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Issue Brief

Twenty-Five Years After Federal Pension Reform

By Jamie Cowen

THE FEDERAL EMPLOYEE RETIREMENT SYSTEM: Congress created the Federal Employee Retirement System (FERS) in 1986, in the most sweeping overhaul of retirement benefits for civilian workers in modern times. The law is now 25 years old, has changed little (other than modest expansion of investment choices), and remains the basis for retirement benefits provided to some 3 million civilian federal workers.

FERS AS BACKGROUND: With state governors and legislators currently grappling with many of the same issues Congress faced in 1986, FERS may provide useful background for their deliberations. This report provides a legislative history of the arduous five-year effort to overhaul the federal retirement system by enacting FERS and how various forces affected the passage of the law.

SOCIAL SECURITY FUNDING, BUDGET DEFICITS DROVE FERS: This landmark legislation resulted in large part from the need to shore up the Social Security system by broadening its base (by mandating coverage of the federal civilian work force), along with pressure from then-President Ronald Reagan to reduce federal spending. Through a remarkable combination of bipartisanship and trust among the key players in both the House and Senate (at the time, controlled by different parties), and shrewd legislative strategizing, lawmakers enacted a sweeping and cost-cutting law that fundamentally restructured the retirement benefits. The success of the law can be seen in the fact that, in the current debate over cutting federal spending, no sweeping proposals have been made to cut federal retirement benefits (although there is a proposal to raise workers' contributions to their retirement plan).

A THREE-TIERED SYSTEM: Congress created FERS with three basic elements:

- Mandatory Social Security coverage of civilian federal workers as a base.
- A basic and mandatory defined benefit pension plan, but with a lower level of benefits than the rich plan that existed at the time.
- And a new voluntary thrift savings 401(k)-type plan (patterned after the private sector) where worker contributions matched by the employer would be invested in a limited variety of investment funds. The changes applied to most federal civilian workers hired after 1983, including the foreign service and intelligence agencies.

KEY FACTORS TO SUCCESS: Despite initial opposition from labor groups and veto threats from the Reagan administration, Congress ultimately enacted a plan that reduced federal spending and eventually won strong support from federal workers, particularly because of the Thrift Savings Plan (TSP). Lawmakers deliberately and carefully insulated the TSP from political manipulation and minimized the impact of the federal workers' investments in the financial markets.

From 1978–1986, Jamie Cowen was chief counsel to the U.S. Senate Subcommittee on Civil Service, Senate Governmental Affairs Committee, and also served as assistant to Senate Majority Whip Ted Stevens (R-AK). In that role he served as one of the principal legislative architects of the Federal Employees Retirement System Act of 1986 (FERS). This article provides a first-person record of the legislative history of the enactment of this major federal law, which currently governs the retirement benefits for most civilian federal employees in the United States. The author dedicates this article to the late Sen. Ted Stevens.

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Introduction

During the current debate over controlling the federal budget deficit, some officials have suggested freezing or cutting the salaries of federal employees, or reducing their health benefits.[1] But tellingly, federal *retirement* benefits have not yet been targeted for cuts (although a new contribution by employees is "on the table").[2]

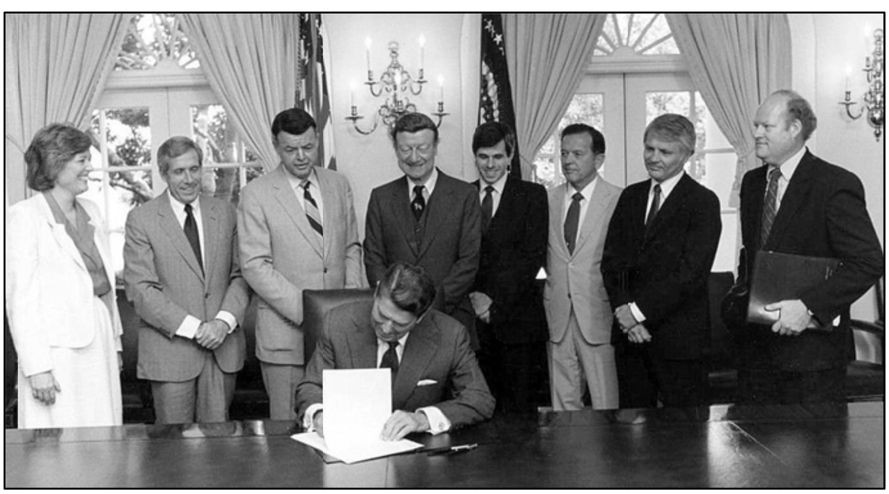
Numerous state governments are now debating reforms similar to what Congress undertook in 1986: Move government workers into Social Security, reduce the generosity of their current defined benefit pension plan, and add a defined contribution 401(k)-type plan. And therein lies the value in this story of the creation of the Federal Employees Retirement System (FERS), 25 years ago this year, and how it came to be enacted.

This landmark legislation resulted in large part from the need to shore up the Social Security system by broadening its base (by mandating coverage of the federal civilian work force), along with pressure from then-President Ronald Reagan to reduce federal spending. Through a remarkable combination of bipartisanship and trust among the key players in both the House and Senate (at the time, controlled by different parties), and shrewd legislative strategizing, lawmakers enacted a sweeping and cost-cutting law that fundamentally restructured the retirement benefits. The changes affected all those who would be hired as civilian federal employees after 1983, while giving the option to those with the government at that time to join the new system if they chose.

Despite strong initial opposition from federal employee groups, and veto threats from President Reagan, FERS successfully reduced federal spending on retirement benefits (although exactly how much is still debated), replaced a robust defined benefit plan with a modest one, and combined a new 401(k)-type plan with Social Security coverage for the federal work force. At the time, these were hugely controversial moves, and yet today FERS garners overwhelming support from federal workers.

This law is perhaps the key reason why federal retirement benefits today—unlike almost any other government program—are not being singled out for major reform.

When President Reagan signed the Federal Employees Retirement System Act of 1986 into law on June 6, 1986,[3] I was able to witness the event, having been positioned behind the president's chair by Sen. Ted Stevens (R-AK). As chairman of the key Senate subcommittee of jurisdiction, Stevens was the principal sponsor of the legislation, and as chief counsel of his subcommittee, I was deeply involved in every aspect of the arduous five-year campaign it took to enact FERS.



President Reagan signing FERS into law (left to right: OPM Director Connie Horner, Rep. Frank Wolf (R-VA), Rep. John Myers (R-PA), Sen. William Roth (R-DE), Jamie Cowen, Sen. Ted Stevens (R-AK), OMB Deputy Director Joe Wright, OMB Director Jim Miller *(photo: White House)*

Although the law creating FERS was not signed until 1986, the process leading up to it began much earlier, in the spring of 1981. Following a speech before a federal employees' organization, Stevens instructed me, as chief counsel of the Senate Government Affairs Subcommittee on Civil Service, to begin design of a new government retirement program patterned after private-sector practice, with three tiers: Social Security as the base and a voluntary thrift savings plan on the top (the middle tier was unstated).

What was ultimately enacted had these three elements:[4]

- For the first time, mandatory Social Security coverage of civilian federal workers as a base.
- A basic and mandatory defined benefit pension plan, but with a lower level of benefits than the rich plan that existed at the time.
- A new voluntary thrift savings 401(k)-type plan where worker contributions matched by the employer would be invested in a limited variety of investment funds.

Stevens' intention was to protect employee benefits from constant political attack. At the time, federal employees were exempt from Social Security coverage, and his argument was that if federal workers had a Social Security-based system, coupled with private investment where they were subject to the same opportunities, risks, and market whims as the rest of American workers, the federal system would not be subjected to frequent political turmoil.

Stevens' leadership in the legislation would prove instrumental in its passage, and his interest in the issue was natural, since at the time he was chair of the primary Senate panel with jurisdiction over federal benefits. He was one of four key lawmakers on Capitol Hill responsible for the issue, along with Sen. William Roth (R-DE), chair of the full Senate committee, and two House members: Rep. William Ford (D-MI), chair of the full House Post Office and Civil Service Committee, and Rep. Mary Rose Oakar (D-OH), chair of its Subcommittee on Compensation and Employee Benefits (and Stevens' counterpart in the House).

So how has federal pension reform fared, 25 years later? Did the legislation accomplish the purposes that Stevens set out for it? In light of today's focus on reining in the federal budget (including cutting entitlement programs), and with many states examining their own retirement systems, it is instructive to review the process of federal pension reform a quarter-century ago in order to see how the current system was created and what governors and state legislators might learn from the experience as they confront a number of the same issues faced by the Congress in 1986.

Federal Retirement Programs in the 1980s

Two major issues confronted the federal retirement program in the 1980s:

First, federal employees were the largest group of workers exempt from Social Security taxes and benefits. Yet, most such employees ultimately gained Social Security eligibility anyway by working outside federal employment. This exemption for federal workers was highlighted and singled out for criticism by various Social Security reform commissions.[5] Because the benefits of the Social Security system were geared toward lower-income workers, and since Social Security benefits are based upon wages earned throughout an entire career, those workers who only work partial careers covered by Social Security receive benefits as if they are lower-wage earners—a real anomaly for federal employees, whose average wages while employed by the federal government exceed that of average private-sector wages.

For years, federal employee organizations successfully fought off attempts to cover federal employees under Social Security, but Stevens saw this as being short-sighted and making the federal retirement system more susceptible to political attack, and he knew that eventually they would be covered by Social Security anyway.

Second, driving Stevens' initiative was the federal budget crunches of the early 1980s and the pressure to cut federal spending. President Reagan, newly in office, had campaigned against the federal government and its bureaucracy and promised to slash the federal budget. In response, Congress passed a series of highly unusual federal program cuts through a complicated budget process known as reconciliation.[6] One of the programs suffering cuts was the existing federal Civil Service Retirement System (CSRS).

CSRS was a very generous pension system—politically, difficult to defend. It was often subjected to criticism due to its benefits, exacerbated by the fact that members of Congress were also participants. Federal retirement benefits were also enhanced by annual cost-of-living adjustments linked to the consumer price index. Due to the high inflation of the 1970s, federal retirement benefits were increasing by significant amounts every year and in some cases provided for retirement income that actually exceeded the salaries of employees who worked in the very same positions from which retirees had retired. This made for great political fodder. Stevens, generally a supporter of government employees, saw that overhauling the federal retirement programs and designing a system comparable to a good private-sector plan one would actually protect the federal system from political attack.

Since I knew next to nothing about designing pension programs, I contacted three agencies controlled by Congress: the Congressional Research Service (CRS) (a branch of the Library of Congress), the General Accounting Office (GAO) (now the Government Accountability Office), and the Office of Technology Assessment (OTA). Most federal agencies belong to the executive branch, but as the federal government expanded its role in society over time, Congress established its own legislative agencies to assist in overseeing the executive branch. The GAO was established in 1921 to audit the financial activities and performance of federal agencies to ensure that federal activities were operating efficiently. CRS was formed in 1970 from earlier renditions specifically to assist Congress in its legislative function by providing research and reports. OTA was created in 1972 to assist Congress in scientific and technical matters; it closed in 1995.

At a meeting in the late spring of 1981, I presented representatives of all three agencies the assignment given to me by the senator. Dr. Denny Snook of CRS offered to get CRS behind the project and issue a report on a series of recommendations. For that to happen, Stevens, as subcommittee chairman, would need to formally request CRS to produce such a report, which he did. CRS completed its study in late 1981, laying out a series of recommendations, all of which included Social Security as the base.[7] It proved very helpful and influenced the ultimate legislation. Over the next several months, Stevens and I discussed the various options and chose an approach that, going forward, included federal workers in the Social Security system, as well as created a voluntary defined contribution "Thrift Savings Plan" (TSP), in which workers could contribute a percentage of pay to be matched in part by the government. Workers could invest their savings in various but limited types of funds. The design was patterned after a popular teachers' retirement plan known as TIAA-CREF.[8]

Drafting the Legislation

The author and Sen. Stevens at a hearing *(photo: Jamie Cowen)*

During the spring and summer of 1982, an employee detailed to our office from the executive branch, Mr. Lawrence Holman, and I designed the outlines of a new retirement plan for the federal government. As we covered different topics such as making federal employees subject to the Social Security system, designing the defined contribution and thrift plans, establishing a new agency to oversee private investment, determining legitimate amounts for survivors, etc., we would bring each written proposal to the Senate Legislative Counsel for actual legislative drafting. For laws to be implemented accurately, they must be carefully crafted in proper parliamentary form, and both the House of Representatives and the

Senate have special offices where specially trained lawyers do the legislative writing of individual bills. We would sit with one of many attorneys on the staff of the Legislative Counsel's office and go over our proposals. He would ask numerous questions to ensure the accuracy of what was to be written. After a time, he would send us a written draft. We would read it and meet again with him until we were satisfied it reflected exactly what we proposed. It's quite an arduous process.

Both Mr. Holman and I realized that, in many ways, this new plan was revolutionary and could ultimately have a significant impact on the national economy. Federal employment, including postal workers, comprises approximately 3 million workers. Over time, the investment pool of this group would be the largest in the nation, pouring in billions of dollars into potential markets. We recognized the temptation for the government to influence markets by directing these investments into certain areas, so we tried as best we could to insulate the system from political manipulation.

In the fall of 1982, Stevens introduced his first major federal pension reform plan.[9] Immediately following the bill's introduction, it was attacked by federal employee groups and unions; while they recognized Stevens as a political friend, they were opposed to it for a number of reasons:

- One of the few perceived financial benefits of federal employment at the time was the retirement system. Less-than-adequate pay was compensated by a generous pension plan, specifically not tied to Social Security. Particularly by the early 1980s, Social Security was seen as a failing system which would never live up to its benefit commitments. Federal employee groups consistently opposed any merger with Social Security, as they did not want to be subject to Social Security taxes for a system that was seen as unlikely to pay its promised benefits.
- The new proposal by Stevens differed dramatically from the current system, and employee groups feared the destruction of the existing plan.
- Employee groups opposed the concept underlying both a defined contribution plan (where specific benefits were never guaranteed), and the idea of private investment.

None of this surprised Stevens, since his original goal was to get a specific proposal on the table so a debate could begin leading toward change.

But the handwriting was on the wall with respect to covering federal employees under Social Security. In January 1983, the National Commission on Social Security Reform, chaired by Dr. Alan Greenspan, issued its report recommending, among other things, mandatory Social Security coverage of all new federal employees.[10] Based on the Commission's report, Congress acted quickly, and the Social Security Amendments of 1983 were enacted in April.[11] In addition to covering federal employees, the law gradually raised the normal retirement age to 67 and increased Social Security contributions to their current level. Interestingly, this law was the last major change to Social Security that Congress has enacted.

The push for Social Security reform was due to serious short-term and long-term financial shortfalls. At the time, it was predicted the system would be short of funding by the late 1980s. But today, Social Security changes are being considered in part to deal with the larger federal budget deficit, in addition to shortfalls in the Social Security system.

The 1983 changes to Social Security caused the rapid buildup of a surplus in the Social Security Trust Fund, so as to (later) pay off benefits to the future wave of retiring Baby Boomers. But because Social Security contributions are considered revenue to the unified federal budget, such contributions throughout the years effectively subsidized other federal programs while concomitantly hiding a growing federal deficit. Now, as Baby Boomers are beginning to retire, the so-called "surplus" in the Social Security program has effectively been depleted, thus exacerbating an already out-of-control national deficit. Social Security reforms again are likely to be seriously considered, but for different reasons: Even though the Social Security Trust Fund is financially sound for at least another 20-plus years, Social Security benefits are counted as a drain on the unified federal budget, and budget-cutters will likely target the program.

With the new law mandating Social Security coverage for federal employees hired in 1984 and beyond, larger federal retirement reform now became a necessity. Our committee and the counterpart House committee quickly passed legislation reducing federal employee contributions to the federal plan for two years to provide time for Congress to form a new retirement system.[12] Without such an interim approach, employees would have been forced to pay the substantial contribution percentage to the federal system as well as full Social Security contributions, sharply reducing take-home pay. (Interestingly, one of the new deficit-reduction commissions' recommendations is to do this very thing; this issue will be discussed later).

Following enactment of the Social Security Amendments of 1983, I suggested to Stevens that he re-introduce his prior year's proposal to give us a head start on retirement reform. He refused, saying the timing wasn't right. He argued that we needed to build grassroots support for new legislation before introducing a specific proposal. Later in 1983, I contacted the president of the Employee Benefit Research Institute (EBRI), Mr. Dallas Salisbury. EBRI is a nonprofit organization that collects and disseminates information primarily on private-sector compensation and benefits, and was very interested in our approach to pension reform since it included significant private-sector involvement—especially in the investment area. We discussed various approaches and agreed to create a series of pension forums where members of Congress, congressional staff, employee representatives, and administration officials could gather with private pension and investment experts to discuss the future of a new federal retirement plan.

Eventually, five forums were held over a six-month period (December 1983−July 1984), covering subjects such as pension design, benefit structures, investment tools, Social Security integration, etc. Some of the nation's experts on these and other issues presented papers, and then other experts and those invited would query the presenters. A few members of Congress attended the forums for short periods, but mostly it was a bipartisan group of congressional staff from both the House and Senate, along with employee representatives and occasional administration staff. In retrospect, it was probably the most creative and successful thing we did throughout the entire pension reform process: The forums essentially educated the interested parties on how to design a workable federal plan that included Social Security coverage and helped to build consensus for eventual reform.[13]

Following the forums, other staff and I concluded the most common private-sector retirement program for large companies was a three-tiered plan with Social Security serving as a base, a modest defined benefit plan providing a fixed benefit (usually payable at age 62 and beyond), and a voluntary thrift plan where employee contributions were matched by the employer and invested in an array of investment funds. Additionally, we knew this approach on the federal level would receive the most support, so using the earlier legislation as a base we drafted a new bill for introduction.

A variety of factors influenced the next steps in the process. 1984 was a major election year, when President Reagan was re-elected as president. In addition, Sen. Howard Baker (R-TN), the Senate Majority Leader, retired from the Senate, and in December 1984, Senate Republicans caucused to elect a new leader: Stevens was a major contender, having served as the Minority Whip and, later, as Majority Whip for many years, but in a close election, Sen. Robert Dole (R-KS) prevailed. Stevens decided not to run for the Whip position and thus now was no longer in the Senate leadership. While a personal disappointment for both him and his staff, Stevens' loss in the Majority Leader race probably led to his greater involvement and influence in the outcome of the pension reform legislation, as he could now focus his considerable legislative skills on the Subcommittee on Civil Service.

The final major factor in influencing the eventual legislation was a series of cost studies of both federal and private plans conducted by CRS and the Reagan Administration.[14]

Unlike most costs associated with various programs, pension costs are always calculated for the future. When an employee retires, he or she begins receiving benefits until he and/or his surviving spouse dies. The common way of calculating the cost of pension benefits is known as "normal cost." Normal cost is a calculation of the present value of retirees' future benefits, and is presented as a percentage of payroll. The CRS (and later Congressional Budget Office) employer normal cost estimates of the then-current CSRS federal system was approximately 25 percent of payroll, far in excess of the normal cost of private plans even in larger companies. The administration, which had played little role in the development of the earlier legislation, jumped on these studies: Its primary interest for the rest of the process was to ensure that any new system cost substantially less than the current one. For obvious reasons, this put both the White House and the legislative process in Congress on a collision course with employee organizations and unions.

1985 became the pivotal year for pension reform. All interested parties recognized a new system was unavoidable, in light of federal employees having been added to Social Security. That did not, however, diminish the intensity of interest and perspectives on a new federal retirement plan. By the winter of 1985, we had a bill ready for introduction, but Stevens wanted us to attempt to win broader support for the proposal before unveiling the legislation. Consequently, we formed a pension working group with the Senate Governmental Affairs Committee staff to see if we could hash out a bipartisan approach.

Sen. William Roth (R-Del.), chairman of the committee, wanted the plan's employer normal cost more in line with the administration's target of approximately 19 per-cent of payroll. The Democrats, led by Sen. Thomas Eagleton (D-Mo.), ranking minority member of the committee, argued for a cost approximating the current system, around 25 percent of payroll. Naturally, employee groups and unions wanted a richer plan whose structure was linked to the current one. We met for several months haggling among ourselves and the interested parties.

Sen. William Roth (R-DE)
(photo: Townhall.org)

Other than cost, the major point of difference was how rich the thrift plan would be, especially in relation to the second-tiered defined benefit piece of the plan; from the outset, Stevens wanted a plan similar to private-sector approaches.

As we studied different plan designs and looked at future employment projections, we noted that, unlike the public sector, employees in the private sector, on average, did not stay with the same employer for a full career. This was especially true of the professional and technical classes. The current federal plan, however, only rewarded those who worked a full career in government. The plan actually made it difficult for highly talented private-sector employees to move into and out of government in mid-career because the benefits were weighted to full-career employees, and at that time federal pay usually lagged behind private-sector pay. In order to make government work attractive to prospective mid-career talent, we believed we needed a system with portable benefits. A rich thrift plan accomplished this: Whatever one earned in a retirement benefit, one took with him.

With the exception of the Senior Executive Association, representing the senior executives in the government, the employee organizations were unalterably opposed to our concept. These groups represented current employees, who were all under the current system. The employee groups' primary desire was to protect the benefits of the current work force. This inevitably led to proposing and supporting plans that resembled the current system. These differences caused an eventual breakdown in the bipartisan talks and led to a bill introduced solely by Sens. Stevens and Roth, with no Democratic co-sponsors.

Further complicating the process were the different types of employees covered under the plan. Throughout the years, as the federal government grew and new types of employment arose, specialized classes of employees were established that were given enhanced benefits. These classes included firefighters, law enforcement personnel, those with prior military service, Foreign Service officers, members of Congress, etc. Each group lobbied for similar status in the new legislation, far more difficult now with the inclusion of Social Security and a thrift plan, since neither one easily leant itself to enhanced benefits. Questions arose among the staff as to how much of the government should be included. What about the military which has its own retirement system? The Foreign Service? The intelligence services, which have unique problems?

As an example, apparently the CIA had major concerns, primarily related to the secrecy of their employees. For instance, if another government agency, in this case the later-established Federal Investment Thrift Board, had access to accounts, covert agents' covers could be jeopardized. We discussed various approaches workable for their unique issues. We finally decided that, whatever specialized agencies wanted included in the new plan, they would work with the relevant committee in Congress, and when our legislation moved to the Senate floor, the other committees could offer amendments to our bill, making it a far larger package. This ultimately made floor management of the legislation far more complex, because of the need to coordinate now with multiple committees, somewhat rare in congressional matters.

In the end, the military decided to stick with their existing system, in part because the military was already covered by Social Security, and, thus, a new system was unnecessary. Years later, the military successfully lobbied for inclusion in the Thrift Plan (to be discussed later). However, both the Foreign Service and the Intelligence agencies opted for inclusion, thus necessitating coordination with both the Senate Foreign Relations Committee and Senate Intelligence Committee. Ironically, the White House formally played little role in the development of the legislation, but many of the individual agencies comprising the Reagan Administration had real concerns and worked extensively with us in its final structure.

By far the most complex piece of the new legislation was the treatment of existing employees. Stevens believed the proposed new plan had so many attractive features that many current employees would want the option to switch. But this was a huge headache, since the two systems were completely different: Social Security benefits are not available until age 62, but the existing CSRS plan provided full retirement at age 55 for those working a full career in government. How were the two to be combined, especially when a major piece of the new plan is based on thrift plan investments, which need time for earnings to compound? This was not resolved until the final House/Senate conference when this section was completely rewritten.

Finally, the innovative but potentially troublesome issue of private investment of a future huge federal government pension fund needed addressing. There were certainly examples of large public pension funds investing in private markets, but there was limited experience with federal funds. How do federal employees enjoy the opportunity of private investment without creating a federal monster that can manipulate markets and possibly make or break certain industries?

Richard Schreitmuller, an experienced private-sector pension actuary recently hired by Roth, offered a solution: He suggested a passive investment approach, where the eventual Federal Thrift Board would choose a stock index investment fund (such as a Standard & Poor's 500 stock index) to which employees could invest. In this way, no one group could move massive amounts of money into or out of certain companies, and his suggestion allowed the thrift plan's initial investment options to be set. Employees would have a minimum of three choices:

1) Special government securities.

2) Guaranteed investment contracts (GICs), most likely to be offered by insurance companies.

3) A stock index plan.

The Federal Thrift Board would contract with insurance companies to offer option #2 and would choose which stock index fund that employee and employer contributions would be invested in.

S. 1527

With these issues resolved, S. 1527 was introduced in July 1985 by Stevens and Roth. Stevens knew the administration would never agree to a bill whose ultimate cost was comparable with the current system. It was our view that the plan's long-term cost would need to be 10−15 percent less than the current one. Unfortunately, the administration was never clear on what would be acceptable, so often we were working in the dark.

To design a plan that was attractive to many and also reduced costs to the government was a challenge. What made the current system so susceptible to political attack was the ability for one to retire in his or her mid-50s with essentially full retirement benefits—something very unusual, if it occurred at all, in the private sector. Consequently, the new proposal shifted both benefits and costs from the early retirees to those who migrated in and out of government and to those who remained at work into their 60s, again more comparable to private industry. Since no Democrats joined in the introduction of the legislation, we also knew eventual negotiations with them would necessitate richer benefits and higher costs, jeopardizing administration support, so we further trimmed benefits in the proposal as introduced. The costs of the proposed plan were approximately 20 percent less than the then-current system.

When the bill was introduced, it was referred to the Senate Committee on Governmental Affairs, chaired by Roth. Rather than further refer it to the subcommittee chaired by Stevens, the typical approach, the bill was held by the full committee. In September 1985, two days of hearings were held where employee organizations, private-sector experts, and administration officials testified.[15] Most of the employee organizations were opposed to the legislation but recognized something had to be done. Private-sector witnesses generally supported it. The administration also supported it with some modifications.

Shortly thereafter, the full committee held a bill markup—typically, one of the most important parts of the legislative process. This is where the members of Congress (in our case, senators) actually debate and amend legislation. Senators sit around a long table with copies of the legislation. Staff members sit behind them, conferring with them and quickly drafting new amendments as they become necessary.

However, in a well-prescribed process, much of the work again is done in advance during staff meetings and discussions. Stevens wanted to see if we could still draft a bipartisan bill; it would expedite approval by the full Senate. To get Democratic (and hence labor organization) support would mean enriching benefits and transforming the legislation into something comparable with the current system. But regardless of what happened in committee, and even on the Senate floor, we knew the final legislation would be written in a conference with our counterpart House committee.

So we came up with a convenient but admittedly bizarre solution: Stevens and Roth would support a Democratic alternative added to the bill which would grant employees choice between two plans:

1) The Stevens/Roth proposal.
2) The Democratic proposal (similar to the existing system), dubbed options A & B.

Both options were enriched somewhat to gain Democratic support. The new plan/plans were now 15 percent less costly than the current one. As predetermined, Eagleton and the other Democratic committee members added the second option during the committee markup. As a result, the committee unanimously voted to report the bill to the Senate floor, but the two-option approach was simply political expediency: If the bill had been enacted as written, it would have been completely unworkable.

The real work for the staff now began, writing the committee report accompanying the bill to the Senate floor. Since legislative language is so technical and often amends other sections of existing law, the committee report explains the meaning of the legislation. Usually, the report contains two main sections: a general explanation of the bill, highlighting major features and providing reasons for the legislation; and a section-by-section analysis that describes each part of the legislation. These reports provide the legislative history of bills and laws, and not only educate the other members of Congress who will vote on the bills, but also provide guidance to federal agencies and others in administering the eventual legislation.

In our situation, we divvied up the legislation. Democratic staff members for Senate Governmental Affairs wrote the report's section dealing with their preferred option. I wrote most of the remainder. It took us approximately three weeks to complete the report. On October 30, 1985, the bill and the report were then reported to the Senate floor for debate and (hopefully) passage.[16] Ironically, the Senate report became the primary legislative history for the eventual law. Our House counterpart (the House Post Office and Civil Service Committee) never submitted a report with their bill, and the conference committee later issued a very sparse one (as explained later).

House Action

Concurrent with our committee's action, another development occurred that significantly influenced how we proceeded. The House committee with jurisdiction over federal employees was the House Committee on Post Office and Civil Service, chaired by Rep. William Ford (D-MI). After enactment of the Social Security Amendments of 1983, mandating that future federal employees be covered by Social Security, the House committee initiated a series of studies for a new retirement plan. The studies culminated in the introduction of H.R. 3060 in October 1985 by Ford and Rep. Mary Rose Oakar (D-OH), providing for a new retirement system with benefits and costs comparable to the current system; not surprisingly, during public hearings the labor organizations enthusiastically supported the bill while the administration adamantly opposed it.

Rep. William Ford (D-MI) *(photo: House of Representatives)*

In mid-November the Committee approved an amended version of the bill, but never reported it to the House floor or ever issued a report. Throughout the years, Stevens and Ford had developed a good working relationship which spilled over to the staffs. Ford was very concerned about bringing his bill to the House floor because, despite the Democratic majority in the House, federal employees were not particularly popular at the time (President Reagan had famously fired more than 11,000 striking air traffic controllers in 1981), and Ford knew that if the administration fought the bill its passage would be in jeopardy. Ford's staff and I began to confer about alternative approaches.

We decided on a creative and unusual plan: The House Committee would report to the House floor an innocuous and unrelated bill, ultimately to be used as the legislative vehicle for us to add the provisions of Senate pension reform bill, so we could move to a House/Senate conference. Typically, one house of Congress passes a bill which is then considered and amended by the other chamber. For any significant legislation, a House/Senate conference is then held, where differences are ironed out and a newly amended version is subsequently sent back to both chambers for final consideration. When the final conference version is agreed to by both chambers, it is then sent to the president to be signed into law.

Rep. Mary Rose Oakar (D-OH) *(photo: House of Representatives)*

It is not unusual for one chamber to amend an unrelated bill and then call for a conference, or even amend an unrelated bill and have the other chamber simply pass it and send it to the president. What made our plan unusual was to add a major piece of legislation to an unrelated bill and call for a conference when the other house had never even considered any similar legislation on the floor. In other words, the first time the full House would see the pension reform legislation would be as part of a final conference report—a very unusual scenario.

Additionally, the only real plan subject to the conference would be the Senate one. Normally, conferences can only consider proposals that were in either one of the bill's versions passed by one of the houses. Though not uncommon, totally new provisions could make a conference report subject to points of order in either chamber when the report is brought back for final adoption. Informally, what the staff decided to do, once the Senate passed the bill and it reached the conference, was to use the Stevens/Roth option of the Senate bill as the Senate version and then accept the House Committee's approved version as the House version of the bill—even though it had never passed the House. In this way, there would be an essentially Senate Republican version and a House Democratic one. This plan was ultimately approved by the principal legislative players, Stevens and Roth on the Senate side and Ford and Oakar on the House side.

The Senate Majority Leader usually sets the agenda for when bills are considered on the Senate floor. One major factor for the timing of a bill's consideration is how long the debate is likely to take. To ensure earlier consideration, negotiations take place with interested senators and their staffs to resolve any amendments in advance. The goal, if amendments are necessary, is to transform them into "friendly amendments," or changes ultimately supported by the bill's sponsor and manager. Since the legislation had received unanimous approval in committee, we assumed there would be no amendments seeking to change the basic structure of the plans.

But as mentioned earlier, both the Foreign Service and the Intelligence agencies wanted their respective employees to be covered by the plan but also to receive special treatment. Jurisdiction for the Foreign Service was in the Senate Foreign Relations Committee, for the intelligence services, it was in the Senate Intelligence Committee. Each committee could have introduced its own bill and sought approval, but the committees realized it would be more expeditious to simply amend our bill with their provisions. Coordination was the key: Once our bill was under consideration on the Senate floor, the chairperson of each of the other committees needed to be ready to offer an amendment adding their special provisions to the legislation.

Getting to Conference

By early November 1985, the Senate bill was readied for Senate floor action. Senate and House staff agreed the House vehicle for amendment would be H.R. 2672, a bill renaming a post office in New Jersey. The plan was for the House to pass the bill, and when it arrived in the Senate, the parliamentarian would keep the bill at the Senate desk rather than refer it to committee, the normal process. When the Senate bill was fully debated and all amendments added, the provisions of the Senate bill would be added to the House bill and sent back to the House. The House would then call for a conference. The House passed H.R. 2672 a few days prior to Senate consideration of the Senate bill, followed by a series of bizarre circumstances. Wires got crossed, and the next thing we knew was that the Senate somehow passed H.R. 2672 prior to Senate consideration of the pension plan: Our vehicle to get to a conference committee was gone. Typically in such a scenario, the bill goes to the president for signature, which in this case meant a renamed post office in New Jersey, without pension reform. However, congressional rules can be bent: The House Post Office and Civil Service Committee was able to retrieve the bill, make a very minor change and resend it to the Senate for reconsideration.

In November 1985, S. 1527 came before the full Senate, with Stevens as floor manager. Various senators spoke to the bill, and the chairmen of both the Senate Foreign Relations Committee and Intelligence Committee offered their respective amendments, bringing the Foreign Service and the Intelligence services under the new plan. Debate lasted for approximately two hours, quite brief for major legislation. This time, as planned, the provisions of the bill were then added to H.R. 2672, and the amended bill passed easily, 96−1. The bill was sent back to the House, which, as planned, requested a conference. The formal conferees (selected members of both the relevant Senate and House committees) did not meet until the following May. In the meantime, it was all staff work.

Including me, there were approximately nine staff members representing seven members of Congress involved in the negotiations. We organized a side-by-side analysis of the two bills, opting to use the House Committee version and the Stevens/Roth plan of the Senate passed bill. For the next several months, we negotiated over the provisions, checking in frequently with the members. For many of the meetings, we included the respective House and Senate legislative counsels to do the actual drafting, who split up responsibilities and submitted drafts for our review.

The two most contentious issues were how rich the thrift plan would be versus the underlying defined benefit pension benefit, and the overall cost and value of the final proposal. We argued strenuously for a rich thrift plan to afford highly portable benefits and thus enhance private-sector employment migration into and out of the government. The House version had a modest thrift plan but members there were concerned that lower-paid workers (represented by most of the labor organizations) would not participate in the thrift plan, thus leading to sharply reduced retirement benefits. Our version provided for a $1-for-$1 match (the employer matching each dollar contributed by the worker) up to 5 percent of pay, whereas the House provided for a $0.50 match for each $1 contributed up to 6 percent of pay.

Projected employee participation also significantly affected costs, especially in the Senate version. The House staff offered the compromise that was eventually adopted: The government would contribute 1 percent of pay to every employee's account prior to any employee contributions. This would ensure 100 percent employee participation. This was followed by a $1 for $1 match up to the next 3 percent of pay, and then a $0.50 match for each $1 contributed up to the next 2 percent of pay. The final product generally followed the Senate's thrift plan provisions and the House's defined benefit provisions.

The most complicated provision was the handling of current employees. All employees hired after 1983 would be automatically covered. Once the new system was implemented, handling these employees would be fairly straightforward. However, there were about 2.5 million employees who would remain covered by the old program. Stevens vigorously argued for the option to permit them to transfer, and such an option was included in the Senate-passed bill. The House committee version included no such provision. The final product provided for a six-month window in which current employees could switch. The mechanism, however, was a monster, since the two systems were completely different. The old system was exempt from Social Security, whereas the new one provided for Social Security as a base; the old plan did not include a thrift plan, whereas the new one provided a fairly rich one. Because of the transfer provision's complexity, the eventual law needed to be amended later a few different times, exacerbated by an event occurring later in the conference (discussed later).

The biggest obstacle to agreement was the cost. The Reagan Administration was committed to limiting the new plan's cost to that of the average in private industry. Earlier studies determined that the current system cost approximately 30 percent more than large employers' private plans. Naturally, all employee organizations supported maintaining current costs and benefits. As discussed earlier, the plan introduced by Stevens and Roth cost about 20 percent less than the current system; the plan passed by the Senate cost around 15 percent less. The House Committee version cost approximated that of the current system.

By March, 1986, all negotiations between the Houses were complete, with cost being the only remaining obstacle. The difference between the two sides was about 1/2 percent of normal cost. The administration threatened to veto the bill if the Senate's negotiated version increased costs any further. The House and the employee organizations would not budge. Complicating matters was the legislative deadline for passage of a new system: On May 1, full employee contributions to the old system would recommence, sharply cutting take-home pay and affecting hundreds of thousands of employees.

Other Senate staff and I scrambled for answers and finally found one—another creative solution. Embedded in an earlier CRS report[17] was an obscure conclusion that covering federal employees under Social Security actually reduced government costs in the long run; as it turned out, the savings were exactly the difference in cost between what the administration and the House would support. But the current cost estimates of the Senate- and House-negotiated positions never included these savings; we argued that if these newfound savings were adopted, the House could claim they held off further cuts in federal pension benefits, while the Senate could claim pension costs were reduced by 12 percent over the current system, the outer limit of what the administration would accept. Each side could use different cost estimates based upon the newly discovered Social Security findings, and this brought the two sides together—although no one was fully confident of the administration's final position. To prod the White House along, both sides agreed to allow the deadline for a new system to pass, at which point employees' pay was docked. With this pressure, the administration finally indicated it would recommend that the president sign the bill.

On May 15, 1986, the conferees met and ratified the newly re-written and negotiated plan. Then came the shocker— Stevens told the staff to prepare the conference report and bill for passage the following day. Normally, conference reports on major legislation take weeks to prepare. The bill's language needs to be carefully culled to avoid mistakes. In addition, a report must be written to help explain the bill's provisions, especially when a completely new bill has been agreed to. While the staff strenuously objected, the conference managers (Ford and Stevens) insisted we move fast. Working nonstop, beginning the afternoon of May 15 through the morning of May 16, House and Senate staff hammered out new language, with the help of legislative counsel, along with a very modest explanation of the plan. On the morning of the May 16, the House unanimously passed the conference report, and the Senate followed suit that afternoon.

Signed Into Law

The signing ceremony at the White House was held on June 6, 1986. Typically, members of Congress involved in a bill's passage and other key interested parties are invited to observe the president sign a bill. The press is often present as well. Members often bring key staffers along. Because the administration's relationship with labor unions was poor, the White House refused to invite labor leaders to the signing ceremony, over the objections of many members. As a result, no Democratic members of Congress attended—a real tragedy, since many of them played key roles, especially in the House.

Following the bill's enactment, I and a few other staff members involved in the legislation formed a consulting firm to help the government implement the law. But a few months later I was asked to return to Stevens' staff. The legislation became effective on Jan. 1, 1987, but there were major problems with some of the language: Because we had to rush the conference report out to the floors of Congress, major mistakes occurred. I spent the next month working with House staff to resolve the legal language issues, all combined into a bill calling for "technical corrections" to the existing law; that bill passed in November 1986.[18] Then other Senate staffers and I wrote a supplemental report of the new pension legislation issued by the Senate Governmental Committee to assist federal agencies in implementing it.[19] This was done because the earlier conference report had little or nothing to say about the legislation.

Lastly, we noticed a funding problem with the new Federal Thrift Board: Because the legislation was enacted subsequent to the submission of the president's next year's budget request, there was no funding for this new agency. In the future, the board would be self-funded by a small percentage of investment contributions and proceeds, but it needed startup funds. While the White House did have some discretionary money for such situations, we didn't particularly trust the administration since it had opposed the private investment option. At the last second during the conference of that year's final appropriation bill, I submitted a request on behalf of Stevens to insert funds for the new Federal Thrift Board, which was agreed to—FERS was up and running.

This account intentionally traces my involvement throughout the long history of this legislation to help those outside the congressional process appreciate what goes into making law. However, I was only one of many to see this project through. Congress is often criticized for its often obtuse and at times inefficient processes. But in this case, though, the process worked, because of strong bipartisan cooperation and trust among the key players (both members and staff) in Congress. The legislation took years of study, debate, and negotiation to finally pass, and fundamentally reshaped retirement benefits for the civilian federal work force.

Twenty-Five Years Later

During the 1980s there were ever-increasing attempts to scale back federal pension benefits. However, since the enactment of FERS in 1986, there have been few, if any, serious attempts to reduce federal pensions. During the legislative process of federal pension reform, most employee organizations vociferously attacked the Stevens' proposals, fearing any new plan would undermine the old one. Yet, the opposite occurred, and Stevens was correct—a new plan patterned after private-sector models would protect the federal system. Since the old plan was effectively closed to employees hired after 1983, budget cutters left it alone. Only the Thrift Savings Plan has been subjected to attempted congressional interference, and again, this was predicted by Stevens and the staff.

The Thrift Savings Plan was the most innovative and controversial part of pension reform, particularly the authorization to allow investment of federal employee funds in private markets. Private investment of state and local government plans was common, and a few small independent federal agencies similarly participated. From the beginning, Stevens insisted on this option: He felt federal employees should experience the rewards and the risks of such efforts, similar to that experienced by private-sector workers. However, there were huge problems to confront: Not only was there the fear of mismanaging employee funds by some investment board (not unjustified, in light of the Enron, Madoff, and other financial scandals in recent years), but also the fear that a future intrusive Congress may find a such a large fund tempting to utilize for political purposes. The sponsors of the legislation correctly predicted the Thrift Plan fund would eventually become the largest pension fund in the United States (it achieved that distinction in 2009, and today has approximately $288 billion in assets).[20] For these reasons, the Reagan Administration opposed this option throughout—ironic, in light of its penchant for private-sector initiatives.

In response, the legislation constructed numerous safeguards to prevent any and all of the above. It imposed heavy fiduciary requirements upon both the Federal Thrift Investment Board (the Thrift Plan's managing board) and its executive director. The House/Senate Conference report declared:

> The Board members and employees are subject to strict fiduciary rules. They must invest the money and manage the funds solely for the benefit of the participants. A breach of these responsibilities would make the fiduciaries civilly and criminally liable.[21]

In fact, Thomas Trabucco, director of External Affairs for the Board and a staff member since its inception, recently told me that this paragraph is read to each new board member to help him or her understand his or her role. Trabucco further said there has never been any attempted politicization of investments. In addition, the legislation was designed to ensure all investments were passive. In other words, the stock investment funds needed to be index funds (where employee funds are invested in an array of predetermined stocks), and where no investment managers are actively engaged in specific trading.

In contrast, various members of Congress have attempted to politicize the investment options. This was a fear from the beginning. The conference report directly addressed this issue:

> As to the issue of Congress tampering with the thrift funds, the inherent nature of a thrift plan precludes that possibility. Unlike a defined benefit plan where an employer essentially promises a certain benefit, a thrift plan is an employee savings plan. In other words, the employee owns the money. The money, in essence, is held in trust for the employee and managed and invested on the employee's behalf until the employee is eligible to receive it. This arrangement confers upon the employee property and other legal rights to the contributions and their earnings. Whether the money is invested in Government or private securities is immaterial with respect to employee ownership. The employee owns it, and it cannot be tampered with by any entity, including Congress.[22]

Throughout the years, there has been no serious attempt by Congress to co-opt employee money. But what has occurred is a series of proposals to provide employees investment options that are either "socially motivated" or that more directly benefit one particular industry over others. These include proposals to establish a "green" fund, a small minority fund, and even a "free Darfur" fund. Among those of us who drafted the Thrift Savings Plan, future Congresses were expected to attempt to establish such entities—which is why the original legislation sought to protect the TSP from any politically motivated investment options and to insulate the system from political manipulation. The goal was quite simple: provide workers with opportunities to enhance their retirement income through top-notch, professional investment options. Stevens in particular, as well as other principal drafters of the law and the Thrift Board itself, consistently and successfully opposed all such proposals to venture into politicized investments.

One proposal, however, came close to success. In 2005, Rep. Tom Davis (R-VA) introduced legislation that would have created a new investment tool called the Real Estate Investment Trust Fund.[23] It was, for obvious reasons, actively promoted by the real estate industry. The legislation gained 215 co-sponsors in the House, just short of the 218-vote majority needed for passage in that chamber. The Thrift Board and Stevens strenuously opposed the effort, claiming that two of the Thrift Plan's existing funds already invested a portion of shares in real estate but used a more balanced approach. The proposal was finally defeated.

However, the susceptibility of the Thrift Fund to these continued proposals is significant. In light of the recent collapse of real estate markets, one can see the danger of a specific-directed investment option; it is likely many federal workers would have sustained substantial investment losses had that real estate investment option been created. One key structural protection against outside interference, according to Trabucco, is that the Thrift Plan Fund is classified by the enacting legislation as "nonbudgetary"—meaning that its assets are not considered to be part of the federal budget and therefore not counted as revenue (or loss), thereby keeping it out of federal budget battles.

Since the Thrift Plan's inception, there have been carefully chosen enhancements to the TSP investment options. In 2001, a small capital stock fund (S) and an international fund (I) were added to the existing stock index fund (C), the fixed-income fund (F), and the Government Securities Fund (G).[24] In 2005, another five funds were created by the Thrift Board under the designation of L Funds, which create specific percentage combinations of the above funds.[25] These were proposals initiated by the Thrift Investment Board in consultation with Employee Thrift Advisory Council, a group of employee representatives to assist the Board in best representing employee interests in the management of the Fund. It should be noted that all such funds include a wide array of investments to better protect employee interests.

Key to the success of this retirement system reform was significant employee participation in the Thrift Plan. Stevens envisioned a plan where costs were reallocated from those retiring in their 50s with full benefits (available under the old plan) to those participating in the Thrift Plan. Obviously, the longer an employee worked, the more he or she contributed and the longer they delayed retirement, the Thrift Plan accumulations (and thus payouts) could be significant. Various options of employee participation rates were considered in the drafting of the legislation to determine at what point employees would likely receive comparable or greater benefits than they would have received under the old system. To enhance employee participation, the final legislation authorized an automatic 1 percent of pay contribution by the employing agency into an employee's account without regard to any employee contribution. The conference report accompanying the final legislation stated the following:

> The conferees believe the Thrift Savings Plan is a key element of the new retirement system. It encourages Federal employees to participate actively in their own retirement planning. The automatic 1% Government contribution for each employee coupled with the attractive agency matching contribution provides a strong incentive for employees to participate.[26]

The automatic 1 percent government contribution created an unintended consequence that led to dramatic employee participation rates. When the legislation was signed in June 1986, it made the Thrift Plan effective on January 1, 1987, later changed by subsequent legislation to April 1.[27] The Thrift Plan Investment Board was a brand-new agency and suddenly had to deal with 600,000 employees immediately eligible to participate in this new system. Normally, the board would not have access to employee records—these would be controlled by employing agencies. However, the 1 percent automatic contribution enrolled all employees in the Thrift Plan and granted to the Thrift Board direct access to employees. As a result, the board was able to communicate right away with employees, and this led to very significant participation rates. In the past 10 years, participation rates ranged from a high of 88 percent to a low of 81.5 percent, with the rate in March 2011 at 85.2 percent.[28]

More surprising is the average rate of contribution by participating employees. A 2005 study by the Thrift Board found the average contribution rate by a FERS employee to be 8.6 percent of pay,[29] significantly in excess of even the maximum contribution (5 percent) eligible to receive an employer match. When combining both the recent data on participation rates and the 2005 data on average contributions by participants, the results show the average employee contributes 7.3 percent of pay to the Thrift Plan. Projections done just prior to the legislation's enactment estimated average contribution rates would be near 4 percent. Stevens' original concept of enhanced employee participation in his or her retirement planning has been borne out by statistics.

Despite all of the clearly positive factors above for workers, the driving force behind pension reform was cost reduction. In the 1980s, the federal retirement program faced a continual onslaught of bad press and budget cuts. This came to a head in the Reagan Administration and its emphasis on cutting the federal budget. Just as the administration would highlight abuses in the welfare system, so too it attacked federal employees retiring in their 50s with full benefits indexed for inflation. Our challenge in Congress was to devise a new plan that adjusted this formula and somehow reduce costs while still making federal employment attractive.

The earliest Stevens proposal, introduced in 1982, was projected to reduce the cost of the current system by approximately 20 percent to make it comparable with good corporate plans in the private sector. The final bill was projected to reduce costs by 12 percent, but estimating costs for pension systems is highly volatile, particularly when a plan offers a specific (defined) benefit plan, the funding of which is dependent upon current interest rates, salary growth, prices, and other factors. Both Social Security and CSRS are examples of defined benefit plans.

Effectively, the cost to an employer for a defined benefit plan comes due only when a retired employee starts receiving benefits. But if the employer failed to prefund the benefits, the employer's costs will eventually become overwhelming as more employees retire, potentially bankrupting the business and placing retiree benefits at risk. To avoid such repeated calamities, Congress enacted the Employee Retirement Income Security Act (ERISA) in 1974,[30] which required, among other things, that private-sector sponsors adequately prefund their defined benefit pension plans to ensure a continuation of benefits.

How, then, is the amount of prefunding determined? This is where the concept of "normal cost" arises. Normal cost is the projected future cost of retirement benefits of a given employee at a given time, expressed as a percentage of pay. To say a retirement program is "fully funded" means that contributions by the employer and workers match the normal costs of all current workers. Many government pension programs to this day are not fully funded, since government plans are not subject to ERISA standards. During recessions—like the past one—the financial stability of public pension funds is often threatened, leading to financial and political crises as recently seen in Wisconsin and other states.

In 1986, when FERS was enacted, the employer normal cost of CSRS (the old system) was estimated to be 25.5 per-cent of payroll. The estimated cost for FERS was 22.5 percent, or approximately 12 percent less. But cost calculations for the two plans are completely different, making cost comparisons very dicey. Two of the three legs of FERS are unrelated to normal cost calculations: Social Security contributions are fixed as a matter of law, and each employing agency must make Social Security contributions on behalf of its employees. The current Social Security contribution rate is 6.2 percent of pay. In addition, the Thrift Plan does not promise a specific benefit but rather offers matching employer contributions based on employee participation levels. Hence, employing agencies up front contribute percentages of pay to employees' Thrift Plan accounts. The only "normal cost" calculation done for FERS is for the defined benefit component of the plan.

The Office of Personnel Management's (OPM) Board of Actuaries is tasked with calculating the normal cost of both CSRS and the defined benefit component of FERS. Normal cost depends on underlying economic assumptions such as mortality rates, price inflation, interest rates, and wage and salary levels and increases. The 2010 Board of Actuary report[31] shows the employer normal cost of CSRS to be 18.8 percent of payroll, compared with 11.7 percent of payroll for FERS. When adding in Social Security payment costs and Thrift Plan costs, the overall cost of FERS to the government today is approximately 21−22 percent of payroll. Thus, the projected normal cost of CSRS since the enactment of FERS has dropped by approximately 25 percent, whereas the cost of FERS has remained fairly constant, creating the anomaly that today FERS likely is a more expensive program than CSRS. In discussing this with representatives of OPM, changes in underlying economic assumptions led to a significant revision of CSRS normal cost calculations.

So, did the pension reform reduce costs or increase costs to the government? It actually depends on one's perspective. At the time of its passage, utilizing the economic assumptions at that time, the plan did reduce long-term costs. Viewing it through the lens of today's economic assumptions, the reform plan costs more. If economic assumptions change again—and they will—the cost of the old plan could once again escalate. FERS costs, however, will always remain fairly constant unless there is a change in law, due to fairly constant costs with respect to Social Security coverage and Thrift Plan participation.

Twenty-five years later, how do we assess the success and/or failure of federal pension reform? The biggest testimony to its success is its durability without major change. It clearly shielded the federal pension systems from further political attack. It made the federal system comparable with better corporate plans and allowed for greater mobility between federal and nonfederal employment, one of its stated goals. As an example, I requested statistics from OPM comparing hiring rates of professional employees in the 1980s vs. more recent years. If our estimates were correct—that FERS would likely attract nonfederal employees into federal employment during mid-career—then statistics should show that hiring at higher GS levels would increase under FERS compared with the experience under CSRS only. The following is my question in bold and OPM's answers in italics:

What are the average yearly recruitment numbers for those who enter federal service at GS 11 or higher, excluding political appointees? What were the numbers like for the years 1981−86?

- *Note: The salary of a GS-11 was used as a benchmark so persons not on the General Schedule would be included. This was discussed with the requestor.*
- *Two five-year periods were examined: 1982 through 1986 and 2006 through 2010. For 1982 through 1986, the average number of nonseasonal full-time permanent new hires at the GS-11 and higher levels (excluding political appointees) was 9,871. For the 2006 through 2010 period, the average number of these new hires was 48,726.*

Admittedly, there could be many other factors influencing this dramatic change, but FERS certainly is a factor in the hiring of substantially larger number of high-grade professional employees.

Another testimonial to the success of pension reform was the decision of the U.S. military to join the Thrift Plan's nonmatched component in 2000.[32] As was mentioned earlier, during the 1980s reform process the military was asked to join in the reform but refused.

A good way to assess a program's success is to survey the employees actually covered. In 2006, OPM published an extensive employee survey about federal benefits.[33] The Thrift Plan consistently ranked the highest among employee views. Ninety-three percent of the respondents reported that the Thrift Plan was either important or very important. A majority of respondents said the Thrift Plan meets employee/family needs to a great extent. Approximately 80 percent reported the Plan was either a good or excellent value for the money. Seventy percent agreed the Plan was competitive with nonfederal benefits.

From the beginning of the process, Stevens insisted the new plan provide an option for then-current employees to transfer out of the old CSRS system into FERS. The subcommittee report accompanying his first proposal stated the following: "While the new system is specifically designed for a new work force, the aforementioned features make it very attractive for current workers to join. The flexibility and portability of the benefits in the new system would certainly lure those who have not yet decided that they want to make government work a career."[34] The final legislation authorized a six-month window from July 1, 1987–December 31, 1987 for the 2 million current employees to opt into the new one. Subsequent legislation provided another window in 1998.[35] Yet, the numbers of transfers were shockingly small. Approximately 4 percent of employees eligible to transfer to the new plan actually did so in 1987.[36] The numbers transferring in 1998 were even lower.

Unlike when the plan began, the vast majority of federal workers today are covered by FERS,[37] and have found many of its features highly attractive, as evidenced by the 2006 employee survey. When FERS passed in 1986, it was brand new, completely different from the old system, and viewed suspiciously by most employees since it was enacted during a period of federal benefit reductions. Experts predicted 50 percent of the then-current work force would benefit by transferring to FERS, and that 30-40 percent would actually transfer.[38] Clearly, the dramatic differences between plans, the transfer complexity, and worker suspicion kept transfer numbers low.

As a point of interest, Stevens himself chose to transfer his own personal coverage to the new plan.

The Legacy of FERS

At 25 years, FERS stands as a strong testament to Stevens' foresightedness and the five-year-long process that led to its enactment. Potential Social Security changes being considered today by those trying to reduce the budget deficit, such as raising the Social Security normal retirement age, will not require changes to FERS like those forced on the existing federal retirement system at the time of the 1983 Social Security Amendments. Still, FERS benefits would likely be affected by such changes.

A more significant proposal being floated today to curtail federal budget deficits is to increase employee contributions to the defined benefit component of the FERS system. The increased employee contributions would reduce the government's projected normal cost contribution amounts. Currently, FERS employees contribute 0.8 percent of pay to FERS. Some proposals recommend increasing the contribution amount to one-half the projected normal cost, or 6.25 percent of pay. This would be the most significant change to FERS since its enactment.

A more interesting question is whether federal pension reform as embodied by FERS can provide useful background for state pension programs. There are currently 15 states whose employees are not covered by Social Security. Public pension reform must be done with a great deal of forethought, inclusion of relevant parties, and appropriate studies, showing the likely impact of such changes. Clearly, federal pension reform proved to be a highly successful model of those approaches. It may also provide background for governors and legislators as they seek to address their own public employee retirement program structures and issues of whether to include all state and local workers in Social Security.

Endnotes

[1] See *Federal Times,* "Federal employees, retirees rattled by moves to cut health benefits," June 8, 2011, about the Simpson-Bowles recommendations.

[2] See *Federal Times,* "OMB: Changes to federal retirement benefits 'on the table.'" April 14, 2011.

[3] P.L. 99-335, *Federal Employees' Retirement System Act of 1986*. June 6, 1986.

[4] See also "New Federal Retirement Plan Approved," *Congressional Quarterly Almanac,* 99th Congress, Second Session…1986, Vol. XLII, pp. 315−317.

[5] "Social Security in America's Future," *Final Report of the National Commission on Social Security*, March, 1981; *Report of the National Commission on Social Security Reform,* January, 1983.

[6] P.L. 97-35, *The Omnibus Budget Reconciliation Act of 1981*, August 13, 1981.

[7] U.S. Congress, Senate, Committee on Governmental Affairs, *Restructuring CSRS: Analysis of Options*, Washington, DC: Government Printing Office, January, 1982.

[8] Teachers Insurance Annuity Association – College Equities Retirement Fund.

[9] United States Senate. S. 2902, Civil Service Pension Reform Act, 1982.

[10] *Report of the National Commission on Social Security Reform,* January, 1983.

[11] P.L. 98-21, *Social Security Amendments of 1983,* April 20, 1983.

[12] P.L. 98-168, *Federal Employees Retirement Contribution Temporary Adjustment Act of 1983*, November 29, 1983.

[13] *Forums on Federal Pensions* (Parts I-V), Washington, DC: Government Printing Office, December, 1983–July, 1984.

[14] *Designing a Retirement System for Federal Workers Covered by Social Security*, Washington, DC: Government Printing Office, December, 1984.

[15] *Civil Service Pension Reform Act of 1985, Hearings on S. 1527*, September 9–11, 1985, Washington, DC: Government Printing Office, October 30, 1985.

[16] *Report to Accompany S. 1527*, Washington, DC: Government Printing Office, October 30, 1985.

[17] *Designing a Retirement System for Federal Workers Covered by Social Security*, December, 1984.

[18] P.L. 99-556. *FERS Technical Corrections Act of 1981*. October 27, 1986.

[19] *Supplemental Information Regarding the Federal Employees' Retirement System Act of 1986*, Washington, DC: Government Printing Office, October, 1986.

[20] United States Government, Internal report of the Federal Retirement Thrift Investment Board, April, 2011.

[21] United States Congress, *Conference Report 99-302 accompanying H.R. 2672*, establishing the Federal Employees' Retirement Act of 1986. May 16, 1986. 136.

[22] *Conference Report 99-302*, 137.

[23] United States House of Representatives, H.R. 1578, April 12, 2005.

[24] Authorized by P.L. 104-208, September 30, 1996.

[25] Since the L funds were compilations of the other existing funds, legislation was not required.

[26] *Conference Report 99-302*, 134.

[27] P.L. 99-556, *FERS Technical Corrections Act of 1986*, October 27, 1986.

[28] United States Government, Internal report of the Federal Retirement Thrift Investment Board, April, 2011.

[29] Thrift Savings Plan, "Participant Behavior and Demographics," Federal Retirement Thrift Investment Board. 2005, 2.

[30] P.L. 93-406, *Employment Retirement Income Security Act of 1974*. September 2, 1974.

[31] *Federal Register,* Volume 75, Number 118, June 21, 2010. 30598.

[32] P.L. 106-398, October 30, 2000.

[33] United States Office of Personnel Management, Results of the 2006 Federal Benefits Survey.

[34] Civil Service Pension Reform Act, Washington, D.C.: Government Printing Office, December, 1982, p. 21.

[35] P.L. 105-61, October 10, 1997.

[36] Schreitmueller, Richard G., "Federal Employees' Retirement System Act of 1986," *Society of Actuaries – Transactions,* Volume XI, Part I, 1988, p. 609. Mr. Schreitmuller served as an actuarial consultant to the Senate Governmental Affairs Committee during consideration of the pension reform effort. His article cited above is an excellent and extensive description of the plan's process and its features as signed by the President.

[37] According to OPM, as of June 2010, 258,576, or 12.26 percent of all Federal employees, are covered by CSRS, and 1,712,753, or 81.19 percent of all Federal employees are covered by FERS.

[38] Schreitmueller, p. 604. Comments by Mr. Edwin C. Hustead.

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Retirement and health benefits are at the heart of workers', employers', and our nation's economic security. Founded in 1978, EBRI is the most authoritative and objective source of information on these critical, complex issues.

EBRI focuses solely on employee benefits research — no lobbying or advocacy

EBRI stands alone in employee benefits research as an independent, nonprofit, and nonpartisan organization. It analyzes and reports research data without spin or underlying agenda. All findings, whether on financial data, options, or trends, are revealing and reliable — the reason EBRI information is the gold standard for private analysts and decision makers, government policymakers, the media, and the public.

EBRI explores the breadth of employee benefits and related issues

EBRI studies the world of health and retirement benefits — issues such as 401(k)s, IRAs, retirement income adequacy, consumer-driven benefits, Social Security, tax treatment of both retirement and health benefits, cost management, worker and employer attitudes, policy reform proposals, and pension assets and funding. There is widespread recognition that if employee benefits data exist, EBRI knows it.

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- EBRI directs members and other constituencies to the information they need, and undertakes new research on an ongoing basis.
- EBRI maintains and analyzes the most comprehensive database of 401(k)-type programs in the world. Its computer simulation analyses on Social Security reform and retirement income adequacy are unique.

EBRI makes information freely available to all

EBRI assumes a public service responsibility to make its findings completely accessible at www.ebri.org — so that all decisions that relate to employee benefits, whether made in Congress or board rooms or families' homes, are based on the highest quality, most dependable information. EBRI's Web site posts all research findings, publications, and news alerts. EBRI also extends its education and public service role to improving Americans' financial knowledge through its award-winning public service campaign *ChoosetoSave*® and the companion site www.choosetosave.org

EBRI is supported by organizations from all industries and sectors that appreciate the value of unbiased, reliable information on employee benefits. Visit www.ebri.org/about/join/ for more.

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Established in 1978, the Employee Benefit Research Institute (EBRI) is the only independent nonprofit, nonpartisan organization committed exclusively to data dissemination, research, and education on economic security and employee benefits.

The Institute seeks to advance the public's, the media's and policymakers' knowledge and understanding of employee benefits and their importance to our nation's economy.

EBRI's mission is to contribute to, to encourage, and to enhance the development of sound employee benefit programs and sound public policy through objective research and education.

EBRI has earned widespread regard as an organization that "tells it like it is," based on the facts. As the Bylaws state: "In all its activities, the Institute shall function strictly in an objective and unbiased manner and not as an advocate or opponent of any position."

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Issue BRIEF

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The Employee Benefit Research Institute (EBRI) was founded in 1978. Its mission is to contribute to, to encourage, and to enhance the development of sound employee benefit programs and sound public policy through objective research and education. EBRI is the only private, nonprofit, nonpartisan, Washington, DC-based organization committed exclusively to public policy research and education on economic security and employee benefit issues. EBRI's membership includes a cross-section of pension funds; businesses; trade associations; labor unions; health care providers and insurers; government organizations; and service firms.

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EBRI's work advances knowledge and understanding of employee benefits and their importance to the nation's economy among policymakers, the news media, and the public. It does this by conducting and publishing policy research, analysis, and special reports on employee benefits issues; holding educational briefings for EBRI members, congressional and federal agency staff, and the news media; and sponsoring public opinion surveys on employee benefit issues. **EBRI's Education and Research Fund** (EBRI-ERF) performs the charitable, educational, and scientific functions of the Institute. EBRI-ERF is a tax-exempt organization supported by contributions and grants.

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EBRI Issue Briefs is a monthly periodical with in-depth evaluation of employee benefit issues and trends, as well as critical analyses of employee benefit policies and proposals. ***EBRI Notes*** is a monthly periodical providing current information on a variety of employee benefit topics. EBRI ***Fundamentals of Employee Benefit Programs*** offers a straightforward, basic explanation of employee benefit programs in the private and public sectors. The ***EBRI Databook on Employee Benefits*** is a statistical reference work on employee benefit programs and work force-related issues.

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