

**Testimony Of  
Colleen M. Kelley  
National President  
National Treasury Employees Union  
on**

**The Federal Workforce: Legislative Proposals for Change**

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Committee on Governmental Affairs  
342 Dirksen Senate Office Building**

Chairman Akaka, Ranking Member Cochran, Members of the Subcommittee, my name is Colleen Kelley and I am the National President of the National Treasury Employees Union (NTEU). NTEU represents more than 150,000 federal employees across 25 agencies and departments of the federal government.

Thank you very much for holding this hearing today to consider changes in the federal government's approach to hiring and retaining employees. I think we all share the same goal - to entice the brightest, most talented and committed employees to public service and to ensure that the federal government remains an employer of choice.

The tragic events of September 11 showed the world that civil servants at every level of government are decent, hard-working men and women committed to doing the best job possible despite what are often difficult circumstances. Since that day, Customs employees have labored under heightened Level 1 border security in an effort to protect our borders, working long hours often far from home. Federal employees at the FDA and the Nation's other federal health agencies have worked to ensure the continuation of our safe food and water supply as well as access to critical medicines in the event of further bioterrorism attacks.

The need to hire and maintain a highly trained and skilled federal workforce has never been more clear. Federal agencies are in a contest with state and local governments and private sector employers for the best employees; a battle we continue to lose.

Mr. Chairman, for too long, too little attention and too few resources have been spent on the federal government and its employees. Inadequate pay and benefits remain the primary obstacles to retaining the highly qualified employees we have today and recruiting the federal workforce we will need tomorrow.

There is really very little mystery surrounding the federal government's inability to attract young people to federal service. Quite frankly, a decision to fully implement the Federal Employees Pay Comparability Act (FEPCA) and provide federal employees with compensation that mirrors that received by their private sector counterparts would do more to address recruitment and retention in the federal government than all of the federal government's other incentive programs combined.

In spite of this, the President's budget proposes a 4.1% pay raise for the active duty military while suggesting that the Nation's civilian employees deserve no more than a 2.6% raise next year. This is not a proposal the Administration would make if it were serious about fixing the human capital crisis.

It is especially ironic that these same federal employees who are apparently important enough to spend months in secret, remote locations to ensure continuity of government in the event of further terrorist attacks, are not even deserving of the same pay raise the Administration recommends for the Nation's military next year. The recommendation for a 2.6% pay raise next year for the Nation's federal workforce represents a slap in the face for every hard working federal employee represented by this Union.

According to the Bureau of Labor Statistics, in some parts of the country, the gap between private and public sector pay is as much as 30%. The Federal Employees Pay Comparability Act, which was designed to close this gap, has

been on the books for more than 10 years now. It has never been fully implemented; even during times of budget surpluses. Yet, as we know, for most prospective employees, the most critical element in deciding whether or not to accept a job is salary. Moreover, the Congressional Research Service recently announced that in order to comply with the FEPCA law, federal employees would have to receive average raises of more than 18% in 2003. Despite these facts, the Administration has recommended a 2.6% federal employee pay raise next year. Is it any wonder we face a human capital crisis?

It is particularly disturbing that the bills that are the subject of this hearing today - bills that seek to fix the human capital crisis - fail to address the crisis the government faces in federal pay. I do not think it is possible to solve the human capital crisis without addressing this critical issue. In NTEU's view, Mr. Chairman, any human capital legislation worth passing; any human capital legislation that will have NTEU's support, must address the crisis in federal pay.

Another key element of the federal compensation package in need of review is the federal health benefits program. Once a crown jewel in the federal benefits package, today premiums for coverage under the Federal Employees Health Benefits Program (FEHBP) have put it out of reach for many employees. The program has rapidly become not only prohibitively expensive for current employees, but unattractive to prospective employees as well. It, too, limits the federal government's ability to be competitive with the private sector.

FEHBP premiums increased an average of 13% in 2002, following hikes of 10.5% and 9.3% the previous two years. Over the last five years, premiums for the most popular FEHBP plan, Blue Cross Standard Option Family Coverage, have increased by 60%. During this same period, federal salaries increased an average of 13%.

As health insurance premiums consume ever greater portions of employee take home pay, it is critical that the FEHBP, too, receive careful scrutiny. Legislation is pending before both the House and Senate (H.R.1307, S.1982) to increase the employer share of FEHBP premiums from the current average of 72% to the most common industry standard, 80%. These bills represent modest steps toward addressing the human capital crisis, yet despite the importance of affordable health insurance coverage to prospective employees, the human capital proposals pending before this body today do nothing to address this crisis either.

Another issue that continues to erode the morale of the federal workforce, and can't possibly encourage prospective employees, is the Administration's blind targets for contracting out federal jobs. The Bush Administration has set arbitrary privatization quotas for every federal agency, directing them to open up to the private sector 15% of their jobs considered to be commercial in nature by the end of FY 2003. The Administration will be directing agencies to ultimately open up to the private sector 50% - more than 400,000 of these jobs. These arbitrary quotas cannot help but significantly disrupt operations at agencies like the IRS, which is in the middle of a sweeping reorganization plan, as well as agencies on the front lines of our homeland defense activities.

I think we can all agree that government services should be delivered to the American taxpayers in the most reliable, most efficient and most cost-effective manner, and that agencies should continue to strive for higher performance in the delivery of these services. However, these one size fits all arbitrary outsourcing quotas give no consideration to the unique needs of individual agencies. There is no concern for the potential impact on the agency's ability to carry out its mission. No thought has been given to the impact these quotas may have on potential cost overruns, waste or broken promises. Fifteen percent of jobs during FY 03. Period.

Would you seriously consider employment with the federal government knowing your job may be contracted out from under you for no reason other than to meet an arbitrary number? Any prospective employee is going to be looking for at least a minimum level of job security - this proposal flies in the face of that.

I do want to take a moment to applaud both Senators Voinovich and Durbin for speaking out against these mindless quotas during the March 6 hearing on contracting out. But if we are serious about improving the federal government's ability to attract and retain the best employees, more concrete action must be taken. NTEU believes Congress needs to let the Administration know on no uncertain terms that these quotas are counterproductive and will not stand. Until that happens, the federal government will continue to send nothing but negative messages to prospective

employees.

I also want to comment specifically on several provisions contained in the human capital bills that are before this Committee today. In a November 8, 2001 letter to Chairman Lieberman, as well as in materials forwarded to Government Affairs Committee staff, NTEU has shared its strong objections to several provisions of S.1612, the Managerial Flexibility Act of 2001. NTEU objects to provisions changing the nature of demonstration projects as well as language permitting demonstration projects to be made permanent without Congressional approval.

In addition, we object to provisions that would grant SES and certain other management level employees eight hours of leave each pay period. Rank and file federal employees must work 15 years for the federal government before earning eight hours of annual leave each pay period. If Congress believes that annual leave limits are a barrier to hiring, then the system should by all means be reformed. However, NTEU will strenuously oppose efforts to increase annual leave for management while leaving the current system in place for rank and file federal employees. If the annual leave system is in need of reform, then let's reform it for all federal employees.

NTEU also strenuously opposes Title II of S.1612 which presents a controversial new proposal requiring agencies to prefund the retirement and health benefit costs for their future retirees. As you know, retirement contributions that agencies make for their employees in the Civil Service Retirement System (CSRS) do not account for the full cost of that retirement. That is precisely why the newer, Federal Employees Retirement System (FERS) was adopted. Since the adoption of FERS, CSRS system shortfalls have been covered by mandatory payments to the retirement fund.

Title II of S.1612, as well as the President's FY 2003 budget proposal, seeks to subject these mandatory payments to the annual appropriations process. For the first time, agencies would be required to pay these costs from their annual appropriations. If Congress failed to appropriate sufficient funding, or, if spending caps approved by Congress in future years precluded this funding, agencies would be faced with two choices. They would either no longer have the money to ensure payment of retiree health and retirement benefits, or they would be forced to further restrict employee training programs, reduce public services or conduct a reduction in force of federal employees.

These possibilities are not far-fetched; every year agencies are hamstrung by restrictive funding levels and forced to shuffle resources between competing priorities and from one account to another. This year will be no different. According to the Congressional Budget Office (CBO), once funding for homeland security and defense is removed from the discretionary spending figures suggested in the President's FY 2003 budget, discretionary spending declines by 1%. In other words, funding levels suggested by the President for domestic agencies will not even keep pace with inflation.

This provision has the potential to create an artificial funding shortfall that does not exist. These costs are already accounted for through mandatory payments to the retirement fund. Even the Administration admits that their proposal does not change the "bottom line of the budget as a whole...basic budgetary concepts of budget authority, obligations and outlays." What this proposal would do, however, is shift from mandatory accounts to discretionary accounts, \$9.2 billion in FY 03 and attempt to further squeeze federal agencies' ability to perform their missions. NTEU urges this Committee to soundly reject this proposal.

Some members of Congress have also suggested that one possible solution to the government's recruitment and retention crisis is better use of the many personnel flexibilities available to federal agencies. As this Committee knows, federal agencies have a wealth of flexibilities available to them. There are programs on the books that permit agencies to offer retention allowances of up to 25% of salary, bonuses of up to 25% of basic pay, performance awards, student loan repayment awards, incentive awards and even bilingual awards.

Unfortunately, in December of 1999, the Office of Personnel Management reported that overall, only 0.14% of all Executive Branch employees received recruitment, retention or relocation incentives in Fiscal Year 1998. Recruitment bonuses were given 0.3% of the time. Relocation bonuses were given to 1.0% of employees and 0.09% of employees received retention allowances. Less than 1/4 of 1% of the federal workforce received any form of recruitment, retention or relocation incentive in Fiscal Year 1998. When agencies were asked why they did not use the incentives available to them, more often than not, they cited budgetary constraints. Agencies simply are not being given the resources necessary to

fund the very programs and incentives that might actually help put them on the road to solving their human capital crises.

Some members of Congress have suggested increasing the amounts of money that agencies can offer prospective and current employees as well as expanding the circumstances under which recruitment and retention allowances can be offered. This possible solution ignores the basic problem. Expanding the availability of these incentives makes little sense if agencies are not provided with the resources to accomplish the goal. And, with agencies slated to receive a 1% reduction in their discretionary spending accounts for 2003, it is difficult to see how increasing and expanding recruitment and retention allowances will in any way translate into more of these flexibilities actually being offered to either prospective or current federal employees.

While NTEU welcomes legislation that draws attention to the federal government's human capital crisis, S.1603, too, includes provisions that NTEU is unable to support. While the legislation draws long overdue attention to the need to properly train employees, again, it does nothing to address the resource problems that have prevented agencies from adequately training their employees in the past. As we already know, absent Congressional intervention to provide increased resources, agencies will not even receive as much discretionary funding for salaries, and expenses such as training, in FY 2003 as they did in 2002.

The legislation also includes a provision that seeks to alter the competitive service hiring process. Like the members of this committee, NTEU is keenly interested in ensuring that candidates for federal employment can be brought on board as soon as is practical. However, we question whether moving away from the current rule of three accomplishes this goal. We also question whether or not a new system will be perceived as fair by current and prospective employees, will preserve merit principles, and whether or not it will ultimately lead to the best candidate being hired.

While proponents of the Department of Agriculture system claim that category ranking gives the hiring manager a broader choice of candidates from which to choose, critics point out that managers must be properly trained to assess individuals and make selections for this system to work properly. A poorly prepared manager would probably do a better job choosing among three candidates previously ranked for him or her.

A December, 2001 report issued by the Merit Systems Protection Board (Assessing Federal Job Seekers in a Delegated Examining Environment), raises serious questions about how to protect federal merit hiring in today's decentralized hiring environment. Federal government hiring has changed dramatically in the last 20 years, most notably with movement away from a centralized applicant assessment process operated by the Office of Personnel Management (OPM). Today, nearly 700 examining units within federal departments and agencies examine job applicants. According to the MSPB, the biggest disadvantage of this decentralization has been the lack of expertise in many federal offices to develop and maintain effective applicant assessment methodologies. In addition, MSPB reports, agencies that do not have the necessary expertise also don't have the resources to purchase the services elsewhere.

The MSPB report goes on to point out that agencies that regularly hire are more likely to have well developed personnel assessment tools. On the other hand, agencies that have been hamstrung by artificial personnel ceilings and hiring prohibitions in recent years are least able to effectively hire the individuals they may need. OPM maintains a professional staff skilled in personnel assessment, however, it does not receive funding to provide this assistance to agencies. Due to funding restrictions, agencies can only get OPM's help if they can afford to pay OPM for its services. Once again, agencies often cannot afford to purchase the expertise they require.

The MSPB report continues that the move toward decentralized applicant processing and hiring was motivated by the need for a hiring system that was faster and more flexible. While it may have achieved that goal, it appears that because some agencies do not use high quality processes for assessing applicants, the principle of selection of candidates based solely on merit may often be lost.

NTEU believes we need to move deliberately in this area. MSPB's findings must be taken seriously and I am sure the Committee would agree that making the hiring process faster at the expense of merit would not produce a positive outcome. We look forward to further discussion on this critical issue with the Committee.

S.1603 would also grant critical pay authority to federal agencies on a limited basis. Some have argued that this provision is necessary in order for the government to compensate highly qualified individuals on a level similar to what they might command in the private sector. As you know, NTEU would argue that inadequate pay prevents the federal government from hiring the best employees at **all** levels of government.

Moreover, a recent edition of Tax Notes (October 29, 2001, pages 593-609) raises serious questions about the use of critical pay authority in the federal government. The article states in part, "...when one looks at how the authority is being used, one might conclude that the IRS is exercising poor judgment. Although some critical pay employees with impressive and crucial skills were hired under this authority, others do not seem up to the standard."

The article also points out that six of the IRS's critical pay hires were public relations professionals and questions the wisdom of using this authority for PR people. In addition, Senator Grassley, a member of the National Commission on Restructuring the IRS which originally recommended critical pay authority for the IRS, has also raised serious questions about its use.

NTEU also objects to language in S.1603 that would reduce the notice of termination a poor performing employee would receive from 30 to 15 days. NTEU has serious concerns that this move could lead to the inappropriate termination of employees. While critics often complain that it is virtually impossible to fire a federal employee, the facts do not bear this out.

According to the Merit Systems Protection Board (MSPB), 8,400 federal employees were either fired, or quit in lieu of being fired, in the year 2000. Rather than reducing the proposed termination period, NTEU thinks it makes more sense to better train managers to manage and motivate their employees. All new federal employees are subject to a one-year probationary period during which they have very few rights. It seems to us that the best time to determine whether or not an employee will work out is during this period of time. Managers need to be better educated concerning their rights and responsibilities during this period and better trained to carry them out.

Thank you again, Mr. Chairman, for inviting NTEU to share our thoughts today on the multitude of issues before this Committee. We appreciate the attention you continue to give these important matters and we look forward to continuing to work with the Governmental Affairs Committee on the federal government's human capital crisis. I hope that, together, we will be able to craft legislative solutions to the severe problems the federal government faces.