NFFE-IAM Opposes the Official Time Reform Act of 2017 (H.R. 1364)

Position: **H.R. 1364 purports to reform use of official time. However, it does not consider the role of official time in a balanced Labor Relations Statute that has worked well for many decades. Further, it is maliciously punitive in that it maltreats employees who have stepped up to fulfill representational responsibilities that are by law assigned to the union. It does so by taking away their pensions for doing this work – even as the responsibility to do the work is left in place. Egregiously, it makes this punishment retroactive such that employees fulfilling their legal responsibilities in past years would find their pensions slashed (pensions into which they've paid at the normal rate, by the way). This is just plain wrong.**

After an extended deliberative process, Congress enacted the Labor Relations Statute (hereafter, the Statute) as part of the Civil Service Reform Act of 1978. Much like the checks and balances of our Constitutional system of government, the Statute consists of interacting pieces, all of which are necessary for the proper functioning of the whole. Passage of the radical and hastily advanced H.R. 1364 would unravel this carefully constructed Statute, leaving chaos and destruction in its wake.

The Statute charges federal unions with the responsibility of representing all employees in their bargaining unit, whether they join the union or not. To meet this "duty of fair representation," Congress authorized unions and federal agencies to negotiate use of official time. "Official time" is time during which union officials perform these representational duties – again, duties assigned by law – in lieu of their normal duties.

Supporters of H.R. 1364 and similar attacks on official time have asserted that union business is performed on official time and that the amounts are unreasonable. They are either lying or are ill informed. By law, only representational duties may be performed on official time. By law, only that amount of official time that federal agencies agree is "reasonable, necessary, and in the public interest" is granted. See Title 5, U.S. Code, Sec. 7131. Checks and balances are in place. H.R. 1364 would destroy them.

In passing Civil Service Reform Act of 1978, Congress made several findings that are worth reviewing. Among other items, Congress found that the statutory protection of the right of employees to organize, bargain collectively, and participate through labor organizations safeguards the public interest and contributes to the effective conduct of public business. Congress concluded that labor organizations and collective bargaining in the civil service are in the public interest (5 USC 7101). H.R. 1364 makes no effort to address this. Rather, it is a dishonest attack on the ability of federal employees serving as union officials to meet their obligations under the law, along with draconian punishment for those who have served in the past.

It is difficult to interpret H.R. 1364 as anything other than an underhanded effort to bust federal unions. This would leave the front-line firefighter and the nurse at the bedside without a voice in their workplace. Without the protection of a union, such employees would be powerless to blow the whistles on abuses that sometimes occur in federal agencies and departments. An important check and balance on the power of the Executive Branch would be destroyed. This would be bad for employees and bad for American citizens who depend on good government. For these reasons, NFFE-IAM strongly opposes H.R. 1364.

NATIONAL FEDERATION OF FEDERAL EMPLOYEES,
IAMAW, AFL-CIO

NFFE-IAM Supports the Federal Employees Paid Parental Leave Act (H.R. 1022)

Position: **The U.S. federal government, unlike many other countries, and large private employers, does not provide paid parental leave to its employees. Employees must save accrued annual and sick leave to receive paid time off. While the current practice works for the lucky few who never get sick or take a vacation, it is unrealistic for most. The Federal Employees Paid Parental Leave Act of 2017 (H.R. 1022) will promote the values of parenthood and family by providing six weeks of paid leave to federal employees who adopt, foster or have a child. NFFE-IAM strongly *supports* the Federal Employees Paid Parental Leave Act of 2017.**

Most federal workers are eligible for 12 weeks of unpaid leave under the Family Medical Leave Act. However, if an employee wants to receive pay for any portion of their parental leave they must use accrued vacation time or sick days, a difficult task for those who are newly employed or have experienced any health problems in the past. This outdated policy does not promote a family-friendly environment and stands in stark contrast with the rest of the industrialized world, and it follows a growing trend in the U.S. private sector to offer similar leave allowances.

The United States is one of the only industrialized nations in the world that does not offer paid parental leave to all workers. Most countries recognize how important it is for mothers to recover from childbirth and for parents to nurture their children during their most important developmental stages. As the federal government often sets the bar for employee benefits, passage of this bill could inspire other sectors of government and private corporations to offer paid parental leave and bring our country closer to the global standard of paid parental leave.

Offering paid leave will also improve recruitment and retention for federal employees and make federal agencies more competitive among other top tier U.S firms. In the coming years, recruitment and retention will be increasingly important as the number of retirements increases at an unprecedented rate. While the federal government cannot compete with private-sector salaries, the Federal Employees Paid Parental Leave Act of 2017 will help put the federal government on an equal playing field when it comes to being a family-friendly employer.

NFFE-IAM strongly supports the Federal Employees Paid Parental Leave Act of 2017, H.R. 1022, legislation that will provide six weeks of paid leave to federal employees who adopt, foster or have a child. This would ease the burden for parents who are too often forced to choose between their paycheck and their child.

NFFE-IAM Supports the Federal Adjustment of Income Rates (FAIR) Act (H.R. 757/S. 255)

Position: **Federal employees have sacrificed a tremendous amount in the name of deficit reduction in recent years. They were forced to accept frozen pay from 2011 - 2013. Finally, in 2014, the pay freeze ended, but federal workers received a woefully insufficient 1% adjustment, well below the rate of inflation. And in 2015, they received another 1% adjustment. Years of paltry pay adjustments that fail to keep up with inflation has led to federal workers making an average of 35% less than private sector workers performing the same jobs. This is unsustainable. The Federal Adjustment of Income Rates (FAIR) Act, (H.R. 757/ S. 255), would provide federal workers like VA nurses and doctors, U.S. Border Patrol agents, and USDA food inspectors a modest but much-needed 3.2% pay adjustment in Fiscal Year 2018. Additionally, the bill authorizes a locality pay adjustment of 2% for 2018. Since 2011, federal employees have sacrificed over $180 billion in the name of deficit reduction. Enough is enough. Federal workers deserve an adequate pay adjustment in FY18. NFFE strongly *supports* the FAIR Act.**

Receiving just a 2% pay adjustment in a five-year span has been devastating to federal workers whose average pay now lags significantly behind workers performing the same jobs in the private sector. Federal workers have seen their buying power greatly eroded over the last five years due to pay adjustments that were nonexistent or failed to keep pace with inflation. Passage of the FAIR Act would keep this worrisome trend from continuing in 2017 and 2018.

Contrary to numerous myths circulated by non-government sources about federal employee compensation, federal workers are significantly underpaid when compared to workers performing the same jobs in the private sector. Based on data collected by the Bureau of Labor Statistics, and reported by the Office of Personnel Management, private sector workers continue to have a significant salary advantage over federal employees. This advantage has grown significantly in recent years. In 2013, private sector employees received 35% higher pay than federal employees working in similar jobs. This ballooning pay gap not only frustrates the federal workers and discourages younger job-seekers from looking towards the federal government.

While false reports of inflated federal compensation and a broad focus on deficit reduction have led to calls by some lawmakers to freeze or reduce federal pay, history shows that the underlying rationale for reducing federal compensation – that federal workers are overpaid – is not based in fact. In every administration since Bill Clinton's, regardless of political party, the White House has acknowledged a double-digit pay discrepancy between federal employees and higher-paid private sector workers. Starting in 2001, the Presidents' Pay Agents reported that the public-private pay gap started at 22%, a figure that had increased to 35% by 2015.

To keep our country on a sustainable path forward, federal agencies and departments must be able to recruit and retain a qualified and talented workforce. Providing inadequate pay adjustments year after year make this difficult, if not impossible, to accomplish. As a result of the squeeze on federal workers' pay, morale in the federal workforce has fallen dramatically, and critical services to the American people are suffering.

Federal employees have made significant sacrifices by accepting just a 2% pay adjustment in the last five years combined. NFFE-IAM strongly *supports* the FAIR Act, (H.R. 757/S. 255), to provide federal employees a modest, but much-needed, 3.2% across-the-board pay adjustment, which includes a 2% locality adjustment in 2018.

NFFE-IAM Opposes the VET Protection Act (H.R. 1461) and the VA Accountability First Act (H.R. 1259)

Position: **Although the Veterans, Employees and Taxpayers Protection Act of 2017 (H.R. 1461), is titled to sound like a promising bill, it is only a guise for legislation that will make it impossible for federal employee unions to carry out their statutory representational duties. Introduced by Rep. Jodey Arrington (R-TX), the bill would impose undue restrictions on unions' ability to provide adequate representation to their members in the Department of Veterans Affairs (VA). It allows members to drop their membership at any time; it interferes with the election of chosen union leadership; and it extends the time when a new hire is not protected by due process rights. NFFE-IAM *strongly opposes* the Vet Protection Act of 2017. Secondly, the VA Accountability First Act of 2017 is another inappropriately titled introduced by Rep. David Roe (R-TN). The legislation will starve the VA of its talent and the means to succeed, thereby providing unjustifiable leverage for private sector investments in veteran's care. Moreover, the sponsors of this bill have needed to spread false information and gross mischaracterizations about what the bill will prevent and produce. H.R. 1259 passed in the House, but draft legislation is pending in the Senate. NFFE-IAM *strongly opposes* the VA Accountability Act of 2017.**

NFFE-IAM opposes the VET Protection Act (H.R. 1461), as the legislation will:

- Place arbitrary restrictions on official time specifically to ensure that VA employees do not receive adequate representation by amending current law to cap the percentage of time union officers can spend on representational duties while using official time.
- Extend probationary periods for new hires from 12 months to 18 months, making it more difficult for the VA to fill its 45,000 open jobs with highly trained, experienced professionals.
- Allow members to revoke their membership at any time, an unwarranted attempt to break the union and reduce membership.
- Ban communication with Congress while on duty time, eliminating the ability for unions to inform Congress of the impact of new or pending legislation or an agency's failure to comply with Congressional inquiries or requests.
- Eliminate a valuable tool for resolving conflict and helping management make good decisions regarding resource allocation, training, and technology needs.

NFFE-IAM opposes the VA Accountability First Act (H.R. 1259), as the legislation (passed in the House, Senate bill coming soon) will:

- Destroy the union protections of every VA employee by eliminating their rights to use grievance and arbitration procedures to fight for their jobs
- Place veterans in danger because front line medical and administrative staff will fear for their jobs if they speak out against management or political appointees.
- Create at-will employment by removing systematic protections against prohibited personnel practices against subordinates.
- Eliminate legitimate due process for those accused of poor performance or misconduct by forcing ridiculously short timeliness on employees and their counsels for representation.
- Limit the legal options of administrative judges at the MSPB, a clear sign that the intent of the bill is to corrupt fair and effective workforce practices.
- Not address resource, recruiting and retention at the VA; in fact, the bill will create bigger problems in each of these areas.

NATIONAL FEDERATION OF FEDERAL EMPLOYEES,
IAMAW, AFL-CIO

NFFE-IAM Supports the Fair RETIRE Act (S. 29)

Position: **Under current OPM guidance, employing agencies are not authorized to protect injured Federal Law Enforcement Officers and Firefighters from losing their 6c retirement if they are placed in a non-6c position. The Fair RETIRE Act (S. 29) 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. NFFE-IAM *strongly supports* the Fair RETIRE Act in the Senate and encourages a companion bill and co-sponsors in the House.**

Federal firefighters (FF) and law enforcement officers (LEO) put their lives on the line for America every day. America needs and depends on brave men and women to fill these demanding, arduous and hazardous duty positions. For those men and women who accept the challenge they face the very real potential that an on-the-job injury could leave them disabled and unable to return to service.

In acknowledgement of the strenuous and hazardous nature of work, Congress created an accelerated retirement system for these positions. The hallmarks of this special system (nicknamed "6c" for the section of the law it is contained in) is a shorter length of service (20 years) and higher employee contributes to the retirement system. The higher contribution allows the employee to make the same contributions to the system over 20 years as would be made in the standard 30 year timeframe of CSRS/FERS retirement systems, to allow for the shorter career length of service.

This works when things go well. Unfortunately, this is not always the case. A disabling on the job injury is a daily fear for our Federal First Responders. Should that happen, these employees face losing benefits they were promised upon taking these hazardous duty positions. FFs and LEOs who become injured and unable to perform the duties of their position can be placed in other positions in an Agency – positions that are not covered by the 6c retirement system. When this happens, those employees involuntarily forfeit the job they love, the 6c retirement system, and the increased contributions they have already deposited into the 6c retirement promised them. The Fair RETIRE Act, S 29 seeks to fix this.

The Fair RETIRE Act addresses these inequities by allowing an ill/injured employee to stay in the "6c" retirement system if put into a position outside the "6c" retirement system (the employee would continue to make the higher contributions to the system), and to receive a refund of their accelerated contributions should they be separated from service before entitled to an annuity.

Current regulation, 5 USC 8151(b), requires an injured/ill employee to be placed in "equivalent positions" upon their return to work. Deferred compensation is—by definition—compensation. S 29 will allow this requirement to be honored for those who have given their health and well-being in service to the US Forest Service and other government agencies. The Fair RETIRE Act will keep these agencies from breaking the promise made to these employees.

For these reasons, the NFFE-IAM and the NFFE Forest Service Council strongly urges you to support the Fair RETIRE Act (S. 29), or to introduce or co-sponsor a companion bill in the House of Representatives.

Below are a few examples of how this affects real people:

- Greg, a disabled veteran, got his first appointment with Forest Service in 2001 as a Recreation Technician. In 2004, he applied for and received a Law Enforcement Officer position. He was injured in the line of duty. In 2013, he was deemed unable to perform the duties of his position. He was assigned to a fleet management position. He lost his 6c retirement and 9 years of extra contributions into the 6c system.
- Bob, a smoke jumper, was assigned to fires in the Selway Bitterroot Wilderness area. After he jumped, the wind suddenly changed and he was taken into the top of a 120-feet tall Grand Fir. As trained, Bob started to rappel down the tree, but the top broke off the tree. Bob fell 80 feet to the ground, with the broken top landing on him. It took 5 hours to get him to emergency medical help. His back was broken in 5 places; he was told he might never walk again. Bob eventually recovered and was placed in an engineering technician position. He lost his 6c retirement and 12 years of extra contributions into the 6c system.
- Lana was just 5 years old when she decided she wanted to be a fire fighter. She got a position with the Forest Service in 2005 and she was on her way. During the 2009 season, Lana sustained a serious leg injury that left her unable to carry weight over 10 pounds. This ended her dream career, but she could still work. Lana was placed in an administrative support clerk position. She lost her 6c retirement and extra contributions.
- Walt was born and raised in a logging family living on the Klamath National Forest. Forest Service FFs were the heroes of his childhood. Much to the dismay of his parents, he always knew he was going to be a firefighter. Walt got out of the Army in 1978 and started in a temporary firefighting position with the Forest Service in 1980. In 1987 he got a permanent position in fire. He had achieved his dream. While working with the Lassen Hotshots in 1991, he was injured while fighting a fire in Alaska. As Walt says:

  "My firefighting career was over. I was devastated, my life was over. I have talked to many employees who know what happens when they get hurt. They hide injuries that could have been treatable to not lose their jobs. I knew an engine captain that was given a job as a GS/4 mail room clerk. I know for a fact that he was considering suicide when he finally just quit the agency."

  Walt was placed in timber contracting position, losing his 6c retirement and his extra contributions into that system. After 7 years, he worked his way back to a position in fire dispatch, but it had taken too long; he was no longer eligible for firefighter retirement in the secondary position because of his break in service in a 6c position.
- Ernest started as a federal fire fighter in June 1991. In 2011 he exacerbated a previous injury to his back. In 2012 it was determined that he could no longer perform the duties of his position, and he was placed in a non-6c retirement position, issuing badges. Although he had 21 years of service, he had not yet reached age 50, so was not eligible to retire. Over time the damage from his injuries have deteriorated his physical condition such that he cannot perform his current job fulltime. He also has not yet reached the minimum retirement age for the standard retirement system. He lost his 6c retirement and 21 years of extra contributions into the 6c system, and has been forced into a 30 year career rather than the 20 year career promised him.

NFFE-IAM Opposes the Privatization of the Air Traffic Control System

Position: **NFFE-IAM is opposed to privatization of the air traffic control system. Last congress, House Transportation and Infrastructure Committee Chair Bill Shuster (R-Pa.) introduced FAA reauthorization legislation that included language to move air traffic services from the FAA and turn it into a not-for-profit private corporation. The legislation passed the committee but failed to make it to the House floor. In the Senate, lawmakers crafted legislation focused on bipartisan priorities to advance the aviation system instead of seeking to privatize the air traffic control system. The Senate overwhelmingly passed their legislation in April. Ultimately, lawmakers passed a one-year bill that did not include privatization language. The United States has the safest, largest, and most complex aviation system in the world and that system should continue to be operated solely for the public's benefit and safety, not for the benefit of special interests that will operate the privatized system. This country's air traffic control system must continue to be a function of the federal government.**

The U.S. air traffic system is not comparable: Many proponents of privatizing the U.S. air traffic control system view it the same as privatized air traffic systems in other countries. However, the U.S. air traffic control system is, quite simply, incomparable in size, scope and complexity to any other aviation system in the world. On a typical day, the FAA manages approximately 70,000 flights, safely transporting nearly two million travelers. In 2014, this equaled roughly 763 million passengers. For comparison, the aviation system in Canada carried approximately 75 million passengers—a difference of over 680 million passengers.1 And not only are these flights operated safely, the system is handled efficiently and effectively. Our country far outnumbers Canada in terms of facilities as well, with the United States having 21 Air Route Traffic Control Centers2 and 315 air traffic control towers3 compared with Canada's seven and 40, respectively. The U.S. airspace is over 75 million kilometers compared to 18 million in Canada.5 Simply stated, there is no comparison to the safest, most complex system in the world.

Modernization: Now is not the time to interrupt efforts to modernize the air traffic control system. Now is the time to move forward, continuing to allow the introduction of new technologies, doing so with a cohesive group of federal employees from every division of the agency. Some have recently criticized the FAA for its progress with the Next Generation Air Transportation System (NextGen), however very real advancements have been made to modernize the aviation system. These include installation of new systems and equipment, optimization of airspace and procedures, continued upgrading and standardizing of automation and communication systems. These large-scale projects cannot be supported by a fractured structure. In fact, a recent Department of Transportation Inspector General report, in comparing the U.S. aviation system with those in other countries using privatized models, emphasized that these countries do not embark on large-modernization efforts or conduct aviation research and development.6 The FAA has been successful in many realms because it involves stakeholders and congressional oversight in monitoring progress. Privatizing the system jeopardizes NextGen and introduces uncertainty into the future of modernization.

Separation of the Air Traffic Organization (ATO): The FAA functions as one cohesive unit with all lines of business interacting together daily. Communication and sharing of information and resources within the agency, including between the ATO and the Office of Aviation Safety (AVS), is essential to allow the agency to seamlessly perform the work necessary to ensure a safe and efficient system. In fact, ATO and AVS employees interact with each other on a regular basis; consistent and seamless communication is key to the continued safe operation of the system. For example, if there is an accident or incident and an AVS inspector

needs information, ATO employees can immediately pull the data needed to keep the process moving forward. In addition, NextGen is a complex and intra-agency revitalization project interwoven into multiple FAA lines of business, including AVS and ATO. As you can see, the FAA cannot simply be sliced apart without causing major disruptions to the safest, largest, most efficient system in the world.

Funding: Proponents of privatization tout the funding benefits of turning over our air traffic control system to a private entity and claim the new entity would function more like a business, a business subjected to an array of uncertainties. The system would be entirely funded by a currently unknown user fee scheme, which will be determined by a board of directors comprised of selective major users of the system.

Oversight: The funding questions segue directly into a discussion of oversight of the private corporation. The board of directors of this corporation would be operating with no oversight or accountability. The board—made up of a few select users of the system—will dictate everything from fees to implementation of modernization efforts, from staffing levels to training of employees, from maintenance of systems and equipment to determining the number of facilities nationwide. A board of directors with built-in conflicts of interest and zero oversight or accountability is not the entity that should be responsible for the operation and maintenance of the U.S. air traffic control system.

Likewise, we are seriously concerned with the lack of congressional oversight if the ATO is separated from the federal government. For example, the ability for stakeholders and members of Congress to work together on aviation-related issues has been pivotal to the success of our system. In a private corporation, lawmakers will lose the right to provide input on funding, staffing, safety, training and numerous other areas in which congressional oversight is present today. The flying public will also lose an advocate when dealing with aviation-related issues pertaining not only to safety but potentially noise and environmental concerns as well.

Employees of the Corporation: A review of the former legislation raises concerns regarding employees of the corporation—current FAA employees who become corporate employees as well as new employees. Language included in the bill significantly weakens labor laws for employees of the corporation. The proposed new labor law also fails to guarantee that every collective bargaining agreement will have a grievance process, thus stripping the quintessential means for employees to resolve workplace issues and protect their rights. In addition, whistleblower protections are virtually gutted in the bill, making it far more difficult for employees to expose misconduct and corruption and further limiting the ability for the corporation to be adequately overseen and held accountable. Future pay, healthcare and retirement benefits will no longer have the underpinnings of federal law, which applies to FAA employees today. New employees will be covered by a different pay and benefit system. Employees performing the same job, but with different pay and benefits, will surely lead to low morale and possibly lead to problems in retaining and attracting skilled and talented employees.

National Security: The FAA and other federal agencies share resources, facilities and information. For instance, the FAA shares services and facilities, including radars, with the Department of Defense. This requires sharing of critical information relevant to national security. In the case of a national emergency or natural disaster, that sharing of resources and information would be critical, as it was on 9/11. Our country responded quickly, safely and efficiently on that day to secure our country. Without a doubt, a secure aviation system is one that functions solely for the safety of the people.