

Issue Brief

JUNE 7, 2022

BY: DEMIAN BRADY

Fifteen Years after Reform Laws, No Congressional Felons Have Lost Their Taxpayer-funded Pension

Introduction

This fall will mark the 15th anniversary of a landmark law to cut off taxpayer-funded pensions for congressional felons. Eight lawmakers who served in office long enough to have accrued an annuity have been charged with crimes covered by this law, but as far as taxpayers know, not a single one has thus far been stripped of their pension.

The Honest Leadership and Open Government Act (HLOGA) of 2007 listed specific corruption-related crimes that would strip retirement benefits for guilty lawmakers. The STOCK ACT of 2012 strengthened the measure by specifying additional crimes. NTUF estimates that between 2017 and the end of this year, taxpayers will be on the hook for \$3.7 million in pensions to congressional felons found guilty of crimes (including those not covered in the reform laws) or serious ethical violations.

There are also surviving felons convicted prior to HLOGA who are still costing taxpayers. Taxpayers will be on the hook for millions more in government benefits as both pre- and post-HLOGA felons rack up more COLA-adjusted

Key Facts:



Despite reform laws enacted in 2007 & 2012, taxpayers are still on the hook for pensions for congressional felons.



The two laws targeted corruption-related crimes for pension forfeiture. Some indicted members made plea deals to lesser charges, preserving their pension payments.



Other members have gone to jail for other crimes or faced House reprimand for serious ethical violations not covered by the two reform laws.



Taxpayers may never know if the laws are enforced because the Office of Personnel Management does not currently respond to inquiries regarding the status of convicted former members such as Rep. Chaka Fattah, sentenced through 2025.

benefits in future years. Taxpayers will also be liable for at least \$182,000 per year for congressional pensions for felons who have not yet reached full retirement age.

Under a loophole in the law, members remain eligible for their pension until final conviction, adding a financial incentive to continue filing appeals which can drag out for many years. Recent court cases indicate that the continuation of a pension payment is a key consideration in plea deals that indicted members make with prosecutors. Members charged with crimes that would strip their pension instead admit guilt to a crime that is not listed under HLOGA or the STOCK Act. This keeps the taxpayer-funded benefits flowing.

Reforms are needed to close the loophole, add additional crimes to the pension forfeiture laws, and to provide for transparency and accountability so that taxpayers can find out how HLOGA and the STOCK Act are being enforced.

An Overview of the Congressional Pension Benefit

The Civil Service Retirement System (CSRS) was created in 1920 for federal employees of the executive branch. Coverage in this program was extended to members of Congress in 1942. The Congressional Research Service [reports](#) that this was quickly repealed two months later “in response to adverse public opinion.”¹ But then in 1946, a law was passed to allow members to opt in to the program.

Members of Congress elected before 1984 can participate in the Civil Service Retirement System (CSRS), while those first elected from 1984 or later are eligible for the Federal Employees Retirement System (FERS). Originally, all lawmakers had the option to decline coverage through FERS, but a change required all House members elected after September 30, 2003 to be enrolled in the program. Senators can still elect to opt out of the benefit. Starting in 1984, all lawmakers regardless of when they were elected, are required to participate in Social Security.

Lawmakers need at least five years of service or federal employment to be eligible for the generous pension benefit, which pays two to three times more than pensions offered to similarly salaried workers in the private sector. The value of the benefit is determined by a formula based on the initial date of election to office, the length of service, and the average of the three years of highest salary. Lawmakers with at least 10 years of service can collect a reduced pension prior to age 62, but the earliest the eligible members can start to collect early retirement is at age 55. Annual annuity payments through both programs are protected from inflation through cost-of-living adjustments (COLAs), but CSRS's provides for more generous increases.

As an additional perk, lawmakers can also participate in the federal Thrift Savings Plan, a defined contribution benefit that works like a 401(k)-retirement system. Members enrolled in FERS can also obtain a generous government match of their salary contributions (up to 5 percent). The contributions can then be invested (with some limitations) into several funds, including one linked to the stock market. Given enough years of service, lawmakers can accumulate significant assets through the Thrift Savings Plan if they contribute the maximum possible amount of salary throughout their career.

Controversies and Reforms

Since 1954, public officials could lose their annuities for crimes of treason or espionage under the so-called Hiss Act. That law had originally included bribery as an offense that would constitute removal of a pension, but the law was narrowed in 1961. Congress finally passed HLOGA in response to public outrage at former members of Congress still collecting their taxpayer-funded pension benefits despite being in jail. At the time, the National Taxpayers Union had counted 20 lawmakers over the previous

¹ Congressional Research Service. *Retirement Benefits for Members of Congress*. August 8, 2019. <https://sgp.fas.org/crs/misc/RL30631.pdf>.

two and a half decades who were found [guilty of serious crimes while in office](#).² All these members remained eligible for or were still collecting congressional retirement benefits.

This notorious list included Representative Randall “Duke” Cunningham (R-CA), who was collecting an estimated annual pension benefit of \$64,000 (plus yearly COLAs) despite an eight-year jail sentence for tax evasion, bribery, and fraud. Another prominent name caught up in controversy was Dan Rostenkowski (D-IL), the powerful Ways and Means Committee Chair who went to prison after multiple charges of corruption for misuse of taxpayer funds, yet remained eligible for an estimated pension of \$125,000.

The Office of Personnel Management (OPM) manages the federal benefit programs. When a former member reaches retirement age and applies for the benefit, OPM conducts a review to determine their eligibility and to calculate the annuity. Even if a member is found to have violated HLOGA or STOCK Act crimes, the OPM has the authority to make a hardship determination that would allow for the pension benefit to be paid out.

Despite HLOGA and the STOCK Act, NTUF is unable to confirm that any member has yet had their pension stripped. Below is a list of members who faced either a criminal conviction, a censure, or reprimand by the House of Representatives for ethical violations since the passage of HLOGA. The pension forfeiture restrictions could not be applied to convictions before enactment of the reforms because the Constitution prohibits application of such ex-post facto laws.

Where applicable, NTUF has included an estimate of how much each member’s pension could be worth. The calculation assumes that the member sought to maximize the amount of their benefit. The estimates are based on each person’s time in Congress and excludes other civilian or military federal employment that would also count towards the federal benefit. In addition, CSRS and FERS have respective formulas for setting aside a portion of a member’s retirement benefit for a spouse. NTUF assumes that the spouses opted to receive this benefit. Where applicable, the estimates exclude the spousal annuity set-aside.

- Mark D. Siljander (R-MI) was indicted on five counts of money laundering and obstruction of justice in 2008 and eventually pleaded guilty to obstruction of justice. The crimes pre-dated HLOGA and he did not serve in the House long enough to be eligible for a congressional pension. President Trump gave him a full pardon in 2020. Representative William Jefferson (D-LA) was convicted in 2009 for multiple charges of wire fraud, bribery, and money laundering. He received a 13-year jail sentence, but because the crimes were committed before HLOGA’s passage, he remained eligible for his congressional pension. He turned 62 shortly after leaving Congress in early 2009, collecting an estimated benefit of \$45,600. With COLAs, NTUF estimates that taxpayers will have paid out \$689,000 to Jefferson by the end of this year.
- Representative Charles Rangel (D-NY) was censured by the House of Representatives in 2012 for 11 ethics violations, including misuse of congressional letterhead and for filing inaccurate financial disclosure reports and federal tax returns. The violations were not subject to HLOGA’s nor the STOCK Act’s pension forfeiture provisions. He retired from Congress in 2017 after holding office for 46 years. He is the only member on this list who was eligible for the previous and more generous Civil Service Retirement System. Under current law, a member’s annuity cannot exceed 80 percent of his or her final salary. Upon leaving office, Rangel was eligible for a pension worth \$125,550. With annual COLAs, NTUF estimates that taxpayers will have paid out \$796,600 to Rangel by the end of this year.

² Griffin, Drew. “Convicted Congressmen Collect Public Pensions.” CNN. January 3, 2007. <http://www.cnn.com/CNN/Programs/anderson.cooper.360/blog/2007/01/convicted-congressmen-collect-public.html>.

- Laura Richardson (D-CA) was found guilty by the House Ethics Committee in 2012 on seven counts of improperly using her staff for campaign purposes, destroying evidence, and tampering with witness testimony. She received a fine of \$10,000 and was formally reprimanded by the House of Representatives. The violations were not subject to HLOGA's nor the STOCK Act's pension forfeiture provisions. Starting in 2025, she will be eligible for a \$16,000 annuity, plus annual COLAs.
- Jesse Jackson Jr. (D-IL) pleaded guilty in 2013 to one count of wire and mail fraud in connection with his misuse of \$750,000 in campaign funds. Jackson was sentenced to two-and-one-half years imprisonment. One of the counts, relating to conspiracy to commit offense or to defraud the United States, should lead to pension forfeiture. He will not be able to apply for his estimated annual pension of [\\$45,000](#) (plus annual COLAs) until he turns 62 in 2027.³ OPM will make a determination of eligibility when Jackson applies for his benefit.
- Rick Renzi (R-AZ) was found guilty in 2013 on 17 of 32 counts, including wire fraud, conspiracy, extortion, racketeering, and money laundering. The crimes pre-date HLOGA. President Trump granted Renzi a full pardon in 2020. In 2021, he became eligible to start collecting an estimated \$16,000 annuity. Including the 4.9 percent COLA for 2022, NTUF estimates that taxpayers will have paid out \$32,780 by the end of this year. Trey Radel (R-FL) was convicted of possession of cocaine in November 2013 and sentenced to one year probation and fined \$250. HLOGA and STOCK Act do not apply to his crime and, having been in office just over one year, he was not eligible for a congressional pension.
- Michael Grimm (R-NY) was indicted in 2014 with 20 counts including wire fraud which could have led to pension forfeiture. He eventually pleaded guilty to a charge of felony tax evasion that is not among the crimes listed in HLOGA or the STOCK Act, but he also did not serve in Congress long enough to have earned a pension benefit. Grimm unsuccessfully campaigned for his former seat in 2018. If he is re-elected to Congress in the future, his previous time in office will count towards his pension eligibility. Grimm is also eligible for a federal pension for his employment as an agent at the Federal Bureau of Investigations from 1991 through 2006.
- Dennis Hastert (R-IL) former Speaker of the House of Representatives pleaded guilty in 2016 for structuring bank transactions to evade financial reporting requirements. Hastert paid out \$3.5 million in “hush money” connected to a sexual relationship. The payment scheme is not covered by HLOGA and the STOCK Act. Upon leaving office, Hastert was eligible for a [\\$73,000](#) congressional pension.⁴ With annual COLAs, NTUF estimates that taxpayers will have paid out \$1,258,950 to Hastert by the end of this year.
- Chaka Fattah (D-PA) was convicted on 23 counts of racketeering, fraud, money laundering and other corruption charges in 2016 and sentenced to 10 years in prison. He remained eligible for his pension while he was appealing the conviction. In 2019, some of the charges were dismissed, but he received the same 10-year sentence for the remaining convictions. He is serving his sentence through 2025 but during the pandemic he was released from federal prison to a Residential Reentry Management program in Philadelphia. It is unclear

³ ABC7. “Jesse Jackson Jr. Still Eligible for Government Pension, Disability Pay.” August 14, 2013. <https://abc7chicago.com/archive/9206552/>.

⁴ Bowman, Bridget. “Despite Hush-Money Plea, Hastert Keeps Pension.” *Roll Call*. November 5, 2015. <https://rollcall.com/2015/11/05/despite-hush-money-plea-hastert-keeps-pension/>.

whether he must stay in a halfway house or is permitted to live in a private home. He has a new for-profit enterprise, for which he is currently soliciting donations on its website. Although his convictions were included in HLOGA's and the STOCK Act's crimes, it is unclear whether he has been stripped of his pension. In 2020, Adam Andrzejewski of Open the Books contacted OPM and was told that no one had yet been stripped of a pension. OPM has not replied to inquiries since then. Fattah's pension was estimated at \$57,200. With annual COLAs, NTUF estimates that taxpayers will have paid out \$390,770 to Fattah by the end of this year if his pension has not been stripped between 2020 and now.

- Corrine Brown (D-FL) was convicted on 18 felony counts of wire and tax fraud, conspiracy, lying to federal investigators, and other corruption charges in 2017. She was found guilty and sentenced to 5 years in prison but successfully appealed the conviction for the improper removal of a juror during the trial. She faced a retrial this year, but in a plea deal admitted guilt on a single charge of corrupt interference of administration of internal revenue laws and the rest of the convictions were dismissed. That crime she pleaded guilty to is not in HLOGA or the STOCK Act pension forfeiture provisions, leaving Brown eligible for her estimated \$71,000 per year annuity. With annual COLAs, NTUF estimates that taxpayers will have paid out \$448,400 by the end of this year.
- Anthony Weiner (D-NY) was convicted of sending obscene pictures of himself to a minor and was sent to prison in 2017 for 21 months but was released 3 months early. This crime is not included under pension forfeiture laws. Weiner was in Congress from 1999 through 2011 (he was also a congressional staffer in the 1980s) and will be eligible for a pension estimated at [\\$46,200](#) (plus annual COLAs) when he turns 62 in 2027.⁵
- Steve Stockman (R-TX) was convicted on 23 counts of corruption, including wire and mail fraud, and sentenced to ten years in prison in 2018. After serving two years he was released from prison after President Trump commuted his sentence in 2020. He did not serve long enough in the House to be eligible for a congressional pension.
- Chris Collins (R-NY) pleaded guilty in 2019 to a count of conspiracy to commit securities fraud and one count of making false statements to law enforcement officials. These crimes should have deprived Collins of his \$10,555 annual congressional pension but the benefit was restored after President Trump gave him a full pardon in 2020. With annual COLAs, NTUF estimates that taxpayers will have paid out \$35,600 to Collins by the end of this year.
- Duncan D. Hunter (R-CA) was indicted on 60 counts, including crimes covered by HLOGA and the STOCK Act. In 2019 he pleaded guilty to a single count of conspiracy to steal campaign funds, a crime that is not covered by HLOGA and the STOCK Act. This leaves him eligible for a base \$29,000 pension (plus annual COLAs) when he turns 62 in 2038. He was also given a full pardon by President Trump in 2020.
- Jeff Fortenberry (R-NE) was found guilty earlier this year of one count of falsifying and concealing material facts and two counts of making false statements to federal investigators. His sentencing is set for June. He faces up to five years in jail for each count. He will turn age 62 in December 2022, but he stands to forfeit his estimated \$45,900 pension once he is determined to be finally convicted. After his sentencing, he has the option to appeal his conviction, opening up a potentially lengthy court process during which he will remain eligible for his pension (with annual COLAs).

⁵ Stanton, John. "Weiner's Pension, Benefits Could Top \$1 Million." *Roll Call*. June 16, 2011. <https://rollcall.com/2011/06/16/weiners-pension-benefits-could-top-1-million/>.

Continuing Controversies Require Additional Reforms

The sordid details above point out flaws in the current law that allows members to retain their benefit. There is also a lack of transparency. Taxpayers face a challenge finding out whether any member has had their pension stripped. As National Taxpayers Union Foundation President Pete Sepp said back in 2015, “When you think about it, there are almost incentives in the law now for members of Congress to accept a plea deal to keep their pension.” This definitely seems to be the case given the way Brown’s and Hunter’s plea deals were bargained.

Reforms are needed to protect taxpayers from subsidizing congressional criminals and to shed transparency on the forfeiture laws being enforced.

Cut off congressional pensions upon conviction

Taxpayer funds should not flow to former members of Congress serving jail time. The No CORRUPTION Act would cut off pensions upon conviction rather than when a member has faced “final conviction.” Appeals can last for several years. Worse, if the appeals are unsuccessful, there is no claw back of funds wrongfully paid out. This has left taxpayers on the hook for supporting pensions to felons. The No CORRUPTION Act would also restore all of the owed benefits if a member’s appeal is ultimately successful in overturning the conviction. Last December, the Senate passed S. 693, introduced by Senators Jacky Rosen’s (D-NV) and Rick Scott (R-FL). Representative Ralph Norman’s (R-SC) companion version, H.R. 3327, was approved by a committee last May and awaits floor consideration.

Increase transparency and accountability from OPM to ensure that reforms are being properly enforced

OPM generally does not respond to inquiries on individual pension amounts nor even a member’s eligibility. In past years, OPM had determined that Freedom of Information Act requests did not apply to the federal pension because there was no compelling public interest in the information.

However, OPM confirmed to NTUF in 2017 that Fattah remained eligible for his pension because he was not yet subject to “final conviction.” More recently, though, OPM has declined to answer to similar inquiries, either by citing privacy concerns or by not responding at all to the questions posed via email.

As mentioned above, Adam Andrzejewski sought a way around this restriction by asking more generally whether anyone has had their pension stripped pursuant to the reform laws. He received a response in early 2020 that no one had. Since then, OPM has not responded to similar inquiries. If this policy persists, taxpayers may never know if the pension stripping laws have been enforced.

If OPM won’t reply to basic inquiries, Congress should require periodic mandatory reporting from OPM regarding former members who have been found guilty of crimes that should lead to pension forfeiture and what actions OPM has taken to protect taxpayers or whether a hardship exemption has been granted.

Expand the list of crimes that will strip a congressional pension

Members of Congress have been found guilty of heinous crimes and ethical violations that are not included under pension stripping provisions that generally target corruption. Other members facing loss of pension, made plea deals to lesser charges that left them eligible for their pension.

Lawmakers should consider expanding the list of crimes that would lead to loss of a pension. Elected officials in a position of public trust should be held to a high standard of conduct and extreme prudence should be the policy when considering taxpayer-funded perks of office for felons. The crimes and

ethical violations above provide a starting point for strengthening the law, though Congress should not play whack-a-mole, waiting until a member of Congress commits a crime to add it to the list.

This especially includes Corrine Brown's case. Among the initial charges against her tax-related crimes. She was indicted for 3 violations of [26 U.S.C. 7206\(1\)](#) for fraud and false statements, as the law reads:

... in any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter.⁶

A member convicted of breaking that law should forfeit their pension. The other tax-related indictment she faced does not result in pension loss. She also received one count of violating 26 U.S.C. 7212(a) for corrupt or forcible interference with the administration of internal revenue laws. The law [reads](#):

Whoever corruptly or by force or threats of force (including any threatening letter or communication) endeavors to intimidate or impede any officer or employee of the United States acting in an official capacity under this title, or in any other way corruptly or by force or threats of force (including any threatening letter or communication) obstructs or impedes, or endeavors to obstruct or impede, the due administration of this title, shall, upon conviction thereof, be fined not more than \$5,000, or imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person convicted thereof shall be fined not more than \$3,000, or imprisoned not more than 1 year, or both. The term "threats of force", as used in this subsection, means threats of bodily harm to the officer or employee of the United States or to a member of his family.⁷

Under her plea deal she pleaded guilty to the interference charge and the other charge was dropped. It is inexplicable that interference with tax laws does not strip a lawmaker of a pension.

Representative Grimm's plea deal also points to a gap in the current laws. He was originally charged with 20 counts related to corruption, including mail and wire fraud crimes covered in HLOGA and the STOCK Act. He pleaded guilty to a single count of willfully aiding and assisting the preparation of a false tax return, a violation of 26 U.S.C. 7206(2).

Some of the crimes under [26 U.S.C. Part 1](#) are included under HLOGA and the STOCK Act while others are not.⁸ Since some of these crimes have been paired with others as part of the original indictments of members of Congress, lawmakers could look here for strengthening pension forfeiture provisions.

Representatives should be granted the same rights as Senators to opt out of the congressional pension

As noted above, Senators have the option not to participate in the FERS program, but enrollment is mandatory for Representatives elected after Fiscal Year 2003. Representatives should have the same right to opt out that Senators currently have. The Members of Congress Opt-out Clarification Act introduced in the House by Representative Thomas Massie (R-KY) as H.R. 1359 and in the Senate by Senators Mike Braun (R-IN) and Rick Scott (R-FL) as S. 741 would end this quirk in the law and stop forcing Representatives to participate in FERS.

⁶ 26 U.S. Code § 7206 - Fraud and false statements. <https://www.law.cornell.edu/uscode/text/26/7206>.

⁷ 26 U.S. Code § 7212 - Attempts to interfere with administration of internal revenue laws. <https://www.law.cornell.edu/uscode/text/26/7212>.

⁸ 26 U.S. Code Part I - G - General provisions. <https://www.law.cornell.edu/uscode/text/26/subtitle-F/chapter-75/subchapter-A/part-I>.

Conclusion

Back in 2007 when Congress was working on pension and ethics reform that eventually resulted in HLOGA, Senator John Kerry (D-MA) argued that members who betray the public trust should be prevented from receiving their pensions, [adding](#):

This is plain deterrence. It is an effort to try to make it clear there are serious consequences to betraying that trust. ... So this is done because there is something that grates in the notion that you can put the public's trust and the public's business up for sale and then walk away and have the people whom you betrayed turn around and pay for you to be able to have for the rest of your life a fat pension because of the level of service you had reached at their trust.⁹

Unfortunately, we have seen over the years since then that the pension forfeiture laws have not provided adequate deterrence. Members of Congress have taken advantage of the “final conviction” loophole and agreed to watered-down plea deals to evade the pension stripping laws. Lawmakers should be held to a higher standard of conduct and taxpayers should be protected from subsidizing felons.

About the Author

Demian Brady is the Vice President of Research for National Taxpayers Union Foundation, where he runs the organization's Taxpayers' Budget Office.

⁹ Senator John Kerry. *Congressional Record*. January 12, 2007. <https://www.govinfo.gov/content/pkg/CREC-2007-01-12/html/CREC-2007-01-12-pt1-PgS485-10.htm>.



2022 National Taxpayers Union Foundation
122 C Street NW, Suite 650, Washington, DC 20001
ntuf@ntu.org