EMPLOYMENT POLICY
FOUNDATION

Testimony of

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Before the

Special Committee on Aging

of the

U.S. Senate

for the Hearing on

Breaking the Silver Ceiling: A Generation of Older Americans Redefining the New Rules of the Workplace

September 20, 2004

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I am Ed Potter, president of the Employment Policy Foundation (EPF). EPF is a research and educational foundation founded in 1983 that focuses on workplace trends and policies. This hearing on older workers comes at crucial time as the American workplace faces future labor and skill shortages, spiraling health care costs, and concerns over Social Security, and the adequacy of retirement benefits and retiree health care benefits. The focus of my testimony will be on the private sector where the greatest number of legal and regulatory obstacles appear to exist to widespread use of phased retirement programs.

Americans are living longer than ever before. The average American now lives 19 years beyond retirement; many are living as retirees for 20 or 30 years. Moreover, by 2030, based on recent retirement patterns, some 50 million baby boomers can be expected to leave the labor market with a shortfall of labor supply needed to replace these workers as well as to fill the 150,000 a month net new jobs that, on average, can be expected to be created between now and 2030−about 45 million new jobs. Although there is concern about the performance of the labor market at the present time, by historical standards the current labor market is relatively tight, especially those with critical skills. The overall unemployment rate is below the average over the last half century and under three percent for those with a college degree and/or critical skills.

The retirement of baby boomers will result in the loss of critical workplace knowledge and skills across the spectrum of jobs that will affect American competitiveness. This trend coincides with the rapid rise in the skill levels of workers in other nations. At the same, surveys show that the interest in full-time work by the typical older worker falls after age 60 as workers seek to balance work, energy, economic anxiety, and personal self fulfillment

What is Phased Retirement?

Phased retirement programs offer a win-win strategy to meet the needs of retirees, companies and this country. Phased retirement is any human resources program that allows older workers to reduce their work hours and eases the transition into full retirement if that is the workers' preference. Although employer surveys suggest that 16 percent of employers have formal phased retirement programs, virtually no company, particularly those with a defined benefit pension plan, offers a seamless phased retirement program in which the employee gradually shifts from full-time employment to retirement. As a consequence, most phased retirees are retired employees from other firms or former employees who return after a several month break in service as independent contractors or part time employees. The rules are sufficiently complex that many companies are unwilling to consider phased retirement strategies for fear of jeopardizing their qualified pension benefits programs.

The Need for Phased Retirement

The American workplace is moving toward a devastating loss of human capital. As the large baby boom generation moves toward retirement, a smaller pool of workers will be left to fill their positions. Our research shows that by 2006, the demand for labor will exceed supply. By 2012, the labor shortage may grow to in excess of 6 million qualified workers.

Today, over 50 percent of the workforce is over age 40. Many of these workers will retire over the next 20 years. The number of employees under age 40 today, will be insufficient to fill the labor demand as those older workers retire. Increased labor force participation will be needed to help mitigate the loss of skilled workers. Phased retirement is a potential tool to help American companies maintain their international competitiveness while keeping per capita income growth strong. Presently, about 15 percent of the U.S. population is retired. Without a change in retirement policy, by 2030, this percentage will rise to 25 percent.

The Trends

As American workers live longer, they are also healthier in their retirements than ever before. Researchers at Duke University found that between 1982 and 1994, incidents of sickness and disability among Americans between 55 and 75 declined from 25 to 21 percent.[1] In the 1997, the Current Population Survey found that a minority of people in their late 60s and early 70s reported their health as being in fair or poor condition. Even fewer Americans reported disabilities, which would limit their ability to do work.[2]

The evidence indicates that many Americans are leaving the workforce long before their health or physical ability to carry out their job would require it. Recent research by the

Committee for Economic Development shows that there is no significant difference in the productivity levels of older workers and younger workers.[3]

Working in conjunction with a healthier older population, is a decline in the number of physically demanding jobs. As the economy has transitioned from a manufacturing to services, the number of workers engaged in physically demanding work has steadily declined. In 1950, 20.3 percent of U.S. workers worked in physically demanding jobs. By 1980, that number had fallen by more than half, to 9.1 percent of workers. According to an Urban Institute analysis of the Current Population Survey, by 1996, only 7.5 percent of U.S. workers were in physically demanding jobs.[4]

Employers, older workers and this nation all stand to gain from seamless phased retirement programs.

The Benefits of Phased Retirement for Employees

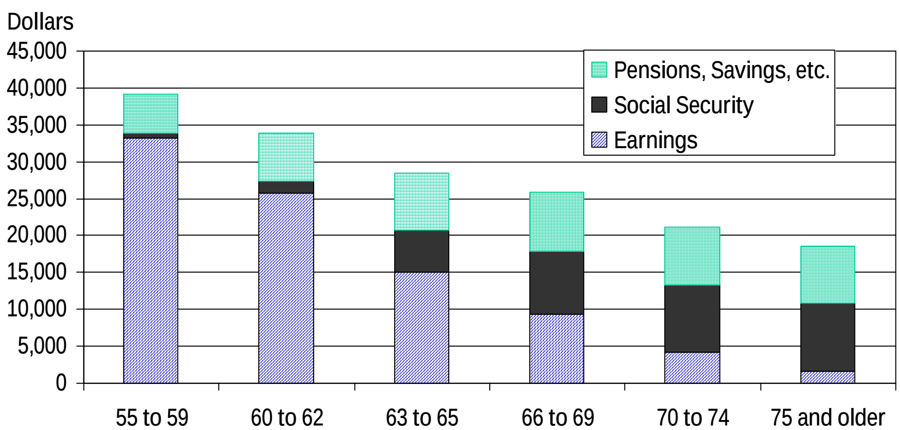
As Americans live longer, the amount of time they spend in retirement has grown. As more retired Americans seek out employment in retirement, the implementation of phased retirement programs would allow another option and more flexibility for older workers who would like to continue to work beyond the traditional retirement age. A continued employment option with their current employer would provide a psychological benefit deriving from a continued feeling of usefulness, in addition to a paycheck. For many Americans, retirement is the time when they recognize that work meant more than just a paycheck. The Committee for Economic Development found that work has a positive impact on the quality of one's life, promoting better physical and mental well-being.[5]

Older Americans are recognizing these benefits of work. According to a Cornell Employment and Family Careers Institute study, thirty-five percent of workers, age 54 and older, stated that being able to "partially retire" would be ideal, compared to only 19 percent who would prefer to "fully retire."[6] As Americans live longer, concerns about lengthier periods of isolation and social detachment become more pressing.

Today, many employees have jobs that require a heavy commitment of time and energy. Like many of us their full-time job is all consuming, but for some they may prefer to retire earlier and move to a job with a more realistic time commitment.

Moreover, older Americans have significant financial reasons for wanting to work past a normal retirement age. A 1999 Roper Starch Worldwide survey for AARP study found that 84 percent of respondents felt that their generation needs more money than their parents' generation to live comfortably. Older workers, having realized their higher standard of living have begun to seek ways to continue their income stream beyond the traditional retirement age. In addition, workers are increasingly concerned about whether their company's pension program and Social Security benefits will be sufficient to meet their retirement needs. Not surprisingly, Figure 1 shows that earned income, on average, is a declining share of income as workers pass age 60.

Figure 1
Total Income by Source
U.S. Civilian Population, Age 50 to 75, 2002



Source: Employment Policy Foundation tabulations of Current Population Survey, Annual Social and Economic Supplement.

There is evidence that older workers may be prematurely retiring. In 2000, a longitudinal study of retirement behavior of older Americans through the Health and Retirement Survey, revealed that nearly 40 percent felt that they retired earlier than they wanted to retire. Current Population Survey data suggest that, as a result of the 2001 recession and the decline in equity prices, the desire to extend employment for individual between 55 and 64 may have grown substantially, as reflected by increased labor market participation of this age group. Moreover, as shown by CPS data, beginning in the 1980s, the labor market participation of male pensioners between the ages of 55 and 61 has risen substantially from 37 percent to over 50 percent.

The implementation of phased retirement programs would greatly enhance the possibility of continued labor market participation with their current employer. Current pension regulations have led many workers to shift into contract consultant positions to maintain income or, alternatively, to seek employment with competitors or in different companies or industries.

The Benefits of Phased Retirement for Employers

Employers also stand to benefit from the implementation of formal phased retirement programs. At least 80 percent of the impending labor shortage will be a skill shortage. For example, in 2003, managerial, professional and technical occupations with high education and skill requirements constituted over 34 percent of all jobs. In the next 10 years, over 52 percent of all net new jobs will be in these categories. At the same time, skilled blue collar workers will be in demand in some industries. One Midwest utility stands to lose 50 percent of its skilled hourly workforce in the next 10 years through retirements.

Consequently, the need to retain highly skilled and experienced workers will become more acute. Current college graduation rates and workforce participation rates show that the labor force will be unable to replace the large-scale retirements of the baby boom generation. Flexible phased retirement programs would allow employers to mitigate the impact of those retirements by spreading them over a period of years.

In addition to slowing the loss of retiring workers, retention of those skilled employees has other benefits for employers. Workers reaching the traditional retirement age often have large amounts of institutional experience with company operations, requirements, procedures and structure that make them able to perform more efficiently in their positions than those without their experience. As new workers are brought into the labor force, older workers, who might otherwise have retired—can serve as mentors and educators—sharing their experience and knowledge with new employees. This can decrease the employee "ramp-up" time that would otherwise be required, resulting in more rapidly increased productivity levels.

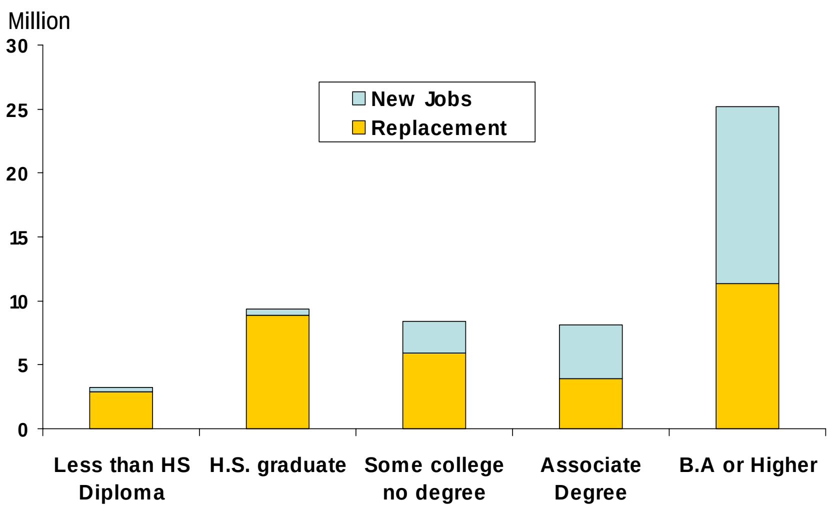
The Benefits of Phased Retirement Programs to This Nation

Taking into account long term trends in economic growth, productivity growth, population growth, labor market participation, hours of work and immigration, EPF has projected for several years that there could be a labor shortage of up to 35 million workers by 2030. With the transformation of the workplace to increasingly higher skill jobs requiring post high school education, we estimate that 80 percent of the labor shortage will be a skill shortage. As

Figure 2

American Workplace Education Needs by 2014

Employees to Fill New Jobs and to Replace Retirees by Education



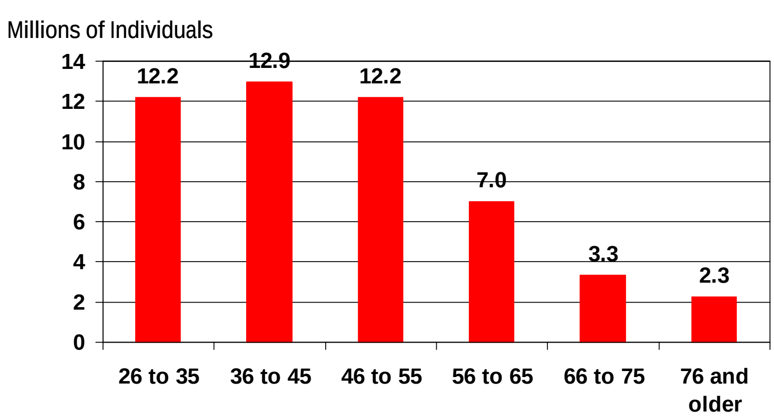
Source: Employment Policy Foundation estimates based on Bureau of Labor Statistics data and projections

Figure 2 shows, in the next 10 years, the vast majority of new jobs and a significant majority of jobs needed to replace retirees will require people with education beyond high school. The need to take advantage of the skills of retiring baby boomers is highlighted by Figure 3. It highlights that, because of slower population growth, for the first time in our history the number of college graduates entering the labor market is less than the generation that preceded it.

Figure 3

Skill Shortage Challenge

Persons with B.A. or Higher Degree by Age Group, 2003



Source: Employment Policy Foundation tabulations of BLS/ Census Bureau Current Population Survey data, March 2003 Annual Social and Economic supplement (March).

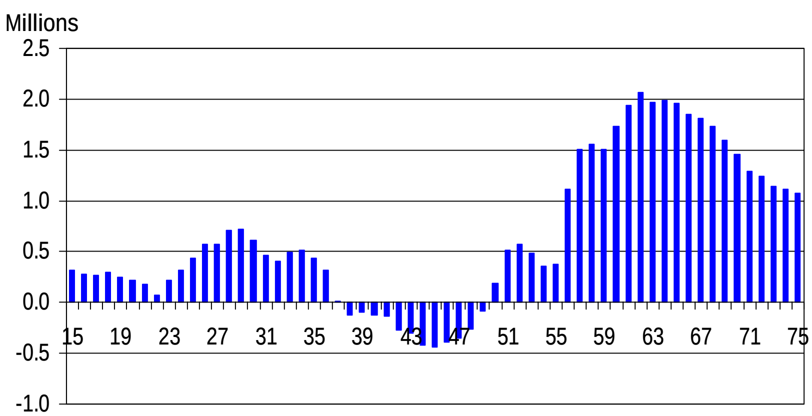
On average, each of us produces about $78,000 of goods or services. If the U.S. economy were short 35 million workers today, it would mean that our economy would be approximately $2.8 trillion smaller and our overall standard of living would be lower. This economic impact dwarfs the tax preference and lost tax revenue consequences that could result as a result of increased used of phased retirement programs provided by qualified pension plans.

Phased Retirement as a Strategy for Reducing Part of the Labor and Skill Shortage

Greatly over simplifying a complicated subject, there are essentially four ways to reduce a labor and skill shortage. You can raise the rate of productivity growth, by increasing capital investment, and research and development in order to replace unavailable labor. You can increase human capital investment through education and training to make available labor more productive. You can increase reliance on immigrants and guest workers from abroad. You can increase participation rates in the labor force, including increasing overall hours of work.

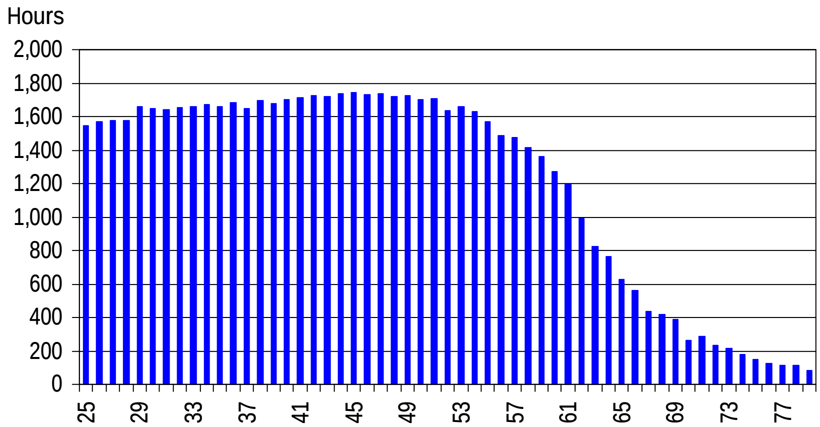
One way you can increase participation rates is by retaining older workers in the labor market who would otherwise be retired. Figure 4 shows the net change in the U.S. population over age 15 between 2002 and 2022, visually highlighting the significant bulge we will have in retirements in the next 20 years.

Figure 4
Change in Population by Age
U.S. Civilian Population, Age 15 to 75, Projected 2002 to 2022



Source: **Employment Policy Foundation tabulations of U.S. Census projections data.**

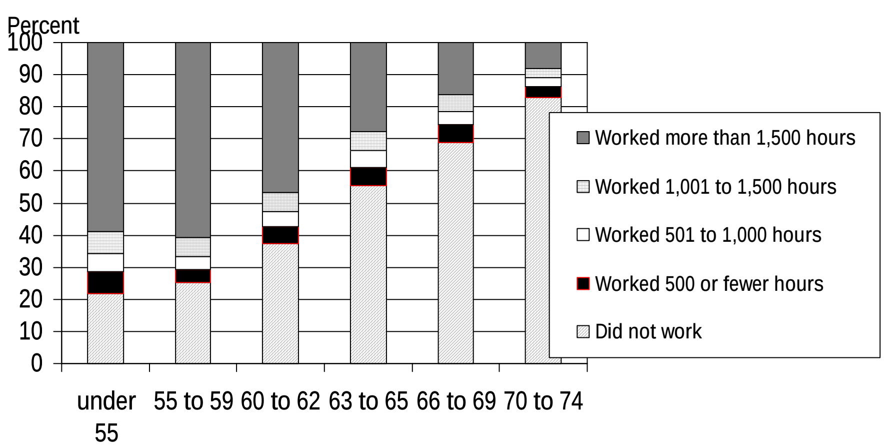
Figure 5
Average Annual Hours Worked by Age
U.S. Civilian Population, Age 25 and Older 2002



Source: Employment Policy Foundation tabulations of Current Population Survey, Annual Social and Economic Supplement.

Another means of reducing labor and skill shortages is by increasing hours of work of older Americans. Figure 5 shows that average annual hours clearly decline sharply for older workers. Clearly, a substantial number of older workers work incredibly hard as shown by Figure 6.

Figure 6
Duration of Annual Work Effort
U.S. Civilian Population, 2002



Source: Employment Policy Foundation tabulations of Current Population Survey, Annual Social and Economic Supplement.

Obstacles to Phased Retirement Programs

Today, phased retirement plans must confront a number of regulatory and legislative obstacles. A 2002 Employment Policy Foundation survey, conducted by researchers at the College of William and Mary, found that 65 percent of companies were interested in offering a phased retirement program. However, of the respondents, none of them had a formal phased retirement program in place. The survey found employers were highly concerned about legal and regulatory obstacles to implementing the phased retirement plans they desire. A random sample survey of Fortune 500 companies conducted by EPF this summer yielded similar results.

The obstacles arise from the Employee Retirement Income Security Act (ERISA), the Internal Revenue Code and related IRS rulings, and the Age Discrimination in Employment Act (ADEA).

1. Termination of Employment and Normal Retirement Age

a. Defined Benefit Plans

ERISA, and especially the Internal Revenue Code, make it difficult for individuals who are seeking to phase in their retirement. The most significant barrier mentioned as an obstacle to phased retirement, at least those administered through a qualified defined benefit plan, is the prohibition against pension distributions to active employees who have not attained normal retirement age. This is entirely a regulatory question. IRS rulings interpreting the IRS regulatory definition of a pension plan have interpreted this regulatory provision as prohibiting a pension plan from allowing for distribution of benefits prior to any termination of employment or plan termination for those who have not attained the normal retirement age. Unlike defined contribution plans discussed below, the normal age of retirement is not statutorily set but varies from plan to plan, ranging from age 55 to 62 depending on years of service with 59 ½ being the most common normal retirement age.

Because the IRS considers the restriction of pension distributions to be a qualification issue, the consequences of premature or inappropriate distribution of benefits could disqualify the defined benefit plan, resulting is disallowance of deductions for employer contributions to the plan as well as taxation of trust earnings and participants' vested benefits. As a result, companies are very cautious on the conditions for modified-phased retirement programs. Most require at least a six month break in service with maximum annual hours of 1000 hours. If the phased retiree works more than 1000 hours, the pension benefits are cut off. Some companies require a year break before rehire. Some companies have ruled out modified phased retirement entirely because their legal conclusion is that there is no break in service that is long enough to remove the pension plan from jeopardy.

As a consequence, an individual may retire in mid-project and the project requires special expertise to be completed. This puts companies in a position where to retain or rehire the person on a part-time basis for a period of time, whether as an employee or as a third-party independent contractor threatens the qualified status of the pension plan. The concern is whether the IRS would view such a retirement as a "sham" aimed at getting the individual off-payroll and receiving pension benefits. In addition, employers run the risk that retired "contractors" hired by employers may be found to be misclassified by the Internal Revenue Service (IRS), making for a large potential downside risk of penalties and fines. Further, contract-employment relationships with former employees often carry higher costs than do continued employment.

The alternative in some cases is to hire experienced outside consultants, at a multiple of the hourly rate, to do the work that the very qualified retiree could have done more easily, more effectively, and probably at a lower cost. The break in service requirement provides a strong incentive for the retiring employee to work for a different firm, once reaching retirement age. This prevents many workers, who wish to retire gradually from moving from full-time to part-time with their current employer. By working for a competitor, employees with intimate knowledge of a company's business operations and internal procedures and structure can provide that competitor with a strategic advantage, which could have been avoided if the employee had had the option to participate in a phased retirement program.

b. Defined Contribution Plans and Profitsharing Plans

By statute, most types of defined contribution plans prohibit distribution of benefits to employees before age 59 ½ except in cases of death or disability. Except for money purchase and target defined contribution plans, in service distributions can be made to participants who have not achieved normal retirement age. Only profit sharing plans are permitted to distribute benefits to participants while they are still working as long as the amount being distributed has been in the plan for at least two years or the participant has participated in the plan for five years.

2. Nondiscrimination Standards

ERISA requires employers to adhere to rules promoting uniformity and standardization in the treatment of employees and the types of benefits offered. The standards make it difficult for employers to create special benefit packages for select groups of workers—such as highly skilled workers or phased retirement plan participants. Consequently, the design of phased retirement plans is challenging because many of the individuals, whom companies would want to participate in a phased retirement program, would be chosen based on their level of skill and knowledge. Critical skills and labor shortages are not evenly distributed across the workforce. At the same time, higher paid workers might not want to take advantage of phased retirement because of loss of status and lower paid workers may not be able to afford the reduced income resulting from a phased retirement arrangement.

These considerations would not be an insurmountable hurdle if IRS regulations permitted a smaller pension option proportionate to the degree their work effort is below typical full time work and a larger pension once they fully retire. That is, employees taking advantage of phased retirement would retain the present value that their pension would have had if phased retirement did not exist. Under this approach no employee would be advantaged or disadvantaged by whether the phased retirement option was available to them. Thus, traditional discrimination testing would be unnecessary.

3. Age Discrimination in Employment Act (ADEA)

The application of the 1967 Age Discrimination in Employment Act (ADEA) prohibits age discrimination for persons 40 and over. The ADEA precludes the use of a mandatory retirement age for most workers and cessation or reduction of the rate of benefit accrual or allocation of contributions for workers attaining normal retirement age. When companies hire older workers near the plan's normal retirement age, these protections result in increased employment costs.

Plaintiff's attorneys have increasingly utilized ADEA to file lawsuits - particularly class action suits -- against employers. As a result employers are not likely to risk such litigation by implementing phased retirement programs. Phased retirees are also likely to part time workers. Employers frequently provide different benefit packages to part-time workers than to full time workers. Even a nominal difference in benefits could serve as the basis for an age discrimination suit.

4. Limitations on Benefits and Contributions

Qualified plan regulations impose limits on the amount of benefits payable from defined benefit plans and the annual contribution that can be made to defined contribution plans. Changes made in 2002 eliminate potential problems on the maximum contribution for defined contribution places that might have served as an obstacle to phased retirement plans.

The limits on the benefits payable from defined benefit plans are much more complex to administer and affect phased retirements, however. The most significant issue is the lack of clarity regarding application of the limits when a portion of the participant's benefit begins with phased retirement and the remainder upon full retirement. There is no IRS guidance, for example, on whether an employee who is a 50 percent phased-retiree can receive a 50 percent distribution of the full benefit. This is a likely expectation that an employee would have.

There are other complications. The maximum benefit from qualified defined benefit plan is the lesser of $160,000 or average compensation in the final three years of employment. An employee-participant who enters phased retirement may have lower compensation in the final three years of employment than would have been the case if he or she had remained in full time employment. Moreover, adjustments in benefits beginning before age 62 complicate payments to a phased retiree. An early retirement subsidy can significantly affect the maximum benefit limit, and can actually reduce it.

5. Anti-Cutback Rule

A phased retirement payment option in a qualified plan is an optional benefit covered by the anti-cutback rule. That is, the phased distribution option cannot be removed for benefits already earned. The rule is a significant impediment to phased retirement programs because, depending on firm demographics and business conditions, phased retirements may make sense in some circumstances but not others. Moreover, there is no experience with phased retirement plan design and which forms will work and those that do not.

6. Social Security

As Figure1 shows, the Social Security will be a critical factor in any worker's decision to take phased retirement because it is a substantial factor in the economic well being of fully or semi-retired workers. Fully recognizing that benefits paid out from Social Security is likely to exceed employer and employee taxes collected by 2040, it needs to be recognized that several aspects of the Social Security system do not match up well with phased retirement. Social security recipients are not eligible for benefits until 62. This is an older age than the normal retirement plan under most pension plans. For recipients under 65, the earnings test reduces benefits by $1 out of $2 earned at a low annual wage income that is well below the poverty level at just over $10,000.

7**. Medicare**

Because the primary source of public retiree health care cover is Medicare, it is among the most important factors considered by older workers in making their retirement decision. If phased retirement means the loss of employer-provided health benefits, most workers will not leave full time employment until they are eligible for Medicare coverage at age 65.

Phased Retirement Compromises

Faced with significant regulatory and legislative hurdles, some firms have creatively implemented phased retirement plans that allow them to use retirees to fill the need for highly skilled workers. The common denominator of all these programs, and possibly the lynchpin, is the availability of health insurance.

One approach has been for a group of companies to pool their retired talent that can be hired for short-term assignments. The venture, which is just getting started, will include about 200 employees from six companies, with plans to add 10 to 12 companies a year and eventually include more than 4,000 retirees.

An engineering firm, faced with a need for skilled workers, has developed a policy to allow workers to continue to work after retirement. The company's policy was implemented after they noticed many of their employees would retire only to return to work right away as consultants. The company's "retiree casual" program allows retired workers—from secretaries to engineers—to join a pool of retired workers who are hired back on a temporary basis to solve problems and work on special projects. The employees continue to earn the same wages they did as full-time employees. Responding to Internal Revenue regulations that prohibit workers from returning full-time to a company from which they draw a pension,, employees in the program are limited to 1,000 hours per year. Each year, about 250 workers return to the company to work under these terms. The company doesn't provide additional benefits to these workers, but all workers who retired after 10 or more years of service are entitled to lifetime health benefits.

Some firms allow long-term and older employees to stagger or reduce their work hours, often to part-time status without jeopardizing benefits that would not be available to part time employees. A large telecommunications company offers employees the ability to reduce their hours for up to three years before fully retiring. The company does not offer a traditional pension plan, but employees in the program can continue to contribute to their 401(k) while working their reduced schedules. Employees, who work at least 20 hours per week under the gradual retirement plan, are eligible to collect benefits, such as the company's health insurance plan.

Not withstanding these innovative programs, however, the obstacles that need to be overcome are such that relatively few employers have the resources to implement such programs. In addition to legal and regulatory obstacles, research shows that phased retirement policies vary by firm characteristics.[7] They include:

- Small organizations are more likely to permit modified phased retirement.
- Phased retirement opportunities tend to be greatest for establishments in the services sector.
- Establishments that are increasing their employment are more likely to report that phased retirement is possible.
- An establishment is less likely to permit phased retirement when the workforce is unionized.
- Establishments that employ part-time workers are more likely to permit phased retirement.
- Opportunities for phased retirement are most limited for managers and least limited for professionals.

The Future of Phased Retirement

At present, seamless, employee phased retirement with their current employer is the exception. Particularly for the 38 percent of workers covered by defined benefit plans, by regulation and IRS ruling, a substantial break in service is required in order to continue working for their current employer. For most companies and employees, this is a "show stopper." For the worker who needs continued earned income in addition to pension benefits, this means working for another employer, most likely a company in the same industry that is a competitor. For companies, there is simply too great a risk of inadvertently disqualifying the pension plan, incurring unexpected liability or a potential age discrimination lawsuit once there has been a sufficient break in service.

For phased retirement to flourish to meet the skill and labor needs of employers and the retirement and work-life balance needs of older Americans, legislative and regulatory phased retirement policy must be:

1. Flexible to accommodate the varying needs of workers and employers. A "safe harbor" that reflects both employer and employee needs and that encourages implementation of phased retirement should be provided. There should be flexibility in what is considered

to be the normal retirement age in order that length of service considerations with the current employer can be taken into account, *e.g.*, age 55 and 30 years service or age 60 and 25 years service.

2. Voluntary for workers who may elect phased retirement and employers who may choose to offer it as a retirement benefit. Because the business needs of companies change with increasing speed, their staffing needs also change. Thus, they are continually evaluating their staffing needs. Business conditions, business realignment, new lines of business, and labor demographics will be critical considerations in whether to offer a phased retirement program. Phased retirement should not be considered a permanent entitlement nor should there be any expectation of early retirement subsidies or health care insurance as part of the phased retirement program.

A legal and economic analysis of the legislative and regulatory conditions necessary for phased retirement to be a successful public policy benefiting both workers and their employers suggests the following:

1. Legislation should be enacted to allow in service pension distributions without penalty below age 59 ½. The designation of the normal retirement age should be flexible that allows years of service to be taken into account. Where the employee taking advantage of phased retirement is younger than age 59 ½, tax free distributions from his or her Individual Retirement Account should be permitted.
2. A different kind of discrimination testing rule based on business and labor market conditions such as employer employment growth, skill shortages and employer workforce needs, should be adopted for phased retirement programs. Such a rule would prohibit any programs that primarily benefit highly compensated employees.
3. The amount of the benefit to be paid at phased retirement should be flexible based on the relationship of hours worked in phased retirement compared with full time employment.
4. There are technical rules such as the suspension of benefits and the anti-cut back rule contained in ERISA and the Internal Revenue Code that were designed without consideration of phased retirement programs. Because of the limited experience with phased retirement programs, Congress should direct the Department of Labor and Internal Revenue Service to permit the establishment of phased retirement programs without running afoul of existing regulations while their evaluation of existing

regulations is ongoing. In this context, safe harbor rules should be promulgated that accommodate the characteristics of phased retirement programs.

5. Regulatory guidance would be needed in a number of areas. A practical obstacle is dealing with the situation where a person is drawing a pension while working but also continuing to accrue additional credited service (leading to a possible increased pension) at the same time, as well as the implications of changes to final average compensation (with some of the years being part-time) after the phased retirement. How would service and compensation be counted toward an ultimate pension benefit? In unionized settings with bargained pension plans, how would service accruals be tied to the current and future negotiated pension rates as a person works through a period of time when they are in a phased retirement program? While the person is partially working and receiving a pension benefit, would the company be obligated to continually adjust the pension payment amount recognizing continued service credits and what would the timing of adjustments be? Another area requiring clarification concern those receiving minimum required distributions. How would these be affected by a phased retirement program?
6. Individuals should be allowed to purchase Medicare coverage between age 55 and age 65 at a rate that is competitive with group insurance policies that provide similar benefits, but without consideration of insurability and pre-existing condition requirements.
7. Consideration should be given to extending the total COBRA period for employees losing coverage after age 55.
8. Social Security's retirement earnings test has the opposite purpose of phased retirement programs because it creates an incentive to stop working. The test should be removed for those under the age of 65.
9. The DOL and EEOC should review the application of the ADEA in the context of phased retirement programs and provide guidance to employers and employees on what conditions and boundaries are required for an acceptable phased retirement program.

Conclusion

Phased retirement programs are becoming more and more essential for the health of American employees and employers. As the baby boom approaches retirement age and the labor market continues to be tight, there is an increased interest in retaining older workers among businesses. Additionally, the shift of more jobs into the services sector in lieu of more physically demanding jobs enables more workers to work past the traditional retirement age.

Despite both employer and employee interest in phased retirement programs, significant legislative and regulatory hurdles remain to implementing a formal phased retirement program. The need for skilled workers has caused some companies to seek innovative ways to implement informal phased retirement programs through contractual agreements. Until these hurdles are removed, however, most companies will be unlikely to offer more extensive phased retirement options, because of lack of flexibility, potential cost and liability. By removing these hurdles, phased retirement can become an important part of enabling retirees to live more fulfilling lives after retirement and enhance the competitive position of companies offering these plans.

Thank you for the opportunity to present my views. I will be glad to answer any questions that you may have.

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[1] Steuerle, C. Eugene et al, *Can Americans Work Longer?* http://www.urban.org/url.cfm?ID=309228, Urban Institute, 1999.
[2] *Ibid.*
[3] *New Opportunities for Older Workers*. Committee for Economic Development, 1999, p. 17.
[4] Steuerle, C. Eugene et al, *Can Americans Work Longer?* http://www.urban.org/url.cfm?ID=309228, Urban Institute, 1999.
[5] *New Opportunities for Older Workers*. Committee for Economic Development, 1999, p. 17.
[6] Moen, Phyllis. *The Cornell Retirement and Well-Being Study Final Report*, 1999.
[7] Hutchens, Robert, "Who Among White-Collar Workers has an Opportunity for Phased Retirement? Establishment Characteristics," Working Paper, Cornell University (2003).