



NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Affiliated with the International Association of Machinists & Aerospace Workers, AFL-CIO

February 13, 2019

Dear Senator Tester:

On behalf of the 110,000 federal employees represented by the National Federation of Federal Employees, I want to thank you for again introducing the **First Responder Fair RETIRE Act**. The bill is crucial to supporting our brave Federal Firefighters (FF) and Law Enforcement Officers (LEO), who sacrifice their well-being in order to protect and serve the American people.

In summary, this bill will allow for Firefighters and Law Enforcement Officers to retain their special 6c retirement if they are injured or disabled, but still able to work in an "equivalent position." This is necessary because under current OPM guidance, employing agencies are not authorized to protect an FF or LEO from losing their 6c retirement if they are placed in a non-6c position. The **First Responder Fair RETIRE Act** will require that the term "equivalent position" in 5 USC 8151(b) will truly come to mean equivalent, i.e. that employees who were in the 6c retirement system prior to their injury be left in that system regardless of the job into which they are placed after debilitating injury.

For Federal Firefighters and Law Enforcement Officers, their jobs are hazardous as well as strenuous, and there is a very real potential for debilitating injury every day of their working lives. They put their lives and health on the line year after year and in return, their employer, the United States government, has promised them an enhanced 6c retirement program as part of their compensation. Tragically, after they've given their health in the service of their country and need it most, the government takes it away.

If an FF or LEO is disabled and no longer able to complete the essential functions of their job, but is still able to work in a non-arduous position, upon their return to work their employing agency is required to place them in an "equivalent position" (5 USC 8151(b)). Unfortunately, even though a pension benefit is considered to be "deferred compensation," it does not enter into the equation. Such an employee may be reassigned by the employing agency to a non-6c-covered position. The adverse financial ramifications of such a reassignment are huge, as the employee loses their 6c retirement.

Adding insult to injury, there is in such a case no reimbursement provided to the FF or LEO for the higher contributions s/he made into the 6c retirement system. Their 6c years of service are credited as if they had been in the normal 30-year system. The Federal government simply pockets the overpayments. This theft, however, is small compared to the broken promise of a retirement commensurate with the requirements of the job – which requirements in such cases are the very things that laid these heroes low.

The practice of placing injured FFs and LEOs in positions that are not equivalent with regard to their deferred compensation attributes does not conform to the 5 USC 8151(b) requirement to place them in "equivalent positions" upon their return to work. Deferred compensation is, by definition, compensation. Taking away their 6c retirement after a FF or LEO has given their all to the service of their country is unconscionable.

For these reasons, the National Federation of Federal Employees thanks you for introducing the First Responder Fair RETIRE Act, and we look forward to helping you in any way.

Sincerely,

Randy Erwin
National President