THE COST AND BENEFITS OF THE REEMPLOYMENT OF FEDERAL PART-TIME ANNUITANTS

HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

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THE COST AND BENEFITS OF THE REEMPLOYMENT OF FEDERAL PART-TIME ANNUITANTS

TUESDAY, MAY 20, 2008

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2 p.m., in room 2247, Rayburn House Office Building, Hon. Danny K. Davis (chairman of the committee) presiding.

Present: Representatives Davis of Illinois, Marchant, and Norton.

Staff present: Lori Hayman, counsel; William A. Miles, professional staff member; Marcus A. Williams, clerk; and Jim Moore, minority counsel.

Mr. DAVIS OF ILLINOIS. Good morning, and thank you all very much. The subcommittee will come to order.

Today's hearing on Cost and Benefits of Reemployment of Federal Part-Time Annuitants is about striking a balance between agencies, meeting their staffing needs and ensuring that promotion and work opportunities for new and current employees are not stymied by returning Federal retirees.

Federal law prohibits annuitants from being dually compensated. Federal retirees who are reemployed by the Government are not permitted to simultaneously receive a Federal salary and a Federal retirement annuity. The dual compensation rule can create a financial disincentive for retirees wishing to return to Federal service.

However, the Office of Personnel Management [OPM], may grant waivers allowing agencies to fill hard to fill positions with re-hired Federal annuitants without offsetting the salaries by the amount of the annuity. Agencies can request waivers on a case by case basis for positions that are extremely difficult to fill, or for emergencies of any unusual circumstances. On September 19, 2007, the full committee ranking member, Tom Davis, along with the subcommittee ranking member, Kenny Marchant, introduced H.R. 3579 to facilitate the temporary re-employment of Federal annuitants. H.R. 3579 would permit Federal agencies to reemploy retired Federal employees on a temporary basis without the consent of the director of OPM.

The testimony of today's witnesses will help us to ascertain what course of action is in the best interests of the Government and its

employees. I will now yield to Ranking Member Marchant for an opening statement.

[The prepared statement of Hon. Danny K. Davis follows:]

STATEMENT OF CHAIRMAN DANNY K. DAVIS AT THE SUBCOMMITTEE ON FEDERAL WORKFORCE AND POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA HEARING ON

"THE COSTS AND BENEFITS OF THE REEMPLOYMENT OF FEDERAL PART-TIME ANNUITANTS"

May 20, 2008

Today's hearing, the "The Costs and Benefits of the Reemployment of Federal Part-time Annuitants," is about striking a balance between agencies' meeting their staffing needs and ensuring that promotion and work opportunities for new and current employees are not stymied by returning federal retirees.

Federal law prohibits annuitants from being "dually compensated." Federal

retirees who are reemployed by the government are not permitted to simultaneously receive a federal salary and a federal retirement annuity. The dual compensation rule can create a financial disincentive for retirees wishing to return to federal service. However, the Office of Personnel Management (OPM) may grant waivers allowing agencies to fill hard-to-fill positions with rehired federal annuitants without offsetting the salaries by the amount of the annuity. Agencies can request waivers on a case by case basis for positions that are extremely difficult to fill, or for emergencies or any unusual circumstances.

On September 19, 2007, Full Committee Ranking Member Tom Davis, along with Subcommittee Ranking Member Kenny Marchant, introduced H.R. 3579, "To facilitate the temporary reemployment of Federal annuitants." H.R. 3579 would permit Federal agencies to reemploy retired federal employees on a temporary basis without the consent of the Director of OPM.

The testimony of today's witnesses will help us ascertain what course of action is in the best interest of the government and its employees.

Mr. MARCHANT. Thank you, Mr. Chairman. Thank you for holding this hearing today at the request of Mr. Davis, of the minority. Political gridlock seems to be the status quo these days, so it is refreshing to see teamwork, compromise and bipartisanship whenever possible.

Mr. Chairman, I think we may be facing a crisis in Federal employment and Congress needs to be working to find a solution. As we look at the number of current Federal employees who are eligible to retire in the next 5 years, we must consider how we intend to replace those employees.

I believe that Ranking Member Davis' bill, H.R. 3579, could be a major part of the solution. The legislation would allow agencies to waive the salary offset requirement with respect to any Federal annuitant who is employed on a part-time basis. I am proud to be an original co-sponsor of this legislation.

While the reemployed annuitants would receive both salary and annuity payments, they would not be considered employees for purposes of retirement and would receive no additional retirement benefits based on their service. To demonstrate the importance of having this bill, the State Department recently had a nationwide backlog of issued passports which extended the expected turnaround time from the normal 6 weeks to a snail's pace that was anyone's guess for when the individual would receive a passport. These delays greatly impacted thousands of business travelers and planned vacations.

In spite of its best efforts, the State Department was dealing with record levels of retirement and an unprecedented 44 percent increase in passport demand. To make matters worse, all new applicants must undergo background check and training of about a year for new hires. The fastest solution was to bring in recent hires who have the expertise and required minimal new training. But the State Department lacked the statutory authority to do this on a temporary basis. It took legislation action by Congress to bring back State Department employees to its offices.

Needless to say, this was not the most efficient way to address the problem. It resulted in several additional months of backlogs before these employees were back to work at the State Department, finally helping to make some headway on the backlog of passport applications. This sort of inefficiency is the kind of thing that we have to avoid and responsibly crafted legislation like Ranking Member Davis' bill is something we should look to and something I fully support.

Thank you again, Mr. Chairman, for giving the minority this hearing on this important issue.

[The prepared statement of Hon. Kenny Marchant follows:]

OPENING STATEMENT OF
KENNY MARCHANT, RANKING MEMBER
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE
AND THE DISTRICT OF COLUMBIA
MAY 20, 2008

I wanted to first thank the Chairman for holding this hearing at the request of the Minority. Political gridlock seems to be the status quo these days, so it is refreshing to see teamwork, compromise, and bipartisanship whenever possible.

Mr. Chairman I think we may be facing a crisis in federal employment and Congress needs to be working to find a solution. As we look at the number of current federal employees who are eligible to retire in the next 5 years, we must consider how we intend to replace those employees.

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To make matters worse, all new applicants must undergo a background check and training of about a year for new hires. The fastest solution was to bring in recent retirees who have the expertise and require minimal new training, but the State Department lacked the statutory authority to do this on a temporary basis.

It took legislative action by Congress to bring back ex-State Department employees to its consular offices. Needless to say, this was not the most efficient way to address the problem, and it

resulted in several additional months of backlogs before these employees were back to work at the State Department finally helping to make some headway on the backlog of passport applications.

This sort of inefficiency is the kind of thing that we have the ability to avoid, and responsibly crafted legislation like Ranking Member Davis's bill is something that we should look to, and something I fully support.

Again I thank the Chairman for giving the Minority this hearing to address this important issue, and I look forward to the testimony from our witnesses today.

Mr. MARCHANT. I would also like to have permission, Mr. Chairman, to enter Ranking Member Davis' statement into the record.

Mr. DAVIS OF ILLINOIS. Without objection, so ordered.

[The prepared statement of Hon. Tom Davis follows:]

Subcommittee on the Federal Workforce, Postal Service,
And the District of Columbia
Opening Statement of Tom Davis, Ranking Member,
Committee on Oversight and Government Reform
May 20, 2008

Chairman Davis, thank you for holding this hearing today on Re-Employed Annuitants. I believe this is an important topic which deserves our attention, and the sooner we can develop an appropriate solution to the problem, the better prepared we will be to take on the rapidly swelling retirement wave.

Last September I introduced H.R. 3579 along with Ranking Member Marchant and Rep. Wolf, in an attempt to mitigate the impact of the pending wave of federal retirements on the services provided by the federal government to the American people. After all, more than 580,000 federal employees – over 1/3 of the federal workforce – will leave the federal government in the next 10 years, largely through retirement. Over the next decade, 60% of the federal workforce will become eligible to retire.

Increasing the flexibility for rehiring these newly retired employees could help soften the impact of these numbers. Re-employed annuitants have much to offer the federal workforce: precisely matched technical skills, institutional knowledge, wisdom, and a principled commitment to public service. These are skills which only come with years of experience and dedication.

While we have to develop the best possible employees today in order to prepare the next generation of federal employees to serve at the highest levels, there are circumstances which may require an agency to rehire that senior expert in order to deal with particular problems such as backlogs and transitions. Unfortunately, with our current system, Congress effectively encourages annuitants to work in the private sector, where they can collect their full government annuity plus their private sector salaries. There is no question that this puts federal human capital officers at a tremendous disadvantage.

Currently, federal annuitants may be re-employed in the federal sector with a salary offset by the amount of their annuity. In some circumstances, an annuitant may receive a waiver, usually limited to circumstances of exceptional difficulty in recruiting or retaining a qualified employee or for temporary employment that is necessary due to an emergency. When an annuitant is employed with a waiver, he or she receives full annuity and salary. The authority to grant such a waiver rests with the Office of Personnel Management (OPM) within the Executive Branch.

There have been a number of other waiver authorities proposed or granted for agencies to grant waivers without OPM involvement. For instance, the National Defense Authorization Act for Fiscal Year 2004 changed the rules for the Department of Defense allowing all annuitants employed by that department to receive a waiver.

This hearing will examine how Congress can enhance flexibilities for re-employing annuitants with a break in service or change in position to fill crucial federal workforce shortages without the requirement that their salary be offset by annuity. It is my hope that this legislation will come before the Committee following the Memorial Day recess.

Finally, I'd like to commend the Chairman and the Ranking Member for taking the long view on this issue and I want to encourage them to continue in their efforts to improve the federal workforce.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Marchant.

Now we will actually go to our first witness. Ms. Nancy Kichak was named Associate Director for the Human Resources Policy Division in September 2005. In this position, she leads the design, development and implementation of innovative, flexible and merit-based human resource policies.

Thank you very much, Ms. Kichak. If you would stand and be sworn in.

[Witness sworn.]

Mr. DAVIS OF ILLINOIS. The record will show that the witness answered in the affirmative.

We thank you very much for being here with us this afternoon to testify. If you would give us your 5-minute statement and of course, the yellow light means you have 1 minute left, and red means that the 5-minutes are up. We thank you very much and will then go to questions.

STATEMENT OF NANCY H. KICHAK, ASSOCIATE DIRECTOR FOR STRATEGIC HUMAN RESOURCES POLICY, U.S. OFFICE OF PERSONNEL MANAGEMENT

Ms. KICHAK. Chairman Davis, Representative Marchant, thank you for holding this hearing to examine proposals to facilitate reemployment of Federal retirees. I appreciate the opportunity to be here today to discuss the importance of these policies.

Because of the demographic makeup of the Federal work force, the Office of Personnel Management projects a substantial number of retirements in the coming years. We have put succession plans in place that will help ease the impact of the loss of expertise. But we need limited access to the departing skilled workers to help make the transition to new workers as seamless as possible.

Currently, retirees who become reemployed by the Federal Government must have their salaries reduced. However, if that same employee would go to work for a contractor, they would be able to collect an annuity and salary. Or if a private sector retiree is hired by the Government, that employee receives an annuity and salary.

The law allows OPM to grant salary offset waivers on a case by case basis to agencies experiencing exceptional difficulties in recruiting or retaining qualified individuals or in unusual circumstances. OPM may also delegate this authority to agencies faced with emergencies or other unusual circumstances that do not involve an emergency.

This authority has been used to help agencies in the aftermath of the terrorist attacks of September 11th as well as to respond to Hurricane Katrina. However, none of these regulatory authorities provide the ability to waive the offset for such short-term needs as mentoring new employees or providing short-term assistance with critical projects.

OPM submitted a legislative proposal to Congress in March of last year that would allow agencies, without coming to OPM for approval, to rehire annuitants under certain conditions without a salary offset. This proposal is substantially similar to H.R. 3579, introduced last fall by Representative Tom Davis. H.R. 3579 would cover only executive branch agencies while OPM's proposal would also apply to the legislative and judicial branches.

H.R. 3579 would permit Federal agencies to reemploy retired Federal employees without offsetting annuity from salary for a maximum of 520 hours in the first 6 months following retirement, a maximum of 1,040 hours in any 12-month period, and a total of 6,240 hours for any individual. While those re-employed under this authority would receive both salary and annuity payments, they would earn no additional retirement benefits based on the reemployment.

The legislation would make reemployment both attractive to annuitants and easy for agencies to use and it is designed to avoid abuse. This will encourage individuals who otherwise would leave Government permanently or provide their services to a contractor to return to work for the Government part-time. Amending the law in this way will also go a long way toward eliminating the inequity in the treatment of reemployed Federal retirees compared to private sector retirees, who continue to collect their pensions and full salaries when they are hired by the Federal Government.

I also want to thank Congressman Moran for introducing H.R. 2780, a bill to remove the penalty under the Civil Service Retirement System, which results from part-time service at the end of a career. And I want to thank members of the subcommittee, along with members of the Committee on Oversight and Government Reform, who supported passage of the bill out of committee on March 13, 2008.

Similar legislation has been introduced by Senators Conrad and Smith as part of their broader efforts to assist older workers in the private and public sectors. Together, both of these legislative initiatives are important to our efforts to have the right people with the right skills in place, so that agencies are able to meet their mission goals.

I want to especially thank you, Representative Davis, and Representative Marchant, for your interest in this important issue. Thank you for inviting me here today and I would be glad to answer any questions.

[The prepared statement of Ms. Kichak follows:]

STATEMENT OF
NANCY H. KICHAK
ASSOCIATE DIRECTOR FOR STRATEGIC HUMAN RESOURCES POLICY
U.S. OFFICE OF PERSONNEL MANAGEMENT

before the

SUBCOMMITTEE ON THE FEDERAL WORKFORCE, POSTAL SERVICE, AND
THE DISTRICT OF COLUMBIA
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

on

REEMPLOYMENT OF RETIRED FEDERAL EMPLOYEES

MAY 20, 2008

Chairman Davis, Representative Marchant, and Members of the Subcommittee, thank you for holding this hearing to examine proposals to facilitate reemployment of Federal retirees. I appreciate the opportunity to be here today to discuss the importance of these policies as the Government faces a significant number of retirements in the near future.

The Federal workforce is aging, and a growing portion of our employees are reaching retirement eligibility. In this environment, the Federal Government's strategic human resources planning must include efforts to attract and retain more mature and experienced workers with essential expertise, in addition to strategies for recruiting and developing younger workers with mission-critical skills.

As part of these efforts, we need to find ways to attract older workers with mission critical skills to assist agencies with new employee training and to help complete sensitive short term projects. Currently, retirees who become reemployed by the Federal Government must have their salaries reduced: however if that same employee would go to work for a contractor they would be able to collect an annuity and salary. Or, if a private sector retiree is hired by the Government that employee receives an annuity and a salary.

It is possible for the salary offset to be waived in certain limited circumstances, but most agencies must come to OPM for approval of a waiver. The law allows OPM to grant salary-offset waivers on a case-by-case basis to agencies experiencing exceptional difficulties in recruiting or retaining qualified individuals and does not limit the amount of time this type of employee may be employed by any given agency. OPM may also delegate this authority to agencies faced with emergencies or other unusual circumstances. This authority has been used to help agencies in the aftermath of the terrorist attacks of September 11, 2001, as well as to respond to Hurricane Katrina and

other national and international emergencies. Last fall, as one more tool to assist agencies, OPM issued regulations giving agencies more flexibility to hire reemployed annuitants without a salary offset in unusual circumstances that do not involve an emergency. However, none of these regulatory authorities provide the ability to waive the offset for such short term needs such as mentoring new employees so they learn the skills of their new position or working on sensitive limited term projects.

OPM submitted a legislative proposal to Congress in March of last year that would allow agencies – without coming to OPM for approval – to rehire annuitants under certain conditions, without a salary offset. This proposal is substantially similar to H.R. 3579, introduced last fall by Representative Tom Davis. H.R. 3579 would cover only executive branch agencies, while OPM's proposal would also apply to the legislative and judicial branches. H.R. 3579 would permit Federal agencies to reemploy retired Federal employees, without offsetting annuity from salary, for a maximum of 520 hours in the first 6 months following retirement, a maximum of 1,040 hours in any 12-month period, and a total of 6,240 hours for any individual. While those reemployed under this authority would receive both salary and annuity payments, they would earn no additional retirement benefits based on the reemployment.

The legislation would make reemployment both attractive to annuitants and easy for agencies to use, and it is designed to avoid abuse. This will encourage individuals who otherwise would leave Government permanently or provide their services to a contractor to return to work for the Government part-time, for a limited period. Amending the law in this way would also go a long way toward eliminating the inequity in the treatment of reemployed Federal retirees compared to private-sector retirees who continue to collect their pensions and full salaries when they are hired by the Federal Government.

I also want to thank Congressman Moran for introducing HR 2780 a bill to remove the penalty under the Civil Service Retirement System in the calculation of the "high-three-years" average salary on which annuities are based, which results from part-time service at the end of a career. Current Civil Service Retirement System provisions governing the computation of annuities involving part-time service have an unintended adverse effect on employees who perform part-time service at the end of their careers. I also want to thank the members of the Subcommittee along with the Members of the Committee on Oversight and Government Reform who supported passage of the bill out of Committee on March 13, 2008. Similar legislation has been introduced by Senators Conrad and Smith as part of their broader efforts to assist older workers in both the private and public sectors.

Taken together both of these legislative initiatives are important to our efforts to have the right people, with the right skills in place so agencies are able to meet their mission goals. I especially want to thank you Representative Davis and Representative Marchant for your interest in this important issue. OPM is eager to work with you and the Subcommittee on these legislative initiatives.

Again, thank you for inviting me here to testify today, and I would be glad to answer any questions you may have.

Mr. DAVIS OF ILLINOIS. Thank you very much. We appreciate your testimony.

I will begin. Ms. Maureen Gilman, legislative director for the National Treasury Employees Union, and a witness on the third panel, states in her testimony for the record that the lack of qualified employees is due to the funding and the contracting out of critical expertise to private businesses. I have a two-part question.

One, can current staffing shortages be attributed to a lack of funding, and if so, why not hire staff now that can be trained by more experienced workers before they retire? Then I will go to the other part.

Ms. KICHAK. I think it is fair to say that the Government is trying to be as efficient as possible, and therefore does not fund a position that is not needed if somebody else is there doing the job. So if money were unlimited and you could double-encumber certain positions and give people a long training period, that would certainly help. There is no question about that.

On the other hand, we work with our agencies. At OPM we have human capital officers assigned to every agency to do succession planning, to make sure there are people training behind the folks in place. So it is not strictly a funding issue. We do train people, but unexpected things occur. People leave before you expect them to, folks that aren't able to retire, folks get sick and folks decide to change jobs. So even if we had more money, we couldn't guarantee that we would put the right person in the right place to anticipate a problem in the future.

Mr. DAVIS OF ILLINOIS. Strategic planning suggests that work forces plan for the future in order to meet staffing needs. Wouldn't proper planning and preparation by the agencies alleviate staffing and training concerns if there was enough planning taking place before we get to the point where there is a need?

Ms. KICHAK. I think there is a lot of planning taking place. Again, you identify the people where you expect you might have shortages and you start to build succession plans around those areas. But unexpected things do happen.

The other problem you have is that no matter how much you put down in documentation of a position and work with the next person, they would really like to have somebody they could talk to and work with when it absolutely falls in their lap. There is no substitute for the person who is the most experienced at that job being available as the new person takes over to answer questions.

Our proposal is for a part-time job. It is really not for full-time employment. So it is just to be able to access people and rely on them for help in limited circumstances. It is not to do the job.

Mr. DAVIS OF ILLINOIS. Let me ask you, are there provisions in H.R. 3579 to address concerns that agencies would be required to re-hire Federal annuitants with no benefits versus new hires and current employees that are entitled to benefits, thereby saving the agency money?

Ms. KICHAK. I think there are many provisions in that piece of legislation. The first one is the limitation on the hours that can be worked immediately after retirement. It is very clear that immediately after retirement, you can only work 600 hours of the first

6 months. What that means is that you cannot let somebody retire and immediately come back to work.

So there is going to be some kind of break there where the person is not going to be available to you full-time. Then there is also the limitation that you can only work half the hours in a year, which means that an agency which has a very vital job is really going to have to find somebody who can handle that full-time, and then again there is the provision of the 6,000 hours in a lifetime. So again, that person is only going to be available for a limited amount of time and an agency has to plan to replace them.

As far as the issue of these folks not earning benefits while they are retired, it would be, OPM also administers the Civil Service Retirement System. It would not be good management of that fund to allow reemployed annuitants to increase their pensions while they are retired. Planning for your retirement and building for your pension is something you need to do when you are working. It wouldn't be good business or good pension sense to build that while you are retired.

Mr. DAVIS OF ILLINOIS. Thank you very much. We will go to Mr. Marchant.

Mr. MARCHANT. Thank you.

I have a few questions about just how this bill would work mechanically. Would an annuitant be able to go to work for any Federal agency?

Ms. KICHAK. Yes.

Mr. MARCHANT. So it wouldn't necessarily be the agency that they retired from?

Ms. KICHAK. That is right.

Mr. MARCHANT. That is not limited in any way?

Ms. KICHAK. That is right.

Mr. MARCHANT. Is the agency bound to offer what the annuitant was making as his or her last salary?

Ms. KICHAK. No, they are not.

Mr. MARCHANT. Is it an open, we post this job, we are looking for a part-time person?

Ms. KICHAK. The person who is going to be retired is going to be required to meet the requirements of the job. In other words, if you hire somebody as a physician, they are going to have to be a physician. If you hire somebody as a police officer, they are going to have to have those skills.

So their pay will also be set based on the job they are hired to do, not necessarily the salary they were earning at the time they left.

Mr. MARCHANT. Would an agency then be required to pay the amount of money that job paid, currently paid at the level that they hired them?

Ms. KICHAK. The agency would set the pay based on the responsibilities the person would have and the job they are being hired into. One example would be, and it is an unlikely one, but if you had somebody who was operating at a very high level and you wanted them to come back and do some administrative work, to organize some files, you could set that job as an administrative person and they could have a lower grade than what they were making when they left.

Mr. MARCHANT. There are several bills that are floating around now in committee, on the House floor and maybe some that are even out of the House that are proposing what I would consider to be a very generous leave program for adoptive parents, newborns, for both the husband and the wife. We were told, we had testimony that said basically there was sufficient workplace in force to fill those holes if someone left for 8 or 10 weeks.

Do you think that if this becomes law, and this becomes policy, where it could extend, I think up to 12 weeks, is this a situation where an annuitant could be used to come in and fill in?

Ms. KICHAK. Absolutely. One very good use of this bill would be if somebody had an unexpected absence and they were coming back. And a maternity is a good one.

On the bills on the leave, we do have good leave policies for our folks so they can take a long period of time off. But it would be a very good use of this bill to bring people, reemployed annuitants back to fill in that gap.

Mr. MARCHANT. Thank you, Mr. Chairman.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Let me just ask you, are there any other flexibilities that you can think of that perhaps could be used to retain older workers, such as maybe teleworking, flexible schedules, part-time work or any other things that might be used to arrive at the same goal?

Ms. KICHAK. We absolutely support the Moran bill that fixes the problem with the high three salary for CSRS employees, that penalizes them if they go to part-time at the end of their career. So we think part-time service at the end of a career is a very good thing to do.

We are strong advocates of telework and we work very hard to get policies in place so that managers can offer telework to their employees. We believe in flexible work schedules. So all of those things are great tools.

But there are also instances where this is the only kind of thing that would work. Because in the instance that Representative Marchant just described, where somebody is on maternity leave, that person is gone. And you have to fill that need. Allowing somebody to telework that is already gone wouldn't really do that.

So all of those things are good ideas.

Mr. DAVIS OF ILLINOIS. Are there any other questions?

Thank you very much. We appreciate your being here.

We will go to our second panel. Mr. Patrick Purcell is a Specialist in Income Security with the Congressional Research Service. He works on issues related to Federal employee retirement benefits, private sector pensions, 401(k) plans and individual retirement accounts. Mr. Purcell, if you would raise your right hand.

[Witness sworn.]

Mr. DAVIS OF ILLINOIS. The record will show that the witness answered in the affirmative. We thank you for being here and if you would summarize your testimony in 5 minutes, the full testimony is in the record. The yellow light indicates you have a minute and red means the time is up.

STATEMENT OF PATRICK PURCELL, SPECIALIST IN INCOME SECURITY, DOMESTIC SOCIAL POLICY DIVISION, CONGRESSIONAL RESEARCH SERVICE

Mr. PURCELL. Thank you, Mr. Chairman and Ranking Member Marchant, for inviting me here to speak to you today on reemployment of Federal annuitants. As you mentioned, Mr. Chairman, I have submitted a written statement for the record, so I am only going to focus on a few points concerning the current law and the proposed legislation.

As you are aware, under the Federal Employee Pay Comparability Act of 1990, the Director of OPM can waive the prohibition on concurrent receipt of a salary and a retirement annuity on a case by case basis if an agency is unable to retain or recruit qualified employees. The 1990 law also allows the Director of OPM to delegate to the head of a Federal agency authority to grant waivers on a case by case basis for employees serving on temporary appointments if the agency is facing an emergency.

While the individual is employed under these waivers, they do not earn additional retirement benefits except Social Security.

Under H.R. 3579, agency heads would be allowed to hire Federal annuitants on a temporary basis without reducing their salaries by the amount of their retirement annuities and without seeking the approval of OPM. The authority of an agency head to grant a waiver would be limited, as was mentioned earlier, to 520 hours in the 6 months following the starting date of the annuity; 1,040 hours of service in any 12-month period, 6,240 hours over the individual's lifetime.

In recent years, the number of reemployed Federal annuitants has increased, but they are a still a small fraction of all Federal employees. Between 2000 and 2007, the number of reemployed annuitants doubled from roughly 2,700 to 5,400. This is still less than one-third of 1 percent of all executive branch Federal employees. Over this same 7-year period, the percentage of reemployed annuitants subject to salary offset fell, and the percentage who were reemployed under waivers that allow concurrent receipt of a salary annuity increased.

In 2000, 75 percent of reemployed annuitants were subject to salary offset and 25 percent were employed under waivers. By 2007, 40 percent of reemployed annuitants were subject to salary offset, 60 percent were employed under waivers that allowed concurrent receipt of salary and annuity.

Many Federal employees are going to be eligible to retire over the next 10 years. More than 40 percent of the Federal work force is over age 50 and 35 percent have already completed more than 20 years of service. Because these employees have skills that are needed for Federal agencies to carry out their missions, managers in the Federal Government are seeking tools to delay retirement of employees and to induce some retirees to return to work.

In 1990, Congress approved one such tool by granting the Director of OPM authority to waive in certain cases the law that prohibits concurrent receipt of a Federal salary and an annuity. H.R. 3579 would give agency heads more flexibility in hiring retired Federal employees and to temporary employment by allowing them

to grant waivers to the salary offset without seeking the approval of OPM.

Providing Federal agencies with the authority they need to recruit and retain skilled workers is an important issue before Congress. However, the prohibition on concurrent receipt of a retirement annuity and full salary reflects the judgment of previous Congresses that Federal employment policies should not encourage workers to retire and then seek reemployment in a Federal job in which they can receive both a salary and an annuity.

Without the prohibition on concurrent receipt of a salary and annuity, there would be a financial incentive for employees to retire and seek reemployment with the Government. Because H.R. 3579 limits the waiver authority to temporary employment, it would substantially mitigate the possibility that this would occur.

However, it is worth noting that in 2006, the Assistant Director of OPM testified before this committee, "that because waivers result in compensation from the retirement fund and salary, they must be used judiciously."

This concludes my testimony and I would be happy to answer any questions that members of the subcommittee might have.

[The prepared statement of Mr. Purcell follows:]

United States House of Representatives
Committee on Oversight and Government Reform
Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia

"H.R. 3579: A Bill to Facilitate the Temporary Reemployment of Federal Annuitants"

May 20, 2008

Statement of Patrick Purcell
Specialist in Income Security
Domestic Social Policy Division
Congressional Research Service

Mr. Chairman and members of the subcommittee, my name is Patrick Purcell and I am a specialist in income security with the Congressional Research Service. Thank you for inviting me to speak to you today about reemployment of federal annuitants.

CSRS and FERS

Retirement income for federal employees is provided through the Civil Service Retirement System (CSRS) and the Federal Employees' Retirement System (FERS). Most civilian federal employees who were hired before 1984 are enrolled in CSRS. Employees first hired in 1984 or later are enrolled in FERS. Both CSRS and FERS include a defined benefit pension, also called an annuity. The CSRS annuity is larger as a percentage of pay than the FERS annuity, but employees enrolled in FERS earn retirement credits under Social Security, while those enrolled in CSRS do not. Employees enrolled in either CSRS or FERS also may participate in the Thrift Savings Plan (TSP), which is a defined contribution plan. Only employees enrolled in FERS, however, are eligible for employer matching contributions to the TSP.

Reemloyment of Federal Annuitants

Former federal employees who are receiving retirement annuities through CSRS or FERS may be reemployed by the federal government. In general, however, federal law prohibits annuitants who are reemployed by the government from simultaneously receiving a federal salary and a federal retirement annuity.[1] In most cases, a reemployed annuitant's retirement annuity continues during the period of reemployment, and his or her pay is reduced by the amount of the annuity. The reemployed annuitant earns additional retirement benefits during the period of reemployment. If the period of reemployment lasts one year or more, the individual will be eligible for a supplemental annuity when he or she retires. If the period of reemployment lasts five years or more, the individual can elect a redetermined annuity.

[1] See 5 U.S.C. §8344 (CSRS) and 5 U.S.C. §8468 (FERS).

Federal Employees' Pay Comparability Act of 1990

Before 1990, there were no exceptions to the prohibition on concurrent receipt of a federal salary and federal retirement annuity. The *Federal Employees' Pay Comparability Act of 1990* delegated to the Director of the Office of Personnel Management (OPM) authority to waive this prohibition in certain exceptional circumstances, and thus allow a reemployed annuitant to receive both a federal salary and a federal retirement annuity concurrently.[2]

Under the 1990 law, the head of an executive branch agency may request that the Director of OPM waive the prohibition on concurrent receipt of a federal salary and a federal retirement annuity on a case-by-case basis for employees in positions for which there is exceptional difficulty in recruiting or retaining qualified employees. The law also delegated to the Director of OPM authority to allow the head of an executive branch agency to grant such waivers on a case-by-case basis for employees serving on temporary appointments if the agency is dealing with an emergency that poses a direct threat to life or property, and in other unusual circumstances. If a federal annuitant is reemployed under a waiver that allows concurrent receipt of a federal annuity and a federal salary, he or she accrues no new retirement benefits under CSRS or FERS.

National Defense Authorization Act for Fiscal Year 2004

Since the passage of the Federal Employees' Pay Comparability Act of 1990, the most significant change to federal law affecting reemployment of annuitants was included in the National Defense Authorization Act for Fiscal Year 2004.[3] This law delegated to the Secretary of Defense authority to hire federal annuitants without reducing their salaries by the amount of their annuities. The approval of the Director of OPM is not required. Under this law, a federal annuitant hired by the Department of Defense is entitled to receive both a federal annuity and the full salary for the position into which he or she is hired. The reemployed annuitant does not accrue additional retirement benefits during the period of reemployment, except for Social Security.

H.R. 3579

H.R. 3579 of the 110th Congress, introduced by Representative Tom Davis on September 19, 2007, would amend chapters 83 and 84 of title 5 to allow the head of a federal agency to hire a federal annuitant on a temporary basis without reducing the annuitant's salary by the amount of his or her retirement annuity. The approval of the Director of OPM would not be required.[4]

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[2] The Federal Employees' Pay Comparability Act is section 529 of P.L. 101-509, enacted on Nov. 5, 1990.

[3] The National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136, div. A, title XI, Sec. 1101(a)(1), Nov. 24, 2003, 117 Stat. 1621) added a new section 9902(j) to title 5 of the United States Code.

[4] 5 U.S.C. §8344(b) requires, in the case of a CSRS annuitant whose annuity is based on an involuntary separation who is reemployed, that the individual's annuity terminates. H.R. 3579 would allow the annuity to continue during reemployment, subject to the specified conditions on temporary employment.

With respect to any reemployed annuitant, the authority of the head of his or her employing agency to waive the reduction in salary otherwise required by law would be limited to:

- 520 hours of service performed in the six months after the date when the annuity begins;
- 1,040 hours of service performed in any 12-month period; and,
- 6,240 hours of service performed over the individual's lifetime.

Recent Trends in Reemployed Annuitants

In recent years, the number of reemployed federal annuitants has increased, but they continue to be a small fraction of all federal employees. Between 2000 and 2007, the number of reemployed CSRS annuitants increased from about 2,200 to more than 4,200.[5] Over the same period, the number of reemployed FERS annuitants increased from about 450 to just over 1,000. As a percentage of civilian executive branch employment, reemployed annuitants increased from less than 0.2% of total federal employment in 2000 to about 0.3% of total employment in 2007.

A more pronounced change between 2000 and 2007 was in the distribution of reemployed annuitants between those who were subject to the salary offset under sections 8344 and 8468 of title 5, and those who were not subject to the offset because of a waiver granted by the Director of OPM or by the head of the agency where the annuitant was employed. In 2000, 75 percent of reemployed annuitants were subject to salary offset, and 25 percent were employed under waivers allowing them to collect both a federal annuity and a federal salary. By 2007, just 40 percent of reemployed annuitants were subject to salary offset, while 60 percent were employed under waivers allowing them to collect both a federal annuity and a federal salary.

Policy Considerations

A large number of federal employees will be eligible to retire over the next ten years. As of December 2007, more than 40 percent of all civilian executive branch employees were over the age of 50 and 35 percent of all employees had completed more than 20 years of federal service. Because many retirement-eligible employees have knowledge and skills that are essential for federal agencies to carry out their missions, managers in the federal government are seeking tools to delay the retirement of valued employees and to induce some retired employees to return to work. One of the tools that Congress has made available to federal agencies that are attempting to fill positions that require rare skills and abilities is authority to request from the Director of OPM a waiver of the federal statute that prohibits individuals from concurrently receiving a federal salary and a federal retirement annuity.

H.R. 3579 would give the heads of federal agencies greater flexibility in hiring retired federal employees into temporary employment by allowing them to grant waivers to the salary offset

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[5] Figures cited in this and the following paragraph are from the Office of Personnel Management's Central Personnel Data File.

required under current law without having to receive the consent of the Director of the Office of Personnel Management.

Providing federal agencies with the tools they need to recruit and retain skilled employees as older federal workers retire will be an important issue for Congress over the next several years. Nevertheless, the prohibition on concurrent receipt of a federal retirement annuity and a federal salary under current law reflects the judgment of previous Congresses that federal employment policies should not encourage workers to retire and then seek reemployment in a federal job in which they could receive both a salary and an annuity. Without the prohibition on simultaneous receipt of a federal salary and a federal retirement annuity, there would be a financial incentive for employees to retire at the earliest possible date and then seek reemployment with the federal government. This would present federal agencies with disruptions in staffing and it could result in increased total compensation costs to the federal government.[6]

The availability of waivers may create an incentive for some employees to retire and seek reemployment in a position to which such a waiver could be applied. In testimony before this Committee in 2006, the Associate Director of the Office of Personnel Management stated that "we are also cognizant of the fact that waivers may incentivize retirement. Because waivers result in compensation from both the retirement fund and salary, they must be used judiciously."[7]

This concludes my testimony and I would be happy to answer any questions that members of the subcommittee may have.

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[6] It should be noted that retired federal employees can continue to receive their full federal retirement annuities if they are employed in the private sector or by a state or local government. The prohibition on concurrent receipt of a salary and an annuity applies only to the concurrent receipt of a federal salary and a federal retirement annuity.

[7] Statement of Nancy H. Kichak, Associate Director of the U.S. Office of Personnel Management, before the Subcommittee on the Federal Workforce and Agency Organization, Committee on Government Reform, U.S. House of Representatives, July 25, 2006.

Mr. DAVIS OF ILLINOIS. Thank you very much. I will begin.

Mr. Purcell, you testified that H.R. 3579 would allow the head of a Federal agency to hire a Federal annuitant on a temporary basis without reducing the annuitant's salary by the amount of his retirement annuity. You also testified that such a measure could create an incentive for some employees to retire and seek reemployment which would encourage retirement.

Are there provisions in H.R. 3579 to prevent agencies from abusing this authority and the early retirement of Federal employees?

Mr. PURCELL. Yes, there are. The limitation on employment to 500 hours in the first 6 months, 1,000 hours in any 12-month period and 6,000 hours over a lifetime is a key element of this bill. Because an individual could only count on appointment to a temporary job, it would substantially mitigate the possibility that an employee who knows he or she has a valuable skill and would be likely to be reemployed from attempting to game the system, which does occur.

If I could just refer briefly to an article in News Day, May 10th, about a school district employee in New York State who retired on a pension of $100,000 a year, was rehired the next day at a salary of $175,000 a year, raising his total compensation to $275,000 a year, this occasionally has happened in State and local governments that have allowed retirees to be reemployed and collect both a salary and an annuity. My experience reading about these stories in the past is they generally elicit a uniformly negative response from the public. [Laughter.]

Mr. DAVIS OF ILLINOIS. I was wondering if the person may have had some clout. Not a bad plan.

Let me ask, are there any other suggestions or recommendations that you might have that would help assure that there is no misuse of this concept?

Mr. PURCELL. When reading the bill, I noticed that it would be a permanent change to the statute. One possibility might be to make this change for a period of 5 or 10 years and evaluate how agencies and individuals respond. Another, somewhat more drastic measure, might be to put in an absolute ceiling, say, no more than, well, let me backtrack.

I believe right now about three-tenths of a percent of Federal workers are reemployed annuitants, the largest share in the Department of Defense, which has an entirely separate authority under the National Defense Authority Act of 2004. But a ceiling of a half a percent, three-fourths of a percent should be ample room for an agency to fill positions for, as Ms. Kichak said, training and mentoring and bringing the newer group of Federal employees up to speed.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Mr. Marchant.

Mr. MARCHANT. I am in one of those States that, when I was in the State legislature, this came before Texas as a solution. And it was not very long before the mis-use appeared. Then we had to take another action to keep that from happening.

Is it possible to put a cap salary in there or a cap pay in there?

Mr. PURCELL. It would be possible to say that, I am just going to make a number up here, that the combined annuity and salary

shall not exceed 100 and X percent of somewhere in the general schedule. You could do it. You would have to give it some thought. You wouldn't want to make it so constraining that people wouldn't go for it, and you wouldn't want to make it so broad that it is ineffective.

Mr. MARCHANT. But you could make it a functional thing?

Mr. PURCELL. Yes, it could be based on the combined annuity and some level of the general schedule.

Mr. MARCHANT. I am sure no one contemplates that at this point. But there are people who spend 24 hours a day thinking about stuff like this.

The other question I have about it is, have you given some consideration, with this early retirement argument where it incentives an early retirement, the way the retirement system is set up, the sooner you retire then you are cutting the amount of your monthly annuity over a long period of time.

Mr. PURCELL. That is true.

Mr. MARCHANT. So you have an offsetting, the fund itself has an offsetting compensation. So the fund itself, the quicker someone retires, once it gets to a threshold and they retire, they are going to receive a diminished benefit——

Mr. PURCELL. Forever.

Mr. MARCHANT [continuing]. From their retirement. Yet you have the temporary employment capped over here, as best I can tell, at five half years, five or six half years. So that if you incentivize someone to retire at age 55, that could have worked until 65, then their benefit at 65 from the fund would be much higher and a person 55 could take a significantly less amount. Then it would be fairly shortsighted on that person's part to limit himself to five half years for his total exposure to Government pay, with no additional benefit.

Mr. PURCELL. True. The way this legislation is drafted, I think it is very significant that, for instance, the 6,240 hour cap, which is equal to three full years, the way this is written, you couldn't work three full consecutive years, because you are limited to half-time in any 12 month period. If that weren't there, if the only limit were, say, 6,240 hours, I think the bill would present problems in creating adverse incentives for people to retire to 56, 57, whatever their minimum age is, begin the pension and go back to work.

The way this is crafted, that would be difficult to do, because in most cases, you would have to have a gap. You could, I suppose, work part-time, because actually it is a limit on hours.

Mr. MARCHANT. Yes, they could string it out over——

Mr. PURCELL. You could string out part-time work over a longer period of time. That is one reason I was suggesting that perhaps a time limit initially for OPM to figure out if that is happening, come back in five or 10 years and say, we need to tweak this, because something is happening we didn't expect.

The way it is crafted now, it does at least limit the possibility that somebody would say, ah, I know I have this rare skill that they need, I am going to retire tomorrow and come back and collect both.

Mr. MARCHANT. Mr. Chairman, my last question will be, even though I am very much for this, the other thing that I think is a potential abuse is for someone to come back as a consultant.

Mr. PURCELL. Which they can do now. As far as I know, if you retire from the Federal Government, come back on, say, a personal services contract, you will be collecting both that contract money and your pension. I may be wrong about that, but I think you can do that.

Mr. MARCHANT. But I mean, the job description in itself under this structure would just be to consult.

Mr. PURCELL. Yes.

Mr. MARCHANT. Not a specific job title where you are coming in and plugging this hole or doing this. I think if there is any potential abuse there, this general description of what that person does, management consultant, training or something like that.

Mr. PURCELL. Perhaps some of these issues could be dealt with, the last section of the bill, director of Office of Personnel Management shall prescribe regulations, perhaps some of those potential issues could be dealt with in the regulations accompanying it, or written after the bill was passed.

Mr. MARCHANT. I recall that our reaction to fix the problem was very extreme. So if those regulations don't——

Mr. PURCELL. Actually, if I could just inject one last thought. In some nearby States, Maryland and Virginia, for instance, that recently experienced teacher shortages, the legislature has authorized rehiring retired teachers and saying, you can simultaneously collect pension and annuity, with strict time limits. You can do this for 2 years or something. And if we still have an emergency the legislature will deal with it at a later date.

Mr. MARCHANT. Thank you, Mr. Chairman.

Mr. DAVIS OF ILLINOIS. Thank you very much.

I thank you very much, Mr. Purcell.

We will go to our third panel, which will be composed of Ms. Maureen Gilman, who is the legislative director of the National Treasury Employees Union. Prior to working for the NTEU, she was the chief of staff and legislative director for Representative Sam Gejdenson from Connecticut. We also have Mr. Daniel Adcock. He is assistant legislative director for the National Active and Retired Federal Employees Association [NARFEA]. Prior to working for NARFEA, he served as Executive Assistant to Assistant Secretary for Aging, Jeannette C. Takamura.

If you would both stand and raise your right hands to be sworn in.

[Witnesses sworn.]

Mr. DAVIS OF ILLINOIS. The record will show that the witnesses answered in the affirmative.

Of course we are delighted to have you both. We have your written statement for the record. If you would take 5 minutes and summarize your statement, the green light indicates that the full time is available, the yellow light means you have 1 minute and the red light means that your time is up.

We will begin with you, Ms. Gilman. Thank you very much.

STATEMENTS OF MAUREEN GILMAN, LEGISLATIVE DIRECTOR, NATIONAL TREASURY EMPLOYEES UNION; AND DANIEL C. ADCOCK, ASSISTANT LEGISLATIVE DIRECTOR, NATIONAL ACTIVE AND RETIRED EMPLOYEES ASSOCIATION

STATEMENT OF MAUREEN GILMAN

Ms. GILMAN. Thank you, Chairman Davis, Ranking Member Marchant, for the opportunity to express the views of the National Treasury Employees Union on H.R. 3579.

This bill has been suggested as a solution for an anticipated lack of qualified Federal employees needed to effectively accomplish the important missions of the Federal Government. Many Federal agencies today are woefully understaffed and the training, mentoring and promotional opportunities needed to have experienced employees in place, should we see large numbers of retirements in the next few years, is not being adequately addressed.

The primary reason for this is not a lack of qualified employees or applicants, but a lack of funding. In addition, much critical expertise has been contracted out to private businesses. NTEU believes that the real solution to current and future personnel concerns is to focus now on the recruitment and retention of talented employees. Fundamental to this process is providing fair pay, adequate benefits, job security and rewarding work. GAO has found that the use of current flexibilities, such as part-time work, flexible schedules and flexi-place options improve recruitment and retention efforts, especially among older workers. NTEU strongly supports the expanded use of these options throughout the Federal work force.

We also support Congressman Moran's bill, H.R. 2780, to make sure there is no penalty in terms of pension calculation if an employee moves to a part-time schedule near retirement. In addition, NTEU believes that legislation introduced by Chairman Davis, H.R. 5550, that would allow FEHBP to cover dependent children to age 25, rather than age 22, would be a strong recruitment and retention tool for parents of young adults, the kind of experienced workers that the Federal Government needs.

One of the best recruitment and retention benefits that the Federal Government provides that is especially attractive to older workers is the ability to continue in the FEHBP program with the Government continuing to contribute toward premium costs upon retirement. Yet the administration proposed to limit this FEHBP option in its last several budget submissions. NTEU strongly opposed this proposal and we are pleased that the Congress took no action on it.

While NTEU does not oppose the Federal Government's use of reemployed annuitants, we do have some concerns with regard to H.R. 3579, which would significantly change the rules on this practice. Currently, most agencies are allowed to waive statutory prohibitions on dual compensation or paying salaries at the same time pension benefits are being received, under certain circumstances, with the approval of Office of Personnel Management. These circumstances include an emergency hiring need, severe recruiting difficulty and the need to retain a particular individual. last fall,

regulations were amended to expand the ability to waive the dual compensation rules for unusual circumstances.

Under H.R. 3579, OPM will have no approval authority, but rather, agencies will be free to act without outside review. In addition, the bill does not set forth any standards that must be met in order for agencies to reemploy annuitants without pension offsets. It is also not clear that these appointments would follow standard competitive hiring practices that protect merit principles and veterans' preference.

Under current pension rules and the limited time appointments prescribed under H.R. 3579, most benefits provided to other Federal employees will not be available to reemployed annuitants. Rehired annuitants would not be eligible for FEHBP coverage as employees and if they retained coverage as retirees, OPM accounts, not the employing agency, would pay the Governments's share of their premiums. They would not be eligible to earn additional retirement credit or participate in the thrift savings plan, so agencies would incur no costs for those benefits. This cost-shifting would provide agencies powerful budgetary incentives to maximize the use of part-time short-term annuitants, rather than hiring and promoting the full-time permanent employees needed to successfully steer agencies through the challenging times ahead.

NTEU is not aware of any serious problems with the current rules that allow for reemployment of annuitants. We are concerned, however, that the proposal under consideration, while certainly intended to be used judiciously, could easily be subject to abuse, especially due to the financial incentives it will provide agencies, the lack of standards and the elimination of OPM approval.

Thank you for the opportunity to present this statement. I will be happy to answer any questions you might have.

[The prepared statement of Ms. Gilman follows:]

Testimony

of the

National Treasury Employees Union

On

H.R. 3579, "To Amend Title 5, U.S.C., to Facilitate the Temporary Reemployment of Federal Annuitants"

Before the

Subcommittee on Federal Workforce, Postal Service and the District of Columbia

May 20, 2008

Chairman Davis, Ranking Member Marchant, members of the Subcommittee, thank you for the opportunity to present the views of the National Treasury Employees Union on H.R. 3579, a bill that would facilitate the reemployment of federal annuitants. The Administration has promoted this proposal as a solution for an anticipated lack of qualified federal employees needed to effectively accomplish the important missions of the federal government.

This potential shortfall of qualified employees is predicated in large measure on a possible large wave of federal retirements in the next several years. And, in fact, roughly one-third of federal career employees will be eligible to retire by 2012. Of equal concern to NTEU, however, is the fact that many federal agencies are today woefully understaffed and the training, mentoring and promotional opportunities needed to have experienced employees in place and prepared to take over, should we see large numbers of retirements in the next few years, is not being adequately addressed. The primary reason for this is not a lack of qualified employees or applicants, but a lack of funding. In addition, much critical expertise has been contracted out to private businesses.

The real solution to current and future personnel concerns is to focus now on the recruitment and retention of talented employees. Fundamental to this process is providing fair pay, adequate benefits, job security and rewarding work. In terms of improvements in these areas that we believe would have a definite impact on recruiting and retaining high quality employees, NTEU would recommend full funding and implementation of the Federal Employees Pay Comparability Act, passage of H.R.1256, a bipartisan bill introduced by Majority Leader Hoyer, that would make health care premiums under the Federal Employees Health Benefits Program (FEHBP) more affordable and reinstatement of Labor Management Partnerships as put forth in Chairman Davis' bill, H.R. 3892.

Current flexibilities that have been found in a recent GAO report (GAO-08-630T) to have real impact on recruitment and retention, especially of older workers include part time work, flexible schedules, and flexiplace options. NTEU strongly supports the expansion of these options throughout the federal workforce.

We also support Congressman Moran's bill, H.R. 2780, to make sure there is no penalty in terms of pension calculation if an employee moves to a part time schedule near retirement. In addition, NTEU believes that legislation introduced by Chairman Davis (H.R. 5550) that would allow FEHBP to cover dependent children to age 25, rather than age 22 would be a strong recruitment and retention tool for parents of young adults, the kind of experienced workers that the federal government needs. In fact, NTEU President, Colleen Kelley, received a letter from a retirement eligible NTEU member in New Jersey, where insurers are required to cover dependents to age30. This member stated that this was the one issue that is pushing him to retire from the federal government and find a new job where he can provide health coverage for his young adult children even though he would rather stay in his federal job.

One of the best recruitment and retention benefits that the federal government provides that is especially attractive to older workers is the ability to continue in the FEHBP program, with the government continuing to contribute toward premium costs, upon retirement. Yet, despite the Administration's rhetoric that it is focused on attracting and retaining older, experienced workers, it proposed to limit this FEHBP option in its last several budget submissions. Under these proposals, federal workers with less than 10 years of federal service, would not be eligible for the same government contribution to their health care premiums as other federal retirees. NTEU strongly opposed this proposal to limit one of the best incentives for hiring and retaining mid-career, experienced employees and we are pleased that the Congress took no action on it.

While NTEU does not oppose the federal government's use of reemployed annuitants, we do have some concerns with regard to H.R. 3579, which would significantly change the rules on this practice.

Currently, most agencies are allowed to waive statutory prohibitions on dual compensation, or paying salaries at the same time pension benefits are being received, under certain circumstances, with approval from the Office of Personnel Management. These circumstances include an emergency hiring need, severe recruiting difficulty and the need to retain a particular individual. Last fall, regulations were amended to expand the ability to waive the dual compensation rules for "unusual circumstances," which can include an "agency's need to conform to a congressional or other mandate to meet a new or expanded mission requirement by a particular date."

It is our understanding that the current authority was used successfully recently by the State Department to rehire annuitants without pension offsets to deal with the passport backlog caused by new proof of citizenship rules for air travelers entering the United States. We were told that the OPM approval process of the State Department's waiver request took only a few short weeks.

A small number of agencies, such as the Department of Defense (DOD), have been given statutory authority to reemploy annuitants without offsetting their pensions and without having to get OPM's approval. The DOD authority may be used only for positions deemed hard to fill as evidenced by historically high turnover, a severe shortage of candidates or other significant recruiting difficulty, positions critical to the agency's mission, where candidates have unique or specialized skills, or to provide continuity during critical organizational transition.

Unlike the current government-wide standards, or even those less restrictive rules that apply to DOD with regard to dual compensation waivers, H.R. 3579 does not set forth any standards that must be met in order to reemploy annuitants without pension offsets. In addition, OPM will have no approval authority, but rather agencies will be free to exercise this authority without any outside review.

While the main focus of discussion on reemploying annuitants is the so-called dual compensation waiver necessary to make reemployment attractive to retirees, it is not the waiver of offsetting annuities against pay that is the main concern for NTEU. In fact, if annuitants are rehired we see no reason that they should not only receive their full annuity and pay, but also be able to add to their retirement credit, participate in the Thrift Savings Plan and FEHBP (even if they did not participate previous to retirement), and be eligible for coverage under the Family and Medical Leave Act. However, the "limited time appointments" required for these reemployed annuitants under H.R. 3579 deny all of these benefits to reemployed annuitants. In addition, appointments under this hiring authority are basically at will employees, with few of the rights accorded permanent employees. It is also unclear whether these appointments would follow standard competitive hiring processes that enforce merit principles and veterans preference. Anecdotal evidence from DOD indicates that many annuitants rehired under its new authority do not undergo a competitive hiring process.

The fact that reemployed annuitants hired under the requirements of H.R. 3579 would not be eligible for most benefits that other employees receive would clearly put them at a budgetary advantage over other federal employees. Agencies would not make contributions toward their FEHBP premiums, retirement benefits or match TSP savings as they do for other employees, giving agencies powerful incentives to maximize the use of these annuitants rather than hiring and promoting the full time permanent employees needed to successfully steer agencies through the challenging times ahead.

Some have suggested that reemployed annuitants be used primarily for training and mentoring purposes. While that may sometimes be necessary, opportunities to provide training and mentoring are often the most valuable experience available to employees to prepare them for more challenging work and promotions to positions of increased responsibility. We should avoid limiting these opportunities for those we need to retain to keep our government functioning effectively.

Mr. Chairman, NTEU is not aware of any serious problems with the current rules that allow for reemployment of annuitants and for the most part we agree with the notion that if it's not broke, don't fix it. We are concerned that the proposal under consideration, while certainly intended to be used judiciously, could easily be subject to abuse, especially due to the financial incentives it will provide agencies, the lack of standards and the elimination of OPM approval.

As an example of a similarly limited proposal, that has been widely abused, I suggest that the committee review the use the Federal Career Intern Program, which has been in effect for seven years and was supposed to be used in rare instances where "interns" needing special training would be hired outside the normal competitive hiring processes and subjected to a minimum two year probationary period rather than the one year period applicable to those hired competitively. This authority has now become the

hiring process of choice throughout the federal government with thousands and thousands of employees hired under its rules, which among other things limit the application of veterans preference. You may be surprised to know that every single Customs and Border Protection Officer hired in the last four years by the Department of Homeland Security, well over 6,000 employees, has been hired as one of these misnamed "interns."

In conclusion, while NTEU has concerns about H.R. 3579 we do not believe that federal retirees should be at a disadvantage as compared to private sector retirees in terms of returning to work for the federal government. On the other hand, we do not believe that permanent employees should be at a disadvantage as compared to reemployed annuitants. One solution to that problem could be to drop the so called dual compensation prohibition rule altogether and allow federal annuitants to compete for full or part time positions along with private sector retirees, current employees and other applicants with the same eligibility for retirement, FEHBP, TSP and other benefits as other employees.

An even more promising action to make sure the government has the qualified employees that it needs would be for the Administration and Congress to work together to enact some of the legislation I have referenced earlier, provide funding for increased staffing and encourage the use of flexibilities like telework and flextime that have proven successful in attracting and retaining talented workers.

Thank you again for this opportunity to present this statement on behalf of the National Treasury Employees Union. I would be happy to answer any questions you might have.

Mr. DAVIS OF ILLINOIS. Thank you very much. We will proceed to Mr. Adcock.

STATEMENT OF DANIEL C. ADCOCK

Mr. ADCOCK. Thank you, Mr. Chairman and members of the subcommittee. I am Dan Adcock, assistant legislative director of NARFE.

NARFE has long held that Federal retirees who are interested in returning to Government service ought to be able to receive the full salary of their new job without any offset as a result of the retirement annuity they earned through prior Federal service. NARFE's annuitant members count among our ranks agency managers, line supervisors, security specialists, computer programmers, air traffic controllers, and law enforcement personnel.

At a time when the Nation faces critical challenges and our Federal Government faces an unprecedented brain drain, we should not ignore my side of ready, willing, able and proud men and women who have dedicated their careers and service to our Nation. Indeed, the reality of our current skill shortages demonstrates the critical roles played by civilian employees of the Government, thousands of whom are working alongside their uniformed colleagues in locations like Iraq and Afghanistan.

After serving full careers in public service, most Federal retirees want to stay retired. However, there is a growing number who want to return to public service for several reasons. Some are paying for their children's or grandchildren's soaring college costs. All annuitants are paying higher out of pocket health care expenses and mounting daily living expenses, including energy costs. Others are replacing Social Security benefits lost as a result of the application of the unfair and arbitrary Government Pension Offset and Windfall Elimination Provision.

But it is not always about money. Some retirees appreciate the value of remaining professionally, mentally and physically engaged through reemployment. In addition, more and more no longer care to be bystanders with what is going on in the Middle East and with homeland security, and they want to answer the call to public service at a time when our Nation needs their unique skills and talents.

So what is stopping them? Under current law, the wages of those reemployed annuitants are generally offset by the amount of their annuity. However, OPM and certain Federal agencies have the authority to allow some returning retirees to avoid the offset when serving in positions for which there is exceptional difficulty in recruiting and retaining a qualified employee and in jobs critical to accomplishment of the agency's mission.

Unfortunately, not all qualified retirees with in-demand skills receive a wavier. Indeed, they tell us that they would not consider reemployment since the offset of their Federal pay by the amount of their annuity would make their reemployed salary uneconomical. Absent a waiver, some would be working for free, as a practical matter, if their annuity was the same or higher than jobs that pay a lower salary.

In fact, many crucial Federal workers avoid the red tape of the waiver process by going to work for a Government contractor where

the Federal annuity presents no barrier to being paid full salary at the new job. Working for a contractor also allows Federal retirees to earn more quarters in Social Security-covered employment in an effort to mitigate the reduction of their Social Security benefits by the windfall elimination provision.

Should the Federal Government continue to deny itself access to this pool of experienced professionals at these critical times? Why pay a premium to a contractor when you can get skills of a seasoned professional basically at cost?

One way of making reemployment with the Federal Government more attractive to skilled and motivated retirees is H.R. 3579, legislation introduced by Ranking Members Tom Davis and Kenny Marchant, which will allow Federal agencies to reemploy Federal retirees on a limited, part-time basis without offset of annuity from salary. It is our intention that agencies use this authority to supplement and not supplant the current work force and to find annuitants with specific skills that are not presently available for hard to fill positions.

The flexibility of working part-time is appealing to many retirees interested in going back to work, since they are not trying to build-up their careers. What is more important for them is not missing certain life events for work.

Additionally, some Federal annuitants, for certain aging and physical reasons, will not consider taking full-time employment. And some, H.R. 3579 removes many obstacles preventing or discouraging the reemployment of Federal annuitants, and it enables the Government to hire workers with skills and talents in short supply.

For these reasons, NARFE urges you, Mr. Chairman and members of the subcommittee, to approve this needed and crucial legislation. We commend you for your interest in enabling Federal annuitants to continue to make crucial contributions.

Thank you for inviting us to testify and for your able leadership of the subcommittee.

[The prepared statement of Mr. Adcock follows:]

Margaret L. Baptiste
National President

Nathaniel L. Brown
National Secretary
Richard C. Ostergren
National Treasurer

STATEMENT BY
DANIEL C. ADCOCK
ASSISTANT LEGISLATIVE DIRECTOR
NATIONAL ACTIVE AND RETIRED FEDERAL EMPLOYEES ASSOCIATION (NARFE)

TO THE SUBCOMMITTEE ON THE FEDERAL WORKFORCE, POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
U.S. HOUSE OF REPRESENTATIVES

HEARING ON
"RETIREES RETURNING TO THE RESCUE: RE-EMPLOYING ANNUITANTS IN TIMES OF NATIONAL NEED"

MAY 20, 2008

National Active and Retired Federal Employees Association
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Mr. Chairman and members of the subcommittee, I am Daniel C. Adcock, Assistant Legislative Director of NARFE, the National Active and Retired Federal Employees Association. I am testifying on behalf of NARFE President Margaret Baptiste who is away on a prior business commitment.

I appreciate the opportunity to express our views on the re-employment of federal annuitants.

NARFE has long held that federal retirees who are interested in returning to government service ought to be able to receive the full salary of their new job without any offset as the result of the retirement annuity they earned through prior federal service.

NARFE's annuitant members count among our rank agency managers and line supervisors, security specialists, computer programmers, air traffic controllers and law enforcement personnel. Annuitants boast rare talents and vast experience. At a time when the nation faces critical challenges and our federal government faces an unprecedented brain drain, we should not ignore this pool of ready, willing, able and proud men and women who have dedicated their careers in service to our nation. For those capable, and those willing to give more in answer to this call, laws, regulations and the manner in which they are applied must not be an impediment to accessing our talents.

The requirements of the "war on terror," homeland security and other responsibilities have created considerable staffing difficulties, particularly in light of the unique expertise and experience required for these jobs. Indeed, the reality of our current skill shortages demonstrates

the critical roles played by civilian employees of the government, thousands of whom are working alongside their uniformed colleagues in locations like Iraq and Afghanistan.

After serving full careers in public service, most federal retirees want to stay retired. However, there is a growing number who want to return to public for several reasons. Some are motivated by the need for more income to pay for their children's or grandchildren's soaring college costs and to better shoulder their own rising out-of-pocket health care expenses and other mounting daily living expenses, including energy costs. Others are compelled to earn wages to replace Social Security benefits lost as a result of the application of the unfair and arbitrary Government Pension Offset (GPO) and Windfall Elimination Provision (WEP).

But it is not always about money. Some retirees appreciate the value of remaining professionally, mentally and physically engaged through re-employment. In addition, more and more no longer care to be bystanders with what is going on in the Middle East and with Homeland Security and they want to answer the call of public service at a time when our nation needs their unique skills and talents.

So what is stopping them?

Under current law, the wages of those re-employed annuitants are generally offset by the amount of their annuity. However, the Office of Personnel Management (OPM) and certain federal agencies have the authority to allow some returning retirees to avoid the offset when serving "in

positions for which there is exceptional difficulty in recruiting and retaining a qualified employee" and in jobs critical to the accomplishment of the agency's mission.

Unfortunately, not all qualified retirees, with in-demand skills, receive a waiver. Indeed, they tell us that they would not consider re-employment since the offset of their federal pay, by the amount of their annuity, would make their re-employed salary uneconomical. Absent a waiver, some would be working for free, as a practical manner, if their annuity was the same or higher than jobs that pay a lower salary. This has been sometimes true as in the case of retired federal law enforcement officers who are interested in filling airport screener positions with the Transportation Security Administration.

In fact, many crucial federal workers avoid the red tape of the waiver process altogether by going to work for a government contractor where their federal annuity presents no barrier to being paid full salary at the new job. Beyond the attraction of not having your wages or annuities cut, working for a contractor allows federal retirees to earn more quarters in Social Security-covered employment, in an effort to mitigate the reduction of their Social Security benefits by the Windfall Elimination Provision. Should the federal government continue to deny itself access to this pool of experienced professionals at these critical times? Why pay a premium to a contractor when you can get the skills of a seasoned professional basically at "cost"?

One way of making re-employment with the federal government more attractive to skilled and motivated retirees is H.R. 3579, legislation introduced by Ranking Member Tom Davis which would allow federal agencies to reemploy federal retirees on a limited, part-time basis without

offset of annuity from salary. Rep. Davis' proposal does not end this existing authority, but would extend it by allowing agency heads, on their own, to waive the restriction for retirees who return to work part time. It is our intention that agencies use this authority to supplement, and not supplant, the current workforce and to find annuitants with specific skills which are not presently available for hard-to-fill positions which require specific skills.

The flexibility of working part time is appealing to many retirees interested in going back to work since they are not trying to build up their careers. What's more important for them is not missing certain life events for work. In fact, with the benefit of age and experience, many of them more clearly understand the old adage that nobody wants their tombstone to read that they "should have spent more time at the office."

Additionally, some federal annuitants, for certain aging and physical reasons, would not consider taking full-time employment. Allowing for flexibility in work schedules would make federal agencies an attractive employer for many of these retirees.

In sum, H.R. 3579 removes many obstacles preventing or discouraging the re-employment of federal annuitants and it enables the government to hire workers with skills and talents in short supply. For these reasons, NARFE urges you, Mr. Chairman, and members of the subcommittee to approve this needed and crucial legislation.

We commend you for your interest in enabling federal annuitants to continue to make critical contributions to our safety and well-being during this time of national need. Thank you for the

invitation to share our views here today, and thank you for your able leadership of the subcommittee.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Adcock. We will now go into some questions.

Ms. Gilman, let me begin with you. Do you think that the Office of Personnel Management and Federal agencies are doing enough to recruit and retain staff to address staffing needs?

Ms. GILMAN. No, I don't, Mr. Chairman. I think that is the real problem that we should be focused on today. There is a need to make sure that we have talented people in place and that we are planning for the future. I don't think enough is being done. Some of the flexibilities that I mentioned in my testimony were recently pointed out in a GAO report, like allowing current employees more options to work part-time schedules, work flexi-place. Other kinds of job options that are not being really used by the agencies would do a lot, I think, to both recruit the talented people we need and to retain those who might be thinking about retiring.

Mr. DAVIS OF ILLINOIS. Let me ask you also, why should Federal retirees be subject to the dual compensation rule when private sector employees are not?

Ms. GILMAN. Mr. Chairman, if it were up to me, I wouldn't have them subject to it. But I think Congress has put that in place to potentially avoid abuse by retirees leaving and coming back and getting a full salary while they are also collecting their pension. I have heard the argument, why should they be put at a disadvantage to a private sector employee who wants to come back, but they are still at a disadvantage if they are given the dual compensation waiver in terms of other benefits.

Also, onboard employees are at a disadvantage because their benefit levels that have to be paid by the agencies are going to be higher than a reemployed annuitant. If you put the two applicants for the job side by side, and they are going to be paid exactly the same salary, the agency will have to put in much less money to pay the retired annuitant than the onboard employee, because they don't pay in anything for their benefits.

Mr. DAVIS OF ILLINOIS. Is there anything that you would, well, let me ask you this. Do you think that this practice impacts negatively on employees who are currently working relative to opportunities for advancement or movement in any way?

Ms. GILMAN. I think it could, Mr. Chairman. One area that has been mentioned is to bring back retirees for training purposes and mentoring. Sometimes that can work. Sometimes if a retiree has been out of the work force for a while, their skills and their information may not be as up to date as an onboard employee.

Also, onboard employees look at opportunities to be able to provide training or mentoring as one of the biggest opportunities to gain experience in terms of competing for promotion. So if you are going to give more training and mentoring opportunities to retirees, there may not be as much available for onboard employees.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Mr. Adcock, let me ask, you testified that Representative Tom Davis' bill does not end the existing dual compensation rule, but would extend it by giving agency heads the authority to waive the restriction for retirees who return to work part-time. Do you think that Federal agencies are capable of policing themselves to the extent that there would be either no or low abuse or must we have

authority etched in law to try and make sure that this would not happen?

Mr. ADCOCK. I think the main way that abuse will be prevented is through the fact that these workers will be working on a part-time basis for a temporary duration. So I think those issues will be taken care of.

But you know, when we talk about whether or not, for instance, someone who is being brought in to do mentoring has the skill set or the current skill set. All these things have to be case by case decisions, as any hiring decision is. At the decisionmaking level, some of that has to be left to the Federal agency to have that kind of discretion. But to answer your question, I think the fact that the appointments would be temporary, under special circumstances, and of limited duration, should take care of that issue.

Mr. DAVIS OF ILLINOIS. Thank you very much.

Mr. Marchant.

Mr. MARCHANT. Thank you, Mr. Chairman.

Looking at the OPM projections for retirements over the next 10 years, Ms. Gilman, this is obviously some information that you have had a chance to look at, do you believe under the current system that we have that they are going to be able to successfully recruit this many new employees?

Ms. GILMAN. I would hope that they would be planning for that, and that they would be beginning to deal with it, both to recruit and to retain enough qualified employees to do that work. But I also think that if there is a need to bring back annuitants that there should be some standards, similar to what are in place today. If an agency can demonstrate that it has unusual circumstances or particular needs, they can go to OPM, get a waiver and bring employees back if they need to.

But if we give them a blank check, even if it is to bring back employees part-time, if there are no standards and no outside review, our concern is that will become a first option instead of maybe a second or third option.

Mr. MARCHANT. So the previous testimony we heard that this would not even represent more than one-third of 1 percent of the work force, are you thinking that is not correct, or that is too low of a projection? Because when you are talking about 60,000 people that are next year expected to retire in 2007 [sic], 61,000 in 2002 [sic] you don't view this as a valuable tool to keep the workplace going?

Ms. GILMAN. I think it is a tool that has been used effectively under the current rules. I think if there is a need that can be demonstrated by an agency that the rules in place now would allow them to rehire an annuitant. I frankly didn't hear anything in the OPM testimony that pointed to any significant problem with the rules that are in place now. I know they talked about this would prevent abuse because of the part-time or short-term duration.

It is our view that if the agency has an emergency or a severe need, they shouldn't be limited by part-time or the amount of time. If there is one person that can do a job at the Centers for Disease Control, I don't think we should be limiting bringing them back for maximum 6 months at a time. If the need is there, they should be able to come back and serve.

But if there isn't a special need, I also don't see why the doors should be completely flung open to bring back annuitants without any need, any specific need.

Mr. MARCHANT. Thank you, Mr. Chairman.

Mr. DAVIS OF ILLINOIS. Thank you very much, Mr. Marchant.

Ms. Norton.

Ms. NORTON. I appreciate the testimony of both of you, offering some insight into this issue that is not always apparent on the surface. I have to tell you, I have a hard time understanding why anybody would come back now, when you have to give up your annuity. And if it is hard to find employees, maybe you can help me out. First, let me say I understand the search for the solutions. I don't want to say this is off the top of my head not a good solution.

I do agree with Mr. Marchant, the way in which Federal employees are pouring out of here, I can guarantee you this, you are not going to replace them as easily with the baby-boom quality generation. Because their opportunities throughout the private sector are so much broader and often more attractive. So I do think this presents a very serious problem for the Federal Government. We have had hearings on it. And I must say, nothing even approaching a satisfactory solution has come forward. I think this is an attempt to try to do something to shore up, at least shore up the Federal work force. Then we have to look beneath the surface for the details.

My own sense, I wonder what your experience has been, for hard to find positions, I don't know why anybody who has that level of skill would want to bring it back to the Federal Government rather than, you mentioned, contractors. I can think of a dozen places right off hand that if you have a hard to fill position, that it must be a position that is desired both by the Federal Government and the private sector. Are we talking about a ghost work force here? In your experience, you who represent retirees and Federal workers, are these hard to find workers which now requires a waiver coming back to the Federal Government, seeking employment with the Federal Government at all, rather than using other options, where you don't even have to worry about keeping your annuity, etc., which is of course when they retire, which is what they want to do in the first place?

Who is doing this?

Mr. ADCOCK. Congresswoman, I think what happens for many annuitants is that obviously, if they can't get the waiver, then it is a no-brainer, they are going to go to a contractor.

Ms. NORTON. Well, just a moment. My question is why would you want to come, you have your annuity, you have your benefits. If you are in a hard to find employee position, why would your first option be the Federal Government, rather than a dozen other options, which don't raise the same issues?

Mr. ADCOCK. Well, I think that part, money is obviously, compensation is a large consideration. But I think sometimes people are led back to the Federal Government because they see what is going on in the world and they want to do something about it.

Ms. NORTON. For love, not money, maybe.

Mr. ADCOCK. Right. I think that is a legitimate motivation why people will do it.

Ms. NORTON. And with the baby-boom generation, I am sure you can find some of that. I must say, when Federal employees retire, now we have them retiring early. It doesn't cross my mind that they would any time soon be looking for reemployment here. It may be as workers get older and as you indicated, Mr. Adcock, this was, and it often is, very satisfying work, they want to come back and do that work. But I really wonder if what we are playing with here, I must say that I do agree with you, Mr. Gilman, while this may be a stop-gap measure that at least we ought to try, we are fooling ourselves if we think that the Federal Government can lumber along, providing, for example, the same health benefit ratio that it did whenever the program was set up, and the rest of it, and still get the quality of work force you need in a post-9/11 work force, I don't know what it will take to make us understand.

But let me ask you about the part of your testimony that talks about other options, as part of what we are talking about here when we talk about benefits, and all of what we are talking about is costs. You mentioned flexible schedules, for that matter, part-time work and flexi-place options. Is it your impression that those aren't available today, generally, in the Federal Government?

Ms. GILMAN. It is my understanding that the authority for agencies to use those options is currently available. It is a question of agencies using them. In some cases, agencies will say they don't have adequate funding. But for many of those potions, there is really no increase in funding. It is a question of just trying to think of new ways to do things, using telework, allowing employees to work from home.

Ms. NORTON. What about flexible schedules?

Ms. GILMAN. Flexible schedules, the availability of that is there for agencies today. It is very attractive to employees and especially, as I understand, a recent GAO report found, to older employees who may be trying to decide whether they are going to retire or not. I think everyone would agree that it would be more cost-efficient and beneficial to everybody if they decided to stay on as an employee rather than retire and then face whether or not agencies had to do a compensation wavier to bring them back. If we could provide them with incentives to stay on, I think everybody would agree that would be the best way to do it. They have said flexible schedules, part-time work and working from home are some of the things they are very interested in pursuing.

Ms. NORTON. With those, are the benefits the same with flexible schedules?

Ms. GILMAN. Yes.

Ms. NORTON. Part-time work?

Ms. GILMAN. Yes, as I understand it, they are.

Ms. NORTON. One then is left to wonder, Mr. Chairman, I would wonder and perhaps staff could do some groundwork on this, the extent to which flexible schedules, we know about telework or flexi-place. But flexible schedules, part-time work, in a world where we know we are losing out on many women, very highly educated women, who given the child care situation in the United States, the only advanced country that does not provide educational child care as a matter of course, do decide to stay home, some considerable

number of them, for some considerable years of their early years of a childhood, early childhood years.

I do think the subcommittee should explore the use of, for example, part-time work and flexible schedules and how much it is being used, and for that matter, how much is being promoted by OPM. Yes, part of the reason people are retiring early is they say, hey, look, in this job I not only give my all, I give much more than 9 to 5. So the notion of retaining these employees in which we have invested so much, rather than have them go out on early retirement, work as you say, for a contractor or somebody else, that seemed to me to be penny-wise and pound foolish.

I should think that while this may be one option available to us, I want to know why they are not using more part-time work and flexible schedules. I know that they have promoted, because this subcommittee has promoted so-called flexi-place options, the congestion of the roads, lots of things recommend that.

But I certainly would like to know more about flexible schedules a part-time work, considering parents, I mentioned women, but I am not only talking about women by any means.

I am also very concerned about bringing to the Federal work force one of the most contentious issues in the private sector work force, and that is essentially a two-tier work force, a work force that gets paid and has benefits and a work force that does not. Now, we know that these retirees got certain benefits all along, and they certainly are in the same position as the private sector employees at Safeway, where they now have two-tier. But I am concerned about those kinds of controversies.

I am also concerned as to whether or not this has ever been done or perhaps should be done on a pilot basis to see if it does any good. Because it is hard for me to find, to understand why the agencies and certainly why the retirees would go here as a first option. OK, they come back, let's say we don't any longer have to, what makes it impossible to come back now, not receiving your annuity, but essentially no benefits, not thrift savings, not apparently any of the benefits. Maybe they don't need the health benefits because they get Medicare.

I can see what the benefit is to the Government. It is certainly going to save a lot of money. I am certainly not against that. The question is cost benefit, where are you going to put your money, are you building a Federal work force?

I would like to ask you, Ms. Gilman, what do you mean by standards? Because I certainly am not convinced that if they could, agencies would not go to this option if it affected their budgets at a time of very tight budgets. And look, it is going to be that way. We have a huge deficit, an ongoing war, it is going to be that way. So when you say standards, I would like to spell that out a little bit. Standards that would prevent abuse, would prevent saying, we will do this just to save some money, I don't care if this whole unit is part-time, my job is not to build this unit in the Federal work force, for example, I am just here to get the job done.

Ms. GILMAN. I would see standards being some kind of special need. There are standards——

Ms. NORTON. That is what we have now, Ms. Gilman.

Ms. GILMAN. It could be broader than now. But as I said, I haven't heard——

Ms. NORTON. Well, now it is hard to fill jobs. So if it is not hard to fill jobs, do you have any suggestions on what kind of special need might keep abuse from occurring, or it is simply being used to save money without anybody caring about the job to be done or the need to build a Federal work force in the particular positions?

Ms. GILMAN. One of the things that I did not hear OPM say, and I haven't heard in the argument, is that they are having a hard time hiring particular people. Yes, there is——

Ms. NORTON. You did not hear them say that?

Ms. GILMAN. I did not hear them say that. That is something that I would be——

Ms. NORTON. No examples were given of the kinds of positions that are being filled with annuitants, with waivers?

Ms. GILMAN. The kinds of positions that they would like to use these waivers for, I have not heard that. Yes, we are expecting the possibility of a large number of retirees in the future. But as I said, we haven't heard what exactly the problems are with the current situation. That is something that I would be interested in hearing, is specific problems with the program that is in effect today.

Ms. NORTON. Mr. Chairman, I understand the Department of Defense already has this and can do it without——

Ms. GILMAN. And they have standards, they have their own standards similar, they don't have to go to OPM, but they have to have a particularized need for a particularized kind of skill or employe.

Ms. NORTON. So a hard to fill?

Ms. GILMAN. That is part of it, yes.

Ms. NORTON. So we trust them, because there may be a number of DOD jobs that are hard to fill.

Ms. GILMAN. Yes.

Ms. NORTON. And of course DOD knows they are going to go through a contractor, knows where to find them if they leave.

Mr. Chairman, I don't know if we have any information on the DOD experience. But one of the problems I have with this bill is we already have an agency that can do it. At least they have the waiver authority, they would certainly have hard to fill positions. I would feel more comfortable knowing something about the experience that we already perhaps have, and anything DOD could tell us about the kinds of positions they might have filled if they weren't hard to fill.

We also could find out from them whether they have abused the matter, by looking at what is happening to them. I don't know if a GAO report has ever been done on what GAO does.

But this may be the only answer that is available now. But to the extent that we have any experience, it does seem to me that we would want to document that experience before moving forward with this bill.

Thank you very much, Mr. Chairman.

Mr. DAVIS OF ILLINOIS. Thank you very much. Let me just ask, are we finding that with people living longer, having a different health status in terms of health status improvement, and early retirement, that there is a greater desire on the part of people who

retire to have something else to do after they have retired which may be work or may be something else?

Mr. ADCOCK. Speaking for our members, I know that once they retire, most of them want to stay that way. It is something that they have earned, they are looking forward to it, they want to spend time with their grandchildren and enjoy the good life.

But I think that what happens for many people is they go from working 1 day, basically going from 60 to zero and being retired the next day, and trying to figure out, what are they going to do with the rest of their life. I think maybe some of them over a number of years decide, well, there are really things that I really miss about work. The idea of coming back on a temporary part-time basis is something that is really appealing, particularly if there is something that they have some sort of special skill that is in demand or that addresses some national crisis or priority that we have right now. I think those are situations in which more retirees are interested in coming back to work.

Ms. GILMAN. I would add that I think that is probably the case that some retirees want to stay retired, others may want to go back to work. Or some may want to do something in between, like work part-time.

Mr. DAVIS OF ILLINOIS. Do you think that there are many who are driven now by the state of the economy? I hear individuals suggest that they have a need, quite frankly, to earn additional money, in addition to what they are receiving as annuities.

Mr. ADCOCK. I know that for retirees, that is especially true. When you look at what their costs are, if you are in Blue Cross Blue Shield's standard option family plan, they are paying $3,400 in premiums every year. If they are in Medicare Part B they are paying upwards of, I think it is about $98 a month now for that premium. Then you pile on whatever out of pocket expenses they have. Then if they are hit by the Government Pension Offset and Windfall Elimination provision, they are not receiving any Social Security benefits.

You get down to, there is a woman we had testify at the Ways and Means Social Subcommittee who was affected by both the Windfall Elimination provision and the Government Pension Offset. She had a very low annuity to start with. You are essentially forcing people to go back and work at Wal-Mart in order to basically survive.

I think especially when we are talking about people who are on the lower to mid-end of the annuity scale, who are really struggling to pay a lot of these expenses, like health care expenses and now of course energy costs, that work is not just something that is optional, it is something they have to do.

Ms. GILMAN. I would agree with that.

Mr. DAVIS OF ILLINOIS. Mr. Marchant, did you have any other questions?

Mr. MARCHANT. No, sir.

Mr. DAVIS OF ILLINOIS. Thank you all very much.

Ms. NORTON. Could I just say one more thing?

I think Mr. Adcock makes an important case. We think of annuitants in terms of the people we see around us, this is what, a 2 million work force? I do think anybody who would want to come

back, even under the waiver authority we are talking about, almost certainly would be a very valuable employee. Because I believe that there are other options for the most part. I would hate to deny those people the opportunity to come back.

My sense is they may be very few. They may be so few that it may do no harm if the agencies do not abuse the waiver and essentially use it in ways that would worsen our work force problem.

The way I am talking about worsening our work force problem is leaving huge gaps of employee places that you don't try to fill any more. Because the agency has developed the habit of, maybe let's see if we can find an annuitant. And yet where it is our belief, it would be the belief of perhaps the agencies that have full-time employees who carry over from year to year would be most important.

So I think the standards part is very important. If they are not hard to fill positions, and many agencies don't have hard to fill positions, frankly, in fact, most agencies don't have positions that are "hard to fill," I certainly believe that you need only look at the statistics on people going back to work, and even before we got to near recession conditions, to know that many people are going back to work to live, that the combined cost that retirees face now, even with the pharmaceutical bill, even with Medicare, have put a real hurt on many of them.

That is why I am very interested in who would be interested. My own hypothesis is that they would not come out of the woodwork, and those who did would probably be the best of the best, because they would be coming because they loved their work in the Federal Government. There are many, many Federal employees like that. This has been the great and important, great wonder of our work force. Despite all of the very bad and undeserved rap that has been on them, it is an extraordinary work force.

The one thing I would ask the subcommittee to get is, whatever summary of the DOD experience can help us understand what we are talking about, or perhaps other agencies as well. But since DOD has been able to do it, it seems to me you have a perfect laboratory right there. I guess they were supposed to do it only in hard to fill positions. But we could then see what that meant in some setting. I certainly think that if there are retirees who want to come back, and I would love to see you, Mr. Adcock, or somebody who had the capacity to do it, do a survey. If you could return, if there were this waiver, would you do so? I should think OPM would have done that before coming forward with this bill.

Thank you, Mr. Chairman.

Mr. DAVIS OF ILLINOIS. Thank you very much. I thank you both.

This hearing is adjourned.

[Whereupon, at 3:35 p.m., the subcommittee was adjourned.]

[The prepared statement of Hon. Stephen F. Lynch and additional information submitted for the hearing record follow:]

REP. STEPHEN F. LYNCH
Subcommittee on Federal Workforce, Postal Service, & the District of Columbia
"*The Cost & Benefits of the Reemployment of Federal Part-Time Annuitants*"
May 20, 2008
2PM, 2247 RHOB

Opening Statement

THANK YOU, CHAIRMAN DAVIS, FOR HOLDING THIS HEARING. I'D ALSO LIKE TO THANK OUR PANELISTS FOR HELPING THIS SUBCOMMITTEE WITH ITS WORK.

MR. CHAIRMAN, THIS AFTERNOON'S HEARING BUILDS UPON THE SERIES OF HEARINGS ALREADY HELD BY THIS SUBCOMMITTEE CONCERNING LEGISLATIVE PROPOSALS TO ADDRESS RETENTION AND RECRUITMENT CHALLENGES FACING OUR FEDERAL WORKFORCE.

SPECIFICALLY, WE'VE PREVIOUSLY EXAMINED A VARIETY OF INITIATIVES AIMED AT INCREASING THE ATTRACTIVENESS OF PUBLIC SECTOR EMPLOYMENT AND AFFORDING OUR FEDERAL EMPLOYEES BENEFITS COMPARABLE TO – OR GREATER THAN – THOSE READILY AVAILABLE IN THE PRIVATE SECTOR, INCLUDING LEGISLATION TO IMPLEMENT PAID PARENTAL LEAVE, LEGISLATION TO INCREASE THE MAXIMUM AGE OF DEPENDENT CHILDREN FOR THE PURPOSES OF FEDERAL

HEALTH CARE COVERAGE, AND LEGISLATION TO STRENGTHEN THE FEDERAL GOVERNMENT'S DEFINED CONTRIBUTION PLAN.

NOW WE TURN OUR ATTENTION TO THE RETENTION AND RECRUITMENT OF OUR OLDER AND MORE EXPERIENCED FEDERAL EMPLOYEES, MANY OF WHO ARE EMPLOYED IN MISSION CRITICAL AREAS SUCH AS AIR TRAFFIC CONTROL OR CUSTOMS AND BORDER PROTECTION. ACCORDING TO THE *GOVERNMENT ACCOUNTABILITY OFFICE*, APPROXIMATELY ONE-THIRD OF FEDERAL CAREER EMPLOYEES ON BOARD AT THE END OF FISCAL YEAR 2007 ARE ELIGIBLE FOR RETIREMENT BETWEEN NOW AND 2012, WITH NEARLY HALF OF EMPLOYEES AT THE DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, AND THE SMALL BUSINESS ADMINISTRATION – AS WELL AS OVER 60% OF FEDERAL

CAREER EXECUTIVES GOVERNMENT-WIDE – ELIGIBLE FOR RETIREMENT DURING THAT TIME PERIOD.

GIVEN THE SIGNIFICANT KNOWLEDGE, SKILL, AND EXPERTISE POSSESSED BY OUR MORE EXPERIENCED FEDERAL EMPLOYEES, THE POTENTIAL LOSS OF THIS VITAL SEGMENT OF THE FEDERAL WORKFORCE IS OF PARTICULAR CONCERN TO THIS SUBCOMMITTEE. ACCORDINGLY, WE ARE EXPLORING A VARIETY OF OPTIONS DESIGNED TO RETAIN AND ATTRACT EXPERIENCED FEDERAL WORKERS.

RANKING MEMBER DAVIS OF THE FULL COMMITTEE AND RANKING MEMBER MARCHANT OF THE SUBCOMMITTEE HAVE PUT FORTH ONE PROPOSAL AIMED AT ADDRESSING THE PENDING EXODUS OF OLDER FEDERAL EMPLOYEES BY PERMITTING FEDERAL AGENCIES TO TEMPORARILY REEMPLOY FEDERAL RETIREES WITHOUT OFFSETTING THEIR FEDERAL RETIREMENT ANNUITY. UNDER CURRENT

FEDERAL LAW, FEDERAL ANNUITANTS ARE GENERALLY BARRED FROM SIMULTANEOUSLY RECEIVING BOTH A FEDERAL SALARY AND THEIR FEDERAL RETIREMENT ANNUITY UPON FEDERAL REEMPLOYMENT – WITH THE EXCEPTION OF LIMITED CIRCUMSTANCES IN WHICH THE OFFICE OF PERSONNAL MANAGEMENT HAS GRANTED AN - *AD HOC* WAIVER FROM THE DUAL COMPENSATION PROHIBITION.

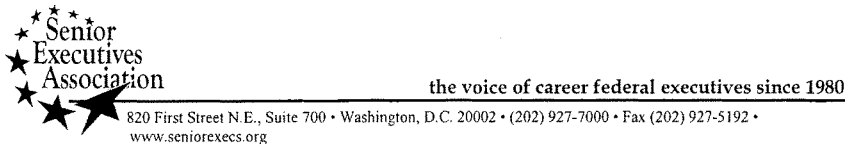
WHILE I LOOK FORWARD TO DISCUSSING THE MERITS OF THIS LEGISLATION, I WOULD LIKE TO RESPECTFULLY NOTE THAT H.R. 3579 IS FOCUSED ON RECRUITING EXPERIENCED EMPLOYEES THAT HAVE ALREADY LEFT THE FEDERAL WORKFORCE.

OUR PRIMARY ATTENTION, HOWEVER, MUST REMAIN ON KEEPING OUR MOST VALUED FEDERAL EMPLOYEES ON THE JOB THROUGH EFFORTS THAT WILL MORE BROADLY IMPACT EMPLOYEE RETENTION AND RECRUITMENT. AS

NOTED BY GAO IN ITS APRIL 2008 REPORT, FEDERAL AGENCIES ALREADY HAVE A WIDE RANGE OF TOOLS AT THEIR DISPOSAL BY WHICH TO RETAIN AND RECUIT OLDER WORKERS, INCLUDING WORK SCHEDULE, WORKPLACE, AND COMPENSATION FLEXIBILITIES. UNFORTUNATELY, GAO HAS REPORTED THAT FEDERAL MANAGERS HAVE NOT BEEN ABLE TO MAKE USE OF THESE FLEXIBILITIES DUE TO A LACK OF AWARENESS REGARDING THEIR AVAILABILITY, INADEQUATE FUNDING, AND POOR STRATEGIC HUMAN CAPITAL PLANNING.

ACCORDINGLY, I LOOK FORWARD TO DISCUSSING HOW WE CAN MORE GENERALLY ADDRESS THE RETENTION AND RECRUITMENT CHALLENGES FACING OUR OLDER FEDERAL WORKFORCE WITH THIS AFTERNOON'S PANELISTS.

THANK YOU, MR. CHAIRMAN, I YIELD THE BALANCE OF MY TIME.



May 19, 2008

The Honorable Danny K. Davis
Chairman
Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia
U.S. House of Representatives
Washington, DC 20515

The Honorable Kenny Marchant
Chairman
Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia
U.S. House of Representatives
Washington, DC 20515

Re: Support of H.R. 3579, Reemploying Annuitants

Dear Chairmen Davis and Marchant:

The Senior Executives Association (SEA) represents the interests of career federal executives in government, including those in the Senior Executive Service and in equivalent positions, such as Senior Level or Senior Scientific and Professional positions. We are writing with regard to the hearing titled, "The Cost and Benefits of the Reemployment of Federal Part-time Annuitants," scheduled for Tuesday, May 20, 2008 and request that the enclosed statement be included as written testimony in support of H.R. 3579.

SEA thanks you both for your continued commitment to an effective and efficient federal workforce. Please contact us if we can be of service in helping move this bill forward.

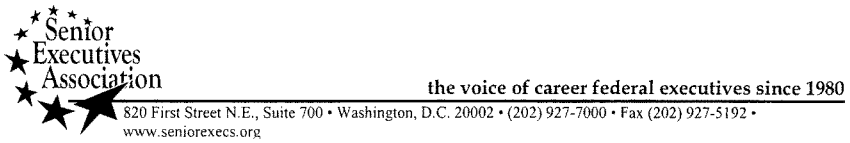
Sincerely,

Carol A. Bonosaro

William L. Bransford

CAROL A. BONOSARO
President

WILLIAM L. BRANSFORD
General Counsel



STATEMENT BY THE SENIOR EXECUTIVES ASSOCIATION IN SUPPORT OF H.R. 3579

May 19, 2008

The Senior Executives Association (SEA) represents the interests of career federal executives in the Senior Executive Service (SES), and those in Senior Level (SL), Scientific and Professional (ST), and equivalent positions. The Association supports H.R. 3579, a bill that will facilitate the temporary, part-time reemployment of federal annuitants.

OPM estimates that 60 percent of the government's 1.8 million workers will be eligible to retire over the next 10 years. Also, up to 90 percent of the Senior Executive Service will likely retire in that time period. As the "baby boomer" generation retires, a mass exodus will occur of highly skilled personnel that have strong institutional knowledge. The importance of examining the consequences of this brain drain and providing a tool to Federal agencies for succession planning, as well as meeting emergency needs, cannot be overstated.

The feature of H.R. 3579 that removes current annuity penalties for those who choose to work part-time will allow the best and brightest federal employees to continue to contribute by making part-time work a practical and feasible alternative. We note that agencies would control who would receive these part-time appointments and employees who are hired under the authority of H.R. 3579 would not have the right or expectation of continued part-time employment beyond an agency's need.

H.R. 3579 also has effective limitations on the amount of overtime that can be worked under its authority. We believe that any cost under this program will be offset by lessening the likelihood that an agency would opt for more expensive contract employees if the part-time re-employment option were not a meaningful option. This will lessen the likelihood that part time employment authority would be abused.

H.R. 3579 will allow the torch to be passed to the next generation of government leaders in an effective manner. We also note that H.R. 3579, and its Senate counterpart, S. 2003, are supported by the Government Managers Coalition, a group of five management associations including SEA. This endorsement demonstrates support by employee groups that represent a wide range of management interests.

American Postal Workers Union, AFL-CIO
1300 L. St., NW
Washington, DC 20005

Chairman Davis, Representative Marchant, and Members of the Subcommittee: Thank you for holding this hearing to examine proposals that would permit the re-employment of federal retirees without a reduction in their annuity. I appreciate the opportunity to discuss the importance of such proposals and their impact upon the ability of the USPS to provide postal services to the American people.

The Postal Accountability and Enhancement Act of 2006 (PAEA) afforded the Postal Service new freedoms to compete in the communications and service industries. To successfully serve the American public, the USPS shall need to utilize all available tools without artificial restrictions.

Unfortunately, current regulations discourage experienced and committed retired employees from returning to work for the Postal Service. For example, the Federal Employees Pay Comparability Act of 1990 has been interpreted as requiring retired postal employees to suffer a diminution of their annuity if they return to postal employment. This requirement has acted as a barrier to re-employment.

The American Postal Workers Union favors removing the impediments to re-employment of retired postal employees. We support proposals that would permit the USPS to utilize the services of skilled former employees who wish to resume their employment without sacrificing their annuity.

The American Postal Workers Union is the bargaining agent for approximately 300,000 postal employees in the clerk, maintenance, and motor vehicle crafts, and over the past 37 years we have successfully negotiated the conditions of employment for the workers we represent.

In 2006, we negotiated agreements governing the re-employment of annuitants, but we have been forced to defer implementation of the agreements because of the regulatory restrictions on the use of annuitants. If legislation expanding the opportunities for re-employment of postal retirees were adopted, we would welcome the inclusion of these annuitants in the postal supplemental work force. The skills and experience postal retirees have gained over their active careers would be an asset to the Postal Service and to the citizens of our country.

We note that one of the bills under consideration (HR 3579) refers to the Re-Employment of Retired Federal Employees. To ensure that it is clear that this

legislation applies to retired postal workers, we ask that any bill being considered be amended to include retirees and employees of the United States Postal Service.

The workforce of the future will, of necessity, include a blend of the young and old, with each category contributing their special skills to the tasks of growing our economy. The old model of restricting the contributions of an earlier generation is outdated and limits our nation's potential. The federal government should recognize that retirees are among of our nation's greatest resources, and allow the Postal Service to become an example of the workforce of tomorrow. The adoption of such legislation would be a positive step in this direction.

Thank you for this opportunity to offer the views of our union on this important legislation, and thank you for your foresight and wisdom in considering issues that will shape the workforce of the future. I would be pleased to respond to any questions that you may have.

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