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Regarding the Subcommittee's Hearing on
Retirement Readiness: Strengthening the Federal Pension System

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Mr. Chairman, Mr. Ranking Member, and Members of the Committee, I am honored to have been invited to present the views of the 362,000-member National Taxpayers Union (NTU) on strengthening the federal pension system and related provisions in H.R. 3630 (as introduced).

Since NTU's founding in 1969, our members and staff have learned firsthand that few issues can match the complexity or controversy of government employee compensation. It is at once a matter affecting the livelihoods of millions of households, the personnel policies of public and private entities at all levels, the federal government's long-term finances, and, of course, the well-being of taxpayers. Balancing all of these important – and very human – factors in a bipartisan policymaking environment has historically proven to be challenging. Accordingly, I hope you will find it not too presumptuous for me to recall a piece of NTU's own history to provide perspective for today's hearing.

Introduction: Retirement Issues Have Historically Centered on Balance

In March of 1984, H.P. Mueller, then a Pension Research Consultant for NTU, testified before the House Committee on the Post Office and Civil Service to offer views on a federal retirement system that was on the verge of a fundamental transformation. As one would expect from a spokesperson for a grassroots taxpayer group, Mueller began his remarks by voicing concern for "the silent majority whose benefits are modest in comparison to the Civil Service Retirement System (CSRS), who pay for 87 percent of the cost of the federal employee plan, and who believe they are not being fairly represented."

Perhaps more surprising to some, however, are the remarks that followed Mueller's observation, namely:

> At National Taxpayers Union, we believe federal employees deserve a fair and reasonable pension for their hard work and dedicated service. At the same time, we believe the federal government, as an employer, has an obligation to ensure at least a minimal level of financial security for all its employees in retirement. I would suggest that you and your predecessors, despite your success in creating what many consider to be one of the most generous pension programs ever created, have failed in meeting this most basic objective.

One reason for this bold statement was that at the time, actuaries projected that 62 percent of all new federal employees would separate from employment before vesting in CSRS, leaving these workers with a lump-sum refund they would likely not put away for their futures.

Then – as now – there was likewise a great deal of discussion over how best to assess the total federal benefit package. Mueller called upon Members of the Committee to "consider a fair evaluation of other employee benefits," in both the public and private sectors. Back then, federal health benefits were judged to be "not as comprehensive as private sector plans."

One major consideration in this exercise was an analysis undertaken on behalf of the Committee from Hay Associates demonstrating that private firms set aside, on average, an equivalent 8 percent of payroll for their defined benefit arrangements. Mueller pointed out that Hay Associates failed to adequately account for small businesses in its sampling technique. Even so, other data from the Bureau of Labor Statistics (BLS) provided glaring contrasts: just 3 percent of all private-sector plans offered normal Cost of Living Adjustments (COLAs) to benefits, while a plurality of plans set a normal retirement age that was much stricter than the options offered to federal employees.

NTU performed its own calculations to show government versus typical private benefits for a worker retiring in 1974 with an average "high-three" salary of $15,000 and service of 30 years. Had each lived to what was then a normal 21-year retirement lifetime, the federal retiree's combined benefit would have been almost 2-1/2 times greater than the corporate retiree's ($402,702 vs. $157,808).

The impact of retirement programs on federal finances seemed as urgent then as it is today. Mueller showed that between 1960 and 1982, outlays for Social Security ballooned by 1,288 percent, part of a "recent fiscal crisis" that saw the program far outstrip growth (690 percent) in the rest of the federal budget. Over the same period, Civil Service retirement *expenditures* exploded by 2,101 percent, almost eight times greater than the increase in retirement *annuitants*.

FERS: The Balance Shifts

The upshot of all these statistics was an urgent need to overhaul the entire government employee pension scheme, not merely for the sake of taxpayers, but for retirement security of the federal workforce as well. Among the changes Mueller envisioned:

1) Congress should consider a program for new hires based entirely on defined contributions.
2) If Congress decides to continue a defined-benefit program, it could be fully funded by the employer if expenses could be held to private-sector norms.
3) Cost of Living Adjustments should be limited, preferably capped at 5 percent.
4) Early retirement benefits should be more carefully adjusted to reflect industry-standard actuarial reductions.

The resulting legislation creating the Federal Employees' Retirement System (FERS) did make major progress toward Mueller's concerns. One chief attribute was to close off to the maximum extent possible the prospect of huge unfunded liabilities, the kind that were at the time threatening to swamp the entire CSRS program. COLAs were not capped, but a new formula was established to make them less of an unpredictable cost factor than they were under CSRS. New early retirement reductions were also incorporated.

But easily the most important outcome of FERS has been the creation of the federal Thrift Savings Plan (TSP), which can now serve as a model for other governments to follow. Writing in a July 2011 Issue Brief (Number 359) for the Employee Benefit Research Institute, Jamie Cowen, a Congressional aide deeply involved with the creation of FERS, noted that: "At the time, these were hugely controversial moves, and yet today FERS garners overwhelming support from federal workers."

For their part, taxpayers can take some satisfaction that FERS was instituted in sufficient time to prevent an intermediate-term meltdown of the entire federal retirement structure. It is why, today, Members of Congress can reassess the pension system in an environment not (yet) dominated by crisis. This should not, however, be taken to mean that no further reforms are necessary.

2012: Time for a New Balance?

Obviously some things have changed since FERS' creation and Mueller's testimony. Federal health benefits have certainly improved, while defined contribution plans have become commonplace in the private sector.

Still, it is a supreme irony of the Information Age that the availability and interpretation of data would be such points of dispute in current discussions over whether federal retirement benefits are:

- Financially sustainable;
- Comparable to benefits offered to private-sector workers; and
- Equitable to annuitants as well as taxpayers.

One of the few things that proponents and critics of reforms to federal pensions can agree upon is that today's hearing will not settle these points of dispute. But perhaps the following presentation will help to convey NTU's view that policymakers should approach their deliberations with the most cautious

fiscal considerations in mind. Because my fellow panelists have much more technical expertise in these areas, I will only provide Members of the Committee with a basic overview.

Financial Sustainability: Look Carefully Behind Trust-Fund Accounting

FERS has inarguably reduced the risk of CSRS-type unfunded liabilities to a low order of magnitude. Under its current program structure, only errors in the assumptions surrounding agency contributions can produce shortfalls (which are then made up through the Treasury). This admirable quality, however, does not remove taxpayers from the fiscal equation, as the following points will hopefully clarify.

According to a January 2011 Congressional Research Service (CRS) report, "Federal Employees' Retirement System: Budget and Trust Fund Issues" by Katelin Isaacs, the unfunded liability within the Civil Service Retirement and Disability Fund (CSRDF) will continue to grow until the year 2030, reaching a high of $853.1 billion. On top of paying to satisfy this mountain of obligations, the "general revenues of the Treasury" will cover CSRS COLAs for decades. The report also cites an Office of Personnel Management (OPM) statement confirming that once certain CSRS "assets" are depleted in the year 2022, there will be an "increase in the supplemental liability under FERS … which must then be amortized by a new series of 30-year payments under FERS to be made by the Treasury."

"Solvency": An Important Concern, but So Is Soundness

The Civil Service Retirement and Disability Trust Fund is indeed perpetually solvent under current projections from the Office of Management and Budget (OMB), reaching an estimated income of nearly $1.4 trillion by 2080. This is a praiseworthy development compared to the fiascoes associated with previous federal pension financing.

Still, as the Congressional Research Service report noted, the assets in this Trust Fund (by law, held in U.S. Treasury bonds), are "not a store of wealth for the government" or for taxpayers: "When the CSRDF redeems the Treasury bonds that it holds, the Treasury must raise an equivalent amount of cash by collecting taxes or borrowing from the public."

The Congressional Research Service report specifically compared this situation to Social Security's Trust Fund, reprinting a tract from the "Analytical Perspectives" of the Fiscal Year 2010 federal budget that may be familiar to Members of the Committee, but which bears repeating:

> The existence of large trust fund balances, therefore, does not, by itself, increase the Government's ability to pay benefits. Put differently, these trust fund balances are assets of the program agencies and corresponding liabilities of the Treasury… .

Veronique de Rugy of the Mercatus Center provided another commentary on federal pension finances that merits mention. Last week she calculated that "In 2008, federal annuitants and survivors who participated in defined benefit plans received benefits nearly 20 times the amount current employees paid in." Some would call this an "apples-to-oranges" comparison, but it at least helps to capture the dimensions of the CSRDF's operation.

The CRS report's explanation of differences between cash contributions and transfers of budget authority through agency contributions notwithstanding, CSRDF's operations will *always* have implications for past, present, and future taxpayers.

FERS: A Cost Decline or a Cost Shift?

According to the Congressional Budget Office (CBO), federal outlays for civilian retirement (which include several pension systems as well as annuitants' health care) will increase from $87 billion this fiscal year to $115 billion in the year 2021. This is relatively significant cost containment: 32 percent versus projected rates of increase more than twice as high percent for Medicare and Social Security. CSRDF's Board of Actuaries estimates that CSRDF expenditures as an equivalent share of federal salaries and wages will shrink from roughly 38 percent now to 22 percent by the year 2080, comprising a tiny representative proportion of Gross Domestic Product (GDP).

Yet as the Congressional Research Service report dutifully reminds readers, the drop in expenditures as a share of GDP will be largely attributable to the rise in FERS participants over those enrolled in CSRS: "The FERS basic annuity was designed to be smaller relative to high-three average pay than a CSRS annuity because FERS annuitants also receive benefits from Social Security and the Thrift Savings Plan."

Members of the Committee are well aware that Social Security faces numerous financial challenges, including current cash-flow deficits. Moreover, Social Security's Trust Fund assets (like CSRDF's, bonds pledged against taxpayer resources) are projected to reach exhaustion in 2036. Thus, CSRDF's decreasing outlays are less an indication of overall federal fiscal health than they are the result of shifting federal retiree benefit responsibilities into a program that is headed toward bankruptcy.

Private-Sector Comparability: Consider the Big Picture, Because the "Small Picture" Is Murky

One of the most vehemently-debated aspects of the federal pension reform issue centers upon whether government employees are under- or over-compensated compared to their private-sector counterparts. For this reason we welcome recent calls from those within the Office of Personnel Management and other agencies to conduct new research that will explore this question in-depth. Apparently the last such major undertaking occurred more than 20 years ago.

In any case, opponents and proponents of the provisions in H.R. 3630 have mustered various analyses in the public and private sectors to make their cases on the matter of comparability. My fellow panelist Andrew Biggs has far more to contribute to the detailed aspects of this discussion than NTU can, among them the value of job security in calculating federal compensation. After all, in the case of an employer-sponsored defined benefit plan, job security is the very essence of retirement security: it not only affects vesting and service-accrual for pensions, it also bears directly upon features such as early drawing rights.

While NTU would contend that the preponderance of evidence suggests most federal retirees are at least *not undercompensated*, my objective is to encourage Committee Members to consider broader issues.

To give one example, you have no doubt heard that private-sector pensioners put little or none of their own money into their plans, even as all CSRS and FERS participants must contribute to their systems. This is quite true. According to the National Compensation Survey by the Bureau of Labor Statistics from March 2011, only 4 percent of all private-industry workers participating in a defined benefit pension plan were required to make a contribution out of their earnings.

Here, however, is another truth. According to Office of Personnel Management directives for Fiscal Year 2012, the combined individual and agency contribution rate as a share of salaries and wages is 12.7 percent for rank-and-file workers. The employee's share of that rate is permanently fixed at 0.8 percent. As noted above, Trust Fund mechanics aside, the agency contributions have real-world implications for federal finances and taxpayers.

There is also a significant question over how these costs compare to the private sector. The most current data from the Bureau of Labor Statistics indicates that for *all workers in private industry*, employer costs for defined-benefit retirement plans amount to 2.2 percent of wages and salaries. Certainly, though, when focusing only on the larger companies that still offer these pensions, the costs could be much higher than 2.2 percent.

Many illustrations have been conducted in an attempt to establish the value of a government versus a private pension. In a Summer 1997 feature in the BLS publication *Compensation and Working Conditions*, Ann Foster concluded that the differences in public (including state and local) and private sector retirement benefits "are less pronounced when factors such as employee contributions and Social Security coverage are considered." She asserted that the cost-of-compensation differential "between sectors reflects differences in the work activities and occupations in each sector."

In August 1998, the Congressional Budget Office weighed in on the benefit matter with five hypothetical employee cases. The result, according to the report:

> Depending on age, salary, length of service, and retirement plan, benefits range from 26 percent to 50 percent of pay for federal employees and from 24 to 44 percent of pay for employees of the large private firms. In most cases examined, the value of the employee benefit package offered by the federal government exceeds the value of comparable benefits offered by private firms.

The CBO study encompassed numerous benefits, such as health insurance and sick leave. Focusing only on retirement payments, however, the value of the FERS benefit beat the private-sector equivalent in all five cases. However, the CSRS package was more lucrative than the private sector's in just one of three cases (two of the cases were not applicable because the hypothetical employees would not have been eligible to join CSRS).

Volume 65, Issue 1 of the 2003/2004 *Social Security Bulletin* contained an analysis by Patricia P. Martin involving four earnings scenarios generated by wage data from the Social Security Administration. Martin then calculated replacement rates for each earnings level for retirement benefit packages comprised of various components, such as pension-only or pension plus federal Thrift Savings Plan. The author summarized her findings with the following passage:

> This analysis shows the possibility of replacement rates exceeding 100 percent for FERS employees who contribute 6 percent of their earnings to the Thrift Savings Plan over a full working career. Private-sector replacement rates were quite similar for workers with both a defined benefit and a defined contribution plan.

These are but three of many studies in the field of public and private sector benefit comparability, and they obviously share one trait: results that vary with particular assumptions about pay, age, and service, as well as whether state and local government workers are included in the "mix." But is there another obvious trait that is being overlooked?

Foster's study noted that in 1993-94, the participation rate of public sector employees in defined benefit plans was 91 percent, versus 56 percent in the private sector. She also remarked that among these pension plans, virtually all government workers' retirement formulas were based on terminal earnings (e.g., three highest years of salaries), while 61 percent of private workers' were. Additionally, more than half of the government plan (including state and local) participants could count on automatic inflation adjustments, while just 4 percent of private enrollees could.

Despite its impressive estimates derived from Social Security Administration data, the Martin study depended on Bureau of Labor Statistics findings that stated:

> In 2000, 33 percent of private-sector employees participated in defined benefit plans, 46 percent participated in defined contribution plans, and 14 percent participated in both. ... There is no standardized benefit formula that can represent the variety of formulas used in the private sector to calculate retirement income and replacement rates.

Finally, I am mentioning the CBO examination out of sequence because of its importance. In its "Qualifications of the Retirement Comparisons" section, CBO cautions:

> Federal retirement plans would look much more generous than they do here if they were compared with those of the private sector as a whole. The private firms in the database are not representative of private practices; they offer relatively generous retirement benefits compared with many other firms. For example, all 800 firms offer some retirement program, and two-thirds offer plans that include both a defined contribution plan and a defined benefit plan to supplement Social Security. By contrast, data for 1993 from the Employee Benefit Research Institute show that only about 60 percent of all civilian nonagricultural wage and salary workers outside of government have employer- or union-sponsored retirement programs, and only about 20 percent of those participating in retirement plans have coverage under both defined benefit and defined contribution plans.

Members of the Committee should bear in mind that all of the caveats mentioned above come from studies dating back as far as 15 years (employing data that is even older). The most recent BLS statistics would show that defined benefit plans are available to only about 20 percent of all private industry workers, and roughly 18 percent of them actually participate. The share of firms offering a defined contribution plan on top of a pension is likely much smaller. Meanwhile, about one-quarter of private-sector pension plans are "frozen" to new entrants, and a declining proportion of their sponsors are offering replacement pension options.

There are many other considerations involved with weighing public and private-sector pension plans against each other. H.R. 3630, for example, would phase in a "high-five" salary component for the "secure annuity" pension computation, which is closer to the private industry norm. In the final analysis, though, I would contend that such comparisons are becoming less relevant precisely because government systems like FERS are being stacked up against plans that don't resemble reality for the vast majority of private-sector workers.

Equitability: The Most Difficult Goal of All

By necessity, this hearing has involved discussion over figures such as dollars, contribution ratios, discount rates, and life expectancies. Yet, behind these figures are human beings from a multitude of economic backgrounds and political views. The success of any federal pension reform effort depends upon the perception that the final policy product is, if not ideal, at least an acceptable compromise. Here again, neither my testimony nor this hearing will settle matters such as what is "fair" to federal workers or what is "reasonable" protection against future burdens on the federal budget. Still, I wish to offer some ideas from the perspective of taxpayers.

One argument often made against scaling back federal pension formulas is that government employees should not be blamed for "corporate America's" failure to provide adequate worker benefits. Yet, even though the defined benefit pension has receded in the private sector, defined contribution plans have dramatically expanded. Federal workers have not been excluded from this salutary development. Equally important, though, is the role that federal laws have played in this trend. On one hand, retirement asset-accumulation has become increasingly portable and less tied to the workplace, through the creation of tax-advantaged traditional and Roth Individual Retirement Accounts, and through plans available to the self-employed. In addition, the Pension Protection Act of 2006 appears to be helping efforts to stabilize

remaining defined benefit plans in private industry and reducing the prospects of a massive taxpayer bailout of the Pension Benefit Guaranty Corporation. One element of that law, according to a 2011 Society of Actuaries report entitled "The Rising Tide of Pension Contributions Post-2008: How Much and When?" is that it:

> made changes that increased employer flexibility by allowing the deductibility of contributions significantly greater than the minimum required contribution, so that plan sponsors could tax-efficiently fund plans more during positive economic times.

On the other hand, some laws and regulations had the opposite effect. In a 2009 *Social Security Bulletin* (Volume 69, Issue Number 3) article entitled "The Disappearing Defined Benefit Pension and Its Potential Impact on the Retirement Incomes of Baby Boomers," Barbara Butrica, Howard Iams, Karen Smith, and Eric Toder wrote:

> Subsequent tax legislation enacted in the 1980s, including the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1986, reduced incentives for employers to maintain their DB plans (Rajnes 2002). Since then, the adoption of DB pension plans by new businesses has virtually halted and has been replaced by the adoption of 401(k)-type pension plans that permit voluntary employee contributions (Munnell and Sunden 2004). One study found that increased government regulation was the major factor in 44 percent of DB plan terminations in the late 1980s (Gebhardtsbauer 2004). Another study noted that from 1980 through 1996, government regulation increased the administrative costs of DB plans by twice as much as those of similar-sized DC plans (Hustead 1998).

Another "equitability" argument is that federal workers should not be "singled out" for shouldering the burden of deficit reduction. This is quite valid, in that numerous other federal programs have contributed heavily to the federal government's financial woes.

Still, is it not equally important to acknowledge that an insolvent government will not be able to meet its obligations to federal retirees? Or, that a solvent yet debt-burdened government will be forced to make less thoughtful, ill-timed changes to benefit programs than a government which takes gradual steps back toward sustainability? My colleague Andrew Moylan accurately summarized the situation in testimony he provided to Congress on the Balanced Budget Amendment last year:

> In the past decade, under the direction of Presidents and Congressional leadership from both parties, our federal budget has expanded dramatically no matter what measure one consults. At the dawn of the new millennium in 2001, federal outlays were about $1.8 trillion, a level below post-World War II averages at 18.2 percent of our economy. Through the middle of the decade, we saw an explosion in spending driven by such factors as the creation of a new cabinet-level Department of Homeland Security as well as increased expenditures on defense and education. By 2003, the modest spending discipline of the late 1990s had given way to federal outlays that now seem permanently fixed at or above the post-war average of 19.6 percent of GDP. … In 2011, we will raise through the Tax Code and spend (in real terms) roughly the federal budget of 2003 and throw in an amount approximating the 1982 federal budget just for good measure. … While NTU's dedication to limited government would on its own lead us to conclude that this spending spree is unacceptable, sheer mathematics tell us that it is unsustainable.

H.R. 3630 provides for an ambitious increase in the current employee contribution rates for FERS and CSRS, yet as Members of the Committee are aware, there has been precedent for asking them to make some sacrifice to reduce the deficit. The Balanced Budget Act of 1997 raised the contribution rate by 0.4 percent in two phases (a third phase was repealed). Today's short-term and long-term budget outlook is by most measurements much worse than it was 15 years ago.

Bipartisanship: A Vital Ingredient in Any Mix of Reforms

Still another argument against H.R. 3630's provisions is that they were crafted without bipartisanship. As the official invitation I received to this hearing indicates, however, those reform proposals are rooted in the National Commission on Fiscal Responsibility and Reform created by President Obama. The Commission's deliberations were in turn informed by a report from the progressive think tank Third Way, which pointed out that in the private sector, the combined cost of most defined benefit-defined contribution plans is shared almost equally between employer and employee. In contrast, Third Way President Jim Kessler and Senior Fellow for Health and Fiscal Policy David Kendall wrote in a September 2010 Idea Brief:

> Over the next ten years, taxpayers will contribute more than $263 billion to fund FERS, which is considerably more than what the federal government spends on college financial aid through Pell grants. Over the next twenty years, taxpayer contributions will reach roughly $626 billion. Employee contributions are miniscule – less than $20 billion over ten years and less than $50 billion over twenty years.

Some would respond that the President's Commission failed to reach consensus on the final report and that Third Way did not recommend benefit changes on top of its call for higher contribution rates. However, H.R. 3630 did not propose an equal contribution formula for non-"secure annuity" FERS participants.

More to the point, are there other signs of transpartisan activity on behalf of federal pension reform? Fortunately there are. In May of 2011, a *National Journal* Congressional Insiders poll, involving 22 Democratic and 27 Republican Members of Congress, shed light on the contribution question. Seventy-eight percent of Republicans and 36 percent of Democrats answered affirmatively to the question, "Should federal employees have to match the amount that the government contributes to their pensions?" Forty-six percent of Democrats – not a majority – and 19 percent of Republicans were opposed, with others having mixed opinions. One Democratic Member's comment was particularly instructive: "The change should happen over time, not all at once, and should be prospective only." A poll definitely does not constitute a legislative consensus, but it offers a glimpse of how such a consensus might begin to be formed. It has already gotten underway at the state and local level, one example being Rhode Island Treasurer (and Democrat) Gina Raimondo's very comprehensive pension reform plan enacted in 2011.

Other signs can be seen in the interest group community. In September of 2011, National Taxpayers Union joined with the left-of-center U.S. Public Interest Research Group (USPIRG) in releasing "Toward Common Ground," a report intended to "break through the ideological divide that has dominated Washington this past year and offer a pathway to address the nation's fiscal problems." The report provided more than 50 recommendations, totaling over $1 trillion in budget savings, pertaining to domestic as well as defense programs. This exercise involved a high degree of compromise, but the end result was a collaborative document whose guidance is backed by policy experts across the political spectrum.

One "Common Ground" recommendation of particular relevance to the Committee concerns the practice of "double-dipping." As you know, the issue of federal employees receiving multiple forms of pay and pensions has carried controversy for much of our nation's history. Though the Dual Compensation Act of 1964 and subsequent refinements have addressed many facets of the issue, NTU and USPIRG took note of an emerging trend. In rehiring a federal annuitant to active service, the law generally requires that the annuitant's new compensation be reduced by the amount of his or her pension. However, OPM is empowered to grant waivers in urgent cases so as to permit full salary and a full

pension. In researching the issue, Senator Coburn's staff determined that between 2000 and 2007, the number of waivers has increased nearly six-fold. Revising this policy, which has likely accelerated due to more double-dipper flexibility under the 2010 National Defense Authorization Act, could save more than $600 million over 10 years.

The Ultimate Equitability Issue: Congress Itself

Perhaps the most uncomfortable – but necessary – question of "fairness" still to explore in this testimony touches Members of the Committee directly: your own retirement benefits, for which it is widely acknowledged you work hard to earn. It is on this topic that NTU has amassed a certain amount of direct experience.

I am occasionally asked by longtime Washington observers why the general public – amid multi-trillion-dollar federal issues that will have a much greater impact on their future – would concern themselves so much with Congress's salary and benefit structure. The reason is elementary: the issue is comprehensible. If we were to ask any citizen – even one with a Ph.D. in finance – whether $10 billion is too much or too little to pay for a new aircraft carrier, few would be able to offer anything more than a generalization. Ask them, on the other hand, if $26,000-plus is too much or too little for an initial pension of a married lawmaker retiring with 10 years of service at age 62 in 2013, and they will likely have a definite opinion based on their own salary and retirement arrangements. Because citizens can directly relate Congress's compensation matters to their own daily lives, they take on an importance far out of proportion to their place in the federal budget. I would argue that this alone is good cause for lawmakers to pay careful heed to the design of their compensation. But there are others.

For many years, NTU has conducted the most detailed estimates of Member pensions available to the general public. One reason we undertook this project was due to lack of disclosure of such information. In 1993, for example, NTU was denied a Freedom of Information Act request to gain access to Member pension data. OPM's explanation to us was the following:

> Based on the U.S. Court of Appeals decision in the case of *National Association of Retired Federal Employees v. Horner*, it is our policy not to provide pension rates for individual Members of Congress because to do so would violate their privacy without shedding light on how the Government conducts its business.

Last week this "wall of secrecy" began to come down, thanks to the work of Bloomberg News Service. Bloomberg's reporting team was able to examine the entire database of federal pension annuitants, including Members of Congress. Among their findings were that nearly 50,000 retirees were receiving pension benefits greater than their final salaries – a trend NTU first spotted among lawmakers about 20 years ago. In fact, in 1988, NTU announced that for the first time three former Members – Ben Reifel, Margaret Chase Smith, and Albert Gore, Sr. – had become millionaires solely through their federal pension benefits.

Bloomberg News is to be commended for such painstaking research, though it prompts the question of why the details on Member pensions were so carefully guarded in the first place. Indeed, the limited disclosure has often worked against your own interests, spurring all kinds of tall tales that continue to pervade the Internet today (e.g., the bogus notions that lawmakers retire on full salary for life after just a few years of service or that they don't participate in Social Security).

Issues of transparency and correcting the record aside, Congress indisputably does provide a better pension arrangement for itself than for most of the rank-and-file in the Executive Branch. According to a 1993 Congressional Research Service analysis by Carolyn Merck entitled "Brief

Comparison of Retirement Eligibility and Benefits for Members of Congress and Executive Branch Personnel," the pension as an equivalent of "high-three" salary for a Member of Congress retiring under FERS with 20 years of service was 34 percent, compared to 20 percent for a typical Executive Branch employee. Similar advantages were observed at levels of service amounting to 10 and 30 years, as well as for the CSRS component. Furthermore, lawmakers could collect a full immediate pension under CSRS at age 60 with 10 years of service; a rank-and-file federal worker would need to have 20 years of service to retire at that age. Under FERS, a full pension is available to Members with 20 years of service at age 50; the majority of Executive Branch employees can retire at 60 with 20 years.

Is this difference justified? Like many of the points explored in my testimony, this is an extremely subjective question. Nonetheless, I hope to demonstrate that the time has come for Congress to rethink the reasons for continuing its current retirement arrangement.

A continuously-updated Congressional Research Service report "Retirement Benefits for Members of Congress," currently authored by Katelin Isaacs, usefully quotes part of the Senate's report on legislation (P.L. 79-601) extending CSRS coverage to lawmakers. It explains that Congress's own participation (beginning in 1946) was designed to be generous because it:

> would contribute to independence of thought and action, [be] an inducement for retirement for those of retiring age or with other infirmities, [and] bring into the legislative service a larger number of younger Members with fresh energy and new viewpoints concerning the economic, social, and political problems of the Nation.

Has this vision been fulfilled? One way to test the proposition is to examine the rate of lawmakers seeking reelection before and after 1946. In theory, the more generous pension would "induce" a greater share of lawmakers to retire, thereby serving the cause of rotation in office. Yet another CRS report, "Reelection Rates of House Incumbents, 1790-1994" by David Huckabee, is a helpful starting point. Between 1900 and 1946, the average percentage of House incumbents seeking reelection was close to 90 percent. Between 1946 and 1994, the percentage was just slightly *higher*. Since 1994, the rate has fluctuated, but not greatly. A CRS report from January 2011 entitled "Congressional Careers: Service Tenure and Patterns of Member Service, 1789-2011" by Matthew Eric Glassman, et al., summarized the data this way:

> Prior to the Civil War, it was common for 40 percent of Representatives or more to not seek re-election, and prior to 1887 no Congress saw fewer than 25 percent of Representatives not seek re-election. During the 20th and 21st Centuries, the rate at which members have not sought re-election has remained roughly constant, at an average of 11 percent.

Clearly, the more generous pension has not impacted voluntary reelection rates. But what about "involuntary" reelection rates? Should Members of Congress receive special pension consideration because of the tenuous nature of their office?

Making such a comparison is fraught with difficulties, not the least of which is that House Members stand for election every two years. In theory, the chance of unemployment for a Representative in an odd-numbered year is near zero (barring a rare occurrence such as expulsion). By my crude calculations, the average annual civilian unemployment rate in election years from 1946 through 2010 approached 6 percent. The average House Member "unemployment rate" (i.e., loss of election or nomination) in that same period approached 8 percent. To taxpayers, this differential would likely not be decisive in awarding Congress a pension that is far more generous than what they could hope to receive. In any case, Congress's own economic policies have impacted and will continue to impact the private-sector employment picture.

It is true that the Senate has a higher turnover rate, but here again, the prospect of unemployment in five out of six years is low. It is also the case that compared to the federal rank-and-file, Congressional job security is somewhat less assured. My own imperfect reading of CRS data suggests that the average Congressional pensioner has between 30 and 50 percent less service than a typical FERS or CSRS annuitant. Yet, BLS data shows that between 2001 and 2009, the average annual rate of "Layoffs and Discharges" (an admittedly different measure from actual unemployment) in the federal government was around 6 percent. This deliberately excludes 2010, where layoffs and discharges seemed artificially high, perhaps due to the Census.

Moreover, according to OpenSecrets.org, at the end of the 111th Congress a total of 370 former Representatives and Senators were serving in full-time or part-time capacities either as lobbyists or with entities seeking to influence federal policy (subject to legal restrictions). This is not necessarily a surprising trend, given lawmakers' expertise in many issues. Furthermore, some of the "interests" to which they lend their talents are grassroots organizations on both sides of the political spectrum. I raise this analysis not to launch into a debate about lobbying ethics, but rather to demonstrate that Members have – and are taking – many post-Congressional career opportunities.

Finally, lawmakers do make a higher contribution toward their pensions, but taxpayers ultimately come out on the short end of this equation. Taking a hypothetical example of a married lawmaker versus an Executive Branch employee with 10 years of service retiring at age 62 in 2013 (with the same salaries), the Member pension would begin at roughly $26,600. The Executive Branch Employee's pension would begin at approximately $15,600. For this "head start" of about $11,000 in the first year's benefit, the lawmaker will have contributed some $8,350 extra over his or her career to the plan. Meanwhile, even as the FERS agency contribution for most federal workers has fluctuated in the 11-12 percent range, the agency share for Members has been gradually rising. In 1997, the rate applicable to lawmakers was 15.2 percent; by 2007 it had grown to 17.7 percent, and this year it stands at 18.3 percent.

None of these comparisons are precise, and all suffer from overgeneralizations. Yet, to NTU, they suggest that reform is both desirable and feasible.

Incremental or Comprehensive? Congress Has Numerous Choices

What direction should such reforms take? The second panel of this hearing will explore the topic in greater depth, but I will offer a few observations.

H.R. 2913 and H.R. 3480 would enact the most comprehensive overhaul of Congress's retirement benefits, by repealing the defined-benefit pension portion of the Congressional retirement package while allowing Social Security and federal Thrift Savings Plan participation to continue.

Both bills would result in a salutary effect on the policymaking process itself. For one, by becoming more dependent on the Thrift Savings Plan for their retirement income, Members will gain a more direct, real-world appreciation for the effects that their own legislating can have on the economy as a whole and financial markets in particular. Equally important, lawmakers will have clearly demonstrated the personal sacrifice and leadership necessary to amplify the vitally-needed national conversation over reducing federal expenditures or eliminating unnecessary programs.

H.R. 2397 would link the eligibility age of defined-benefit pensions for Members of Congress to the retirement age for Social Security. CRS estimated that at the beginning of October 2009, defined benefit payments to former Senators and Representatives (many of whom retired well before the normal Social Security age) would amount to more than $26 million for the year ahead. This legislation would

help to relieve part of the burden from future "early-collecting" Congressional pensioners, and provide leadership-by-example on one of the most important issues facing America today: reforming the entire Social Security system.

H.R. 2162 would expand the circumstances under which Members of Congress may lose their pensions for committing offenses of the law, thereby offering better protection against abuses of the public purse as well as the public trust. The indignation some taxpayers feel over lawmakers' pensions is compounded by the humiliation they must suffer when Members of Congress who commit grave crimes are allowed to continue drawing pensions. Since the 1980s, NTU has identified lawmakers convicted on charges ranging from bribery to fraud who were each receiving pensions worth tens of thousands of dollars annually (or more) – sometimes while serving prison terms. According to our calculations, at least 16 living, former Members of Congress convicted of serious (at or approaching felony-level) charges are eligible for pensions whose combined yearly value is roughly $800,000. This conservative figure does not include deceased offenders.

Thus, in 2007 taxpayers greeted with relief the declaration from Congressional leaders that the newly-passed Honest Leadership and Open Government Act had rectified this embarrassing problem. Unfortunately, the statute was not up to the task, and its weaknesses will only become more evident with future experience. In the course of legislative negotiations, Title IV of the Act left far too many possibilities open for pension transgressions against taxpayers from convicted lawmakers. H.R. 2162 would provide a prudent and welcome dose of additional reform, by doubling (to 20) the list of crimes sufficient to disqualify a lawmaker for federal pension benefits. These new triggers include acts such as obstruction of justice, expenditures to influence voting, racketeering, and tax evasion. Furthermore, the bill would apply the strictures to former Members convicted of such crimes while serving in any public office, not just Congress – a situation which, sadly, has already manifested itself.

Other reform approaches include H.R. 2652, to extend the pension vesting period for lawmakers to 12 years, and H.R. 3565, to increase the contribution rates for Members to their own plan. Finally, H.R. 981 would reverse current law and allow Members to opt out of FERS.

All of these bills deserve serious consideration this year, as would a proposal to simply equalize Congress's benefit structure with that of rank-and-file federal workers. Swift passage of H.R. 981 and H.R. 2162 should be the absolute minimum Congress does in the very near-term to begin addressing aspects of the retirement system.

Conclusion: Congress Must Lead Federal Pension Reform

In last year's debate over extending payroll tax relief and over H.R. 3630 in particular, NTU gave its support to the House-crafted measure not because it was ideal, but because it was the most palatable option for taxpayers in the hodgepodge of proposals being offered at the time. One warning we gave in our letter to lawmakers on the development of "extender" legislation like H.R. 3630 was:

> [T]his slapdash procedure, which leaves little time for taxpayers to grasp the wide-ranging impacts of the bill, is not consistent with the commitments that many Members made to conduct the people's business in a transparent and timely manner.

Accordingly, we hope that moving forward, Members of Congress will give careful consideration to the following principles:

- **Congress Must Address Its Own Benefits First.** This means at the very least, bringing lawmakers' benefit rules in line with those covering the majority of other federal employees.

- **Transparency and Good Data Are Key.** Designing a sustainable and fair federal retirement system requires more comprehensive comparisons with the entire private sector, not just the dwindling portion of defined benefit plans that primarily larger firms might provide. Indeed, some of the more sweeping proposals for federal pension reform have centered around phasing out the defined benefit entirely, and perhaps giving employees a larger TSP "match" to make up for reductions in pensions. Establishing benchmarks for any transformation, even a modest one, will be immensely important.
- **Federal Pensions Can Be Part of the Deficit Reduction Effort, but That Effort Is Best Made Holistically.** The best possible way to avoid charges that Congress is "singling out" federal employees in efforts to control the size of government would be to include pension reform in a systemic overhaul of all benefit programs, including Social Security. Such an initiative need not be rolled into one piece of legislation, but Congress should work in a bipartisan fashion to convey its all-encompassing nature to taxpayers and federal workers.

Some would call these conclusions unrealistic, but to NTU the current trajectory of the nation's finances is unrealistic. Because of steps taken in the 1980s, Congress now has the *opportunity* of time, if not the *luxury* of time, on benefit reform. By using that time judiciously now, "retirement readiness" will be something that you and your colleagues can take pride in having accomplished for future generations of federal employees and taxpayers.

I thank all of you for bearing with these long remarks, and NTU stands ready to answer your questions or assist in any other way with your deliberations.