it to balance, if it should ever have insufficient assets to cover scheduled benefits. The law prohibits Social Security from paying any benefits with respect to which it has insufficient revenue. Consequently, if at any point in the future, it has insufficient revenue to cover the costs of benefits, those benefits will be automatically reduced, without any action by Congress.

Social Security Helped the Country Avoid a 1930s-Style Depression

The recession that almost turned into a depression holds lessons for the future. The banking and financial systems almost collapsed, requiring unprecedented federal help. Millions of Americans lost trillions of dollars in private pension wealth. In fortunate contrast, Social Security proved rock solid, providing guaranteed benefits that help offset lost earnings and stimulate the economy by maintaining purchasing power. Hidden in the shadows of the unemployment and foreclosure statistics of the 1930s were elderly parents dependent on and living with adult workers. That added suffering has been largely avoided today, thanks to Social Security.

For all these reasons, while we support efforts to bring the federal deficit under control, we urge members of this Committee and all members of Congress to refrain from employing a fast-

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[2] While Social Security is in surplus with or without inclusion of its investment income, we believe that the investment income should be treated identically to all other sources of income. Some have argued that Social Security's investment income should be ignored because it involves inter-fund transfers which are not shown when the federal budget is displayed on a unitary basis and are irrelevant for the limited exercise of macroeconomic analysis. In contrast, we believe that in determining the financial status of Social Security, it is illogical to exclude its investment income, which has been a source of Social Security revenue starting in 1937, and is dedicated, by law, to the exclusive use of its beneficiaries.

[3] See footnote 2.

tracked procedure for Social Security, and instead allow Congress to consider Social Security legislation through the normal procedure which has resulted in successful legislation in the past.[4]

Respectfully submitted,

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[4] We have limited our statement to Social Security, but many of the same arguments apply to other programs, such as Medicare. It too is vitally important to the nation, has lower administrative costs than private insurance despite its coverage of the most expensive part of the population, and has rising costs primarily as a result of the same pressures that are driving up the nation's health care costs, private as well as public. Like Social Security, it has never been subject to an expedited fast-track procedure. The only reason to subject it to one seems to be simple avoidance of accountability.