Advocating Excellence in Public Service

1. Congress should pass all appropriations bills in a timely manner.
2. Congress should protect federal employees' health and retirement benefits.
3. Congress should pass meaningful hiring reforms.
4. Congress should pass legislation to allow all federal agencies the flexibility to extend the probationary period for employees entering the civil service to two years from date of hire.
5. Congress should allow Federal Employees Retirement System (FERS) employees to make deposits for non-deduction federal service performed, in the same manner as Civil Service Retirement System (CSRS) employees and former military personnel.
6. Congress should conduct constructive, bipartisan oversight of OMB's agency reorganization plans and ensure agencies have the resources and workforce to accomplish their missions.
7. Congress should pass legislation to establish and fund initial and ongoing mandatory training requirements for all managers and supervisors across the federal government, and provide for a dual-track system to allow technical experts to rise without taking on management roles.
8. Congress should preserve due process for all federal employees, including restoring the Merit Systems Protection Board (MSPB) to being fully functional.
9. Congress should authorize capital investments across the federal government to restore and/or modernize facilities to meet their operational needs.
10. Congress should pass legislation to make cost-of-living-adjustments (COLAs) more accurate and fair.
11. Congress should pass legislation to repeal or mitigate the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).
12. Congress should not interfere with the independent, responsible administration of the Federal Retirement Thrift Investment Board's (FRTIB) stewardship of Thrift Savings Plan investments.
13. Congress should address salary compression and remove pay caps on federal employees.

1. PROVIDE AGENCY FUNDING REFLECTIVE OF MISSION IN A TIMELY FASHION

Congress should provide adequate funding in a timely manner to allow agencies to procure the resources and staffing levels necessary to execute their missions.

- **Continuing resolutions (CRs) and government shutdowns cost all American taxpayers and hamstring managers.**
- **CRs force agencies to focus on short-term operations rather than long-term goals because they are unable to obtain the resources and staffing required that only comes through traditional appropriations.**
- **FMA implores Congress to stop using the appropriations process and government shutdowns as political tools, and fund the government in a timely, steady fashion.**

If Congress is sincere in its commitment to provide American taxpayers with federal services in an efficient and cost-effective manner, lawmakers must navigate the annual appropriations process in a timely fashion. Federal agencies are unable to provide managers and supervisors the resources necessary to achieve their missions when Congress delays passage of comprehensive spending bills.

Enormous stress is placed on federal programs when continuing resolutions, instead of traditional appropriations measures, are used to fund operations. Agencies are prevented from obtaining the necessary resources required to handle rising workloads. Budget uncertainty forces managers and supervisors to focus more on short-term operations and less on their core missions, impeding efficiency and ultimately costing the government and American taxpayers significantly more money in the long run. It results in egregious costs and wastes, and it takes significant time and resources for agencies to prepare for and recover from a shutdown.

The overreliance on continuing resolutions and shutdowns severely inhibit agencies' abilities to anticipate funding levels and allocate resources in an effective fashion to boost productivity and the delivery of services. Providing agencies with timely and adequate budgets is the only course of action to prevent these avoidable challenges.

The impact is debilitating before, during and after a lapse in funding. The 16-day shutdown in 2013 cost nearly $24 billion. The Congressional Budget Office estimated the five-week partial government shutdown of 2018-19 cost more than $11 billion.[1]

FMA was encouraged by the two-year bipartisan budget deal Congress and the Administration agreed to and passed in August 2019, preventing sequestration in 2020 and raising the debt ceiling. We also applauded the December 2019 passage of appropriations funding the remainder of Fiscal Year 2020. Members of Congress frequently say they want to run the government like a business. However, a business that constantly ran with budget uncertainty and delayed funding would never thrive or stay in business long. FMA implores Congress and the Administration to pass Fiscal Year 2021 appropriations in timely manner.

[1] https://www.cbo.gov/publication/54937

2. PROTECT FEDERAL EMPLOYEE HEALTH AND RETIREMENT BENEFITS

To attract and retain the best and brightest to public service, Congress must protect the health and retirement benefits of federal employees.

- **FMA opposes any arbitrary cuts by Congress to federal pay and benefits, which greatly affects feds morale and competitiveness with the private sector.**

Since 2011, federal employees contributed more than $200 billion to deficit reduction, despite making up less than one percent of the nation's population. In recent years, Congress targeted the pensions of new hires as a means to rein in spending, increasing employees' contributions without improving upon pension benefits or increasing the government's contribution. More troubling are proposals to change retirement benefits for existing employees and retirees, as included in President Trump's Fiscal Year 2021 budget request.

These proposals include:

1. A six percent increase for employee payroll contributions toward retirement, with no added benefit
2. Elimination of the Federal Employee Retirement System (FERS) cost-of-living-adjustment (COLA)
3. Reduction of the Civil Service Retirement System (CSRS) COLA
4. Elimination of the FERS annuity supplement
5. A shift from a "High 3" to a "High 5" for annuity calculations.

As proposed, these changes to the federal employee benefits structure would impact all current federal employees – not just new hires – as well as retirees. They amount to nothing more than broken promises to workers who are currently vested, or at or near retirement age, and a tax on federal employees and annuitants. These proposals shift the goalposts and eliminate earned benefits for employees who dedicated a career of service to the country. If enacted, they would cripple recruitment and retention to the federal workforce, at a time when only six percent of the workforce is made up of employees aged 30 or younger. This number is even more alarming when considering the same age group makes up 24 percent of the private sector workforce. FMA implores Congress to not consider such proposals.

FMA strongly supported and applauded Congress and the administration for providing a 3.1 percent pay raise for federal employees in 2020. Federal managers, and indeed all feds, deserve to be treated with respect for their efforts and the work they have performed over many years. Every job they hold and perform daily is because of a congressional mandate. It is not too much to ask that, in return, feds be given the ability to maintain a living wage that keeps up with inflation and that provides for them and their families. Pursuant to this, FMA supports the 3.5 percent pay raise for 2021 included in the Federal Adjustment to Income Rates (FAIR) Act (H.R. 5690 / S. 3231), as introduced by Representative Gerry Connolly (D-VA) in the House and Senator Brian Schatz (D-HI) in the upper chamber.

3. HIRING REFORM

Congress should pass meaningful hiring reforms in order to attract the best and brightest to public service

- **Hiring for the federal workforce is too lengthy and cumbersome compared to the private sector, and FMA supports measures to enhance the talent pipeline in the federal workforce.**
- **FMA supports providing managers with more tools, including direct hire authority, to help reduce the average time-to-hire.**
- **FMA supports discussions about reducing the complexity of veterans' preference.**

The subject of hiring reform is one of the most frequently discussed topics related to federal managers and federal employees on Capitol Hill. Senator James Lankford (R-OK), Chairman of the Senate Homeland Security and Governmental Affairs Subcommittee on Regulatory Affairs and Federal Management, has discussed the issue in several hearings in recent years, calling the hiring process, "lengthy" and "cumbersome." According to the Government Accountability Office, it took, on average, 106 days to fill an open position in 2017. In her confirmation hearing, Margaret Weichert, Deputy Director for Management at the Office of Management and Budget, called hiring "one of the biggest impediments to making progress on the management agenda."

FMA agrees with this sentiment and supports commonsense hiring reforms and giving managers other tools to enhance the talent pipeline in the federal workforce. In the 114th Congress, FMA endorsed and helped usher the Competitive Service Act (P.L. 114-137) into law, allowing federal agencies to streamline the hiring process by cutting duplicative services and saving taxpayer money. FMA also supported language included in the National Defense Authorization Act to boost the maximum Voluntary Separation Incentive Payments at the Department of Defense from $25,000 to $40,000.

In a March 2019 report, Chairman Lankford, stated, "Giving agencies, human resources departments, and managers more hands-on control to expedite the hiring process will allow the government to move forward with considering real talent and recruits in a timely manner, instead of getting pushed back by a delay of game." FMA agrees, and supports efforts to increase direct hire authority, such as provisions included in the Fiscal Year 2020 National Defense Authorization Act.

FMA strongly supports our nation's veterans who gave so much to protecting our country and way of life. We are proud to have originated the idea and worked to create disabled veteran leave for new hires in the federal workforce. However, we recognize the current veterans' preference system often blocks other qualified new hires to the federal government. While FMA remains steadfast in support of veterans who continue to serve the country as federal employees, we also support evaluating potential reforms to how veterans' preference is applied in the future, including: applying veterans' preference as a tiebreaker between equally qualified candidates; limiting veterans' preference to candidates within 10 years of discharge; or, allowing veterans' preference to obtain an initial job within the federal government (one bite at the apple).

4. ALLOW AGENCIES TO EXTEND THE PROBATIONARY PERIOD

Congress should pass legislation to allow federal agencies the flexibility to extend the probationary period for employees entering the civil service to two years from date of hire.

- **Many of the jobs that exist within the federal workforce require specialized, technical training that continues past the current one-year probationary period.**
- **This puts federal managers in a tenuous position of assessing employees' abilities often when they have only been in the position for a few weeks or have not started in the position at all.**
- **FMA urges Congress to extend the probationary period to two years from date of hire to empower managers to make a decision on their employees with more information at their disposal.**

Many federal agencies employ labor forces requiring specialized, technical skills to carry out their duties. New employees must often master broad and complex procedures and policies to meet their agencies' missions, necessitating several months of formal training followed by long periods of on-the-job instruction. To ensure each manager and supervisor oversees a workforce that exhibits the abilities required to execute its objectives, lawmakers must afford federal agencies the latitude to extend the probationary period beyond the current length of only one year.

In occupations where training takes substantial time, supervisors may only have a few months of work to judge employees' performance. A longer probationary period allows supervisors to fully assess employees' abilities. The current economic environment requires agencies to take on greater responsibility while receiving fewer resources, and it is critical that members of the federal workforce prove they are up to the challenge of serving the interests of the American public.

According to Chief Human Capital Officers interviewed for a 2015 GAO Report (GAO-15-191[2]), "supervisors often do not have enough time to adequately assess an individual's performance before the probationary period ends, particularly when the occupation is complex or difficult to assess." Additionally, President Donald Trump, in his administration's FY20 budget request, pushed for all agencies to have greater flexibility to use longer probationary periods.[3]

FMA applauded Congress' action to extend the probationary period to two years from date of hire for Department of Defense (DOD) employees as part of the Fiscal Year 2016 National Defense Authorization Act (NDAA). We therefore opposed the effort in the 116th Congress to shift the probationary period back to one year as part of the FY 2020 NDAA. FMA was gratified NDAA conferees listened to FMA's concerns and prevented the shift, instead calling for a thorough analysis and report to Congress on how the current policy is operating at DOD.

FMA urges Congress to bring other agencies in line with DOD, the largest employer in the country, and develop a probationary period that recognizes the complexities of federal agencies' training periods.

[2] https://www.gao.gov/assets/670/668339.pdf

[3] https://www.gsa.gov/cdnstatic/GSA%20FY%202020%20CJ.pdf

5. ALLOW ALL FEDS TO MAKE DEPOSITS FOR NON-DEDUCTION SERVICE

Congress should allow Federal Employee Retirement System (FERS) employees to make deposits for non-deduction service performed, in the same manner as Civil Service Retirement System (CSRS) employees and former military personnel.

- **Currently, a FERS employee can make a deposit for non-deduction service performed before January 1, 1989, and receive credit toward his or her annuity computation, yet non-deduction service performed on or after January 1, 1989, generally is not creditable under FERS for any purpose.**
- **FMA encourages legislation to correct this inequality and allow FERS, FERS-Revised Annuity Employee (RAE), and FERS-Further Reduced Annuity Employee (FRAE) employees to make deposits for non-deduction service performed in the same manner as CSRS employees.**

Under the Civil Service Retirement System, non-deduction civilian service performed after September 30, 1982, is creditable for retirement annuity computation purposes, other than average salary, only if the employee pays a deposit for that service. Service on or before September 30, 1982, is creditable for annuity computation without a deposit; however, 10 percent of the deposit owed will be permanently deducted from the annual annuity.

Currently, a Federal Employee Retirement System (FERS) employee may make a deposit for non-deduction service performed before January 1, 1989, and receive credit toward his or her annuity computation; however, non-deduction service performed on or after January 1, 1989, generally is not creditable under FERS for any purpose.

In the 116th Congress, Representatives Derek Kilmer (D-WA) and Tom Cole (R-OK) introduced the Federal Retirement Fairness Act (H.R. 2478), which would allow FERS employees to buy back years served as temporary employees to credit toward their retirement. The legislation has more than fifty bipartisan cosponsors. FMA urges Congress to consider and pass H.R. 2478.

6. AGENCY REORGANIZATION OVERSIGHT

Congress should conduct constructive, bipartisan oversight of OMB's agency reorganization plans and ensure agencies have the resources and workforce to accomplish their missions.

- **FMA urges Congress to continue to exercise bipartisan oversight of agency reorganization plans.**
- **FMA opposes the proposed merger of OPM and GSA and applauds Congress for requiring an independent study and report on the plan.**

On April 12, 2017, Office of Management and Budget (OMB) Director Mick Mulvaney released a memo, M-17-22, titled "Comprehensive Plan for Reforming the Federal Government and Reducing the Federal Civilian Workforce." The memo required all agencies to submit reorganization plans, culminating in the release of a document, "Delivering Government Solutions in the 21st Century: Reform Plan and Reorganization Recommendations,"[4] in June 2018. In 2019, the Administration pursued merging many of the functions of the Office of Personnel Management (OPM) into the General Services Administration (GSA) and the Office of Management and Budget (OMB), as part of the President's Management Agenda.

From the outset of the Administration's reorganization plans, FMA has consistently expressed an open mind about potential benefits. FMA fully supports the notion of making the federal government as efficient and effective as possible, and we know change can be necessary and good, including when it comes to civil service reform. Regrettably, the fact that the proposal politicizes human resources functions within the federal government makes everything else unacceptable.

Dating back to the early 1880s, the nation has strived to eschew the "spoils system," in favor of a politically impartial, merit-based federal civil service. The career civil service is expected – and required by law – to work without regard to their own political affiliations or leanings. They work solely based on their technical merit and prowess, unaffected by which political party is in the White House. This is why OPM was created as an independent establishment in the civil service reform act of 1978. Rolling these functions into GSA, which functions "subject to the direction and control of the President," creates a serious conflict. FMA argues transferring these roles into the GSA would negatively impact the non-partisan standing of the career civil service, and most importantly, threatens the output of services to the American people. While some components of the proposal have merit toward making government function more effectively and efficiently, FMA's concerns with removing OPM's status as an independent establishment outweigh the benefits.

FMA supported action Congress took in the Fiscal Year 2020 National Defense Authorization Act[5] (NDAA) to limit the proposed merge. The NDAA requires an independent study and report to Congress on the proposal before it can be considered. FMA applauds this oversight and encourages Congress to continue this bipartisan evaluation in the second session of the 116th Congress.

[4] https://www.whitehouse.gov/wp-content/uploads/2018/06/Government-Reform-and-Reorg-Plan.pdf

[5] https://www.congress.gov/116/bills/s1790/BILLS-116s1790enr.pdf

7. MANDATE AND FUND FEDERAL SUPERVISORY TRAINING PROGRAMS

Congress should pass legislation establishing initial and ongoing mandatory training requirements for all managers and supervisors across the federal government.

- **Current law allows managerial training throughout the federal workforce to be among the first to be eliminated when facing a lean budget or continuing resolutions.**
- **Studies show that many federal employees are promoted to managerial positions based on their technical performance and lack the soft, managerial skills needed for their expanded positions.**
- **FMA calls for legislation establishing mandatory training programs across the federal workforce focusing on certain aspects such as management topics, including mentorship, career development, prohibited personnel practices, and collective bargaining rights.**

Current law requires agencies to establish training programs for managers and supervisors focusing on how to address poor performing employees, enhance mentoring skills and conduct accurate performance appraisals. However, there is no requirement for managers to participate in these training programs, and when budgets are tight or CRs are in place, these discretionary programs are often the first to see their funding cut.

Studies have shown that agencies often promote individuals to managerial status based on technical prowess, but then fail to develop their supervisory and leadership skills. In doing so, agencies severely jeopardize their capability to achieve their missions. The development of managerial skills is one of the greatest investments an agency can make, both in terms of productivity gains and the retention of valuable employees. Following the scandal within the Department of Veterans Affairs (VA) that brought to light falsified patient wait times and improper care, it was noted that if managers better knew how to address poor performers and encourage efficiency and effectiveness throughout the VA, many of those problems could have been avoided.

An agency's ability to meet its mission directly correlates to the quality of workforce management. There is a clear need for training if a manager is to be fully successful. Too often, if an agency promotes an individual to managerial status based on technical prowess, but then fails to develop the individual's supervisory skills, that agency then severely jeopardizes its capability to deliver the level of service the American public expects and does a disservice to both the manager and to the employees supervised by that inadequately developed manager.

FMA endorsed legislation introduced in the 112th Congress, H.R. 1492 / S. 790, requiring agencies to provide supervisors with training on various management topics, including mentorship, career development, prohibited personnel practices, and collective bargaining rights. More recently, FMA endorsed the Federal Supervisor Training Act of 2016 (S. 3528), offered by Sen. Heidi Heitkamp in the 114th Congress, which included a dual-track system to allow technical experts to advance in their careers without taking on managerial or supervisory roles. FMA urges Congress to introduce and approve similar legislation in the 116th Congress.

8. PROTECT DUE PROCESS FOR ALL FEDERAL EMPLOYEES

To prevent a return to the spoils system, Congress must not eliminate or erode due process for federal employees.

- **Any infringement, limitation or elimination of due process puts employees in the unjust position of possibly losing their job without proper cause and creates a strained relationship between labor and management.**
- **FMA opposes legislation that would eliminate or erode the right to due process.**
- **Congress must restore a fully functioning Merit Systems Protection Board (MSPB).**

A federal employee's right to due process is fundamental and constitutional, and Congress must not take steps to eliminate or erode this right. In *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985), the Supreme Court held that the Constitution guarantees that if there must be a cause to remove a public employee from his or her job, then there is automatically a due process requirement to establish that the cause has been met.

Regrettably, the Department of Veterans Affairs Accountability and Whistleblower Protection Act of 2017 (P.L. 115-41), signed into law in June 2017, has significantly eroded due process and appeals rights for all federal employees in that department. The legislation dramatically reduces an employee's ability to appeal a decision that would deprive that employee of their job and salary. Preventing an employee from understanding charges against them or preparing a meaningful defense undermines an employee's due process and is wrong. At the same time, limiting the number of days to process an action may result in findings of legal insufficiency and no action being taken, rather than taking the necessary time to resolve any documentary issues. Many in Congress are working to extend the same attacks on due process across the federal government. FMA opposes legislative efforts to reduce or eliminate due process for federal employees across the government.

However, this does not mean every employee should be retained. As with any population, there may be some bad employees, and employees who are not suited for the position they occupy. Managers have an obligation to ensure that employees are terminated for the right reasons: unacceptable conduct or performance that cannot be corrected in another way. Therefore, FMA also supports rules proposed by the Office of Personnel Management (OPM) related to 5 CFR parts 315, 432, and 752.[6] These proposed rules would affect probation on Initial Appointment to a competitive position, performance-based reduction in grade and remove actions and adverse actions.

The Merit Systems Protection Board (MSPB), whose mission is to "protect the merit system principles and promote an effective federal workforce free of prohibited personnel practices" has operated without a quorum for more than three years and has had no board members since March 2019. This has resulted in a backlog of more than 2,500 cases as of January 2020. This is unacceptable. Three qualified nominees have been approved by the Senate Homeland Security and Governmental Affairs Committee, but have not been confirmed by the full Senate. FMA urges the Senate to confirm these nominations and restore MSPB's board as swiftly as possible.

[6] https://www.govinfo.gov/content/pkg/FR-2019-09-17/pdf/2019-19636.pdf

9. PROVIDE CAPITAL INVESTMENTS TO RESTORE AND MODERNIZE FACILITIES

Congress should authorize capital investments across the federal government to restore and modernize facilities to meet operational needs.

- **Facilities and infrastructure across the government are in dire need of significant restoration and modernization, and many are not meeting operational needs.**
- **FMA urges Congress to appropriate the necessary resources and funds to facilities and infrastructure across the country.**

The four public shipyards perform prodigious work to maintain the fleet that helps keep our country safe. Unfortunately, all four of them are in "poor condition," and are not meeting the Navy's operational needs. GAO Report GAO-17-548,[7] released in September 2017, details many of the infrastructure issues, and it is certainly not only the shipyards that face challenges. For example, Fleet Readiness Center (FRC) East in Cherry Point, North Carolina, had a burst water main under a hangar which caused a floor bulge preventing aircraft from being maintained there.

The costs of upgrading, restoring and modernizing facilities and infrastructure run in the billions. The Navy currently estimates $21 billion over twenty years for dry dock investment, facilities layout and optimization investment, and capital equipment investment at the shipyards. The Naval Sea Systems Command submitted a long-range plan to Congress on the current needs in a March 2019 report. Simply put, investments are needed now for the shipyards to support the USS Gerald Ford Class aircraft carriers and the USS Virginia class submarines.

Repairing aging and damaged facilities within the Air Force command and Marine Corps may be costly, as well. However, the costs of *not* making these investments will undoubtedly be much greater, including higher labor and materials costs for re-work. We applaud the work of the House Armed Services Committee for directing a comprehensive report on shipyard shortfalls and how they impact military readiness.

It is important to note that restoration and modernization, including information technology, are issues that apply to agencies across the federal government, including the Social Security Administration, the Internal Revenue Service, and others.

As the frontline managers who work in these aging facilities and strive every day to complete our agencies' missions, FMA urges Congress to make necessary investments in facilities and infrastructure at the four public shipyards and across the government.

[7] https://www.gao.gov/products/GAO-17-548

10. COMMON-SENSE MODIFICATIONS TO MAKE COLAs MORE ACCURATE AND FAIR

Congress should pass legislation to provide a fair COLA for FERS retirees and to modify the method used to calculate all COLAs to more accurately reflect actual spending.

- **Congress should pass the Equal COLA Act (H.R. 1254), which would remove the cap on FERS retirees' COLAs.**
- **Congress should pass the Fair COLA for Seniors Act (H.R. 1553), to shift the calculation from the current CPI-W, which covers the general population, to the CPI-E, which creates a price index for Americans aged 62 and above.**

FMA supports two bills in the 116th Congress that would fix unfair and arbitrary policies that limit cost-of-living-adjustments (COLAs) for Federal Employee Retirement System (FERS) retirees and seniors.

In 2020, the COLA for both Civil Service Retirement System (CSRS) and FERS retirees is 1.6 percent. However, in 2019, CSRS retirees received a 2.8 percent COLA, while FERS retirees received only a 2 percent boost. Under current law, FERS retirees only receive a full COLA if the difference in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) is 2 percent or less (as in 2020). If the difference is between 2 percent and 3 percent – as was the case in 2019 – FERS retirees receive a 2 percent increase. If the change is 3 percent or higher, FERS participants receive 1 percentage point less than the full increase.

To correct this inequality, Representative Gerry Connolly (D-VA) introduced the bipartisan Equal COLA Act (H.R. 1254), which would align FERS COLAs with those of CSRS and Social Security beneficiaries. Regarding the built-in difference between CSRS and FERS COLAs, which began when FERS was created in the 1980s, Rep. Connolly said, "we now realize that this two-tiered system fails to protect FERS retirees who are living on a fixed income. This legislation will rectify this unfair system and ensure these dedicated public servants are protected throughout their retirement." FMA agrees and encourages Congress to pass H.R. 1254.

Annual cost-of-living-adjustments (COLAs) for federal civilian retirees and Social Security benefits are currently set based on the CPI-W. When COLAs first became automatic, the CPI-W was the only price index available. However, the CPI-W does not accurately account for seniors' spending, particularly on health care. Seniors nearly double the amount on medical expenses than younger citizens. The Consumer Price Index for the Elderly (CPI-E), created in 1982, calculates a price index for those aged 62 and older, and is a more precise index for seniors.

Representative John Garamendi (D-CA) introduced the Fair COLA for Seniors Act (H.R. 1553), which would require Social Security to use the CPI-E to calculate a more accurate and fair COLA that reflects their actual spending, particularly on prescription drugs and other medical care, and lifestyle. FMA urges Congress to pass this common-sense legislation to yield more sensible COLAs for seniors.

Further, as noted in another FMA issue brief, the administration has proposed reducing the CSRS COLA by 0.5 percent and eliminating the FERS COLA altogether. FMA stands resolutely in opposition to those proposals and urges Congress not to break its promise to hard working federal employees by improperly taking from their earned retirement benefits.

11. REMOVE INEQUITIES IMPOSED BY GPO AND WEP

Congress should pass legislation to repeal the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP).

- **The Government Pension Offset reduces the dependent/survivor benefit.**
- **The Windfall Elimination Provision penalizes those who have two jobs; one that earned a Social Security retirement benefit, and one that entitled them to a separate pension.**
- **Congress should repeal both of these unfair and harmful laws.**
- **FMA realizes a full repeal of GPO and WEP is cost-prohibitive and also supports partial repeals.**

The Social Security Government Pension Offset law prevents government retirees who receive a government pension but did not pay into Social Security from collecting both a government annuity based on their own work and Social Security benefits based on their spouse's work record. This is unfair to many spouses, especially widows, who often lose the Social Security protection their spouse provided for them. Under current law, a Social Security widow's benefit is reduced by $2 for every $3 earned if the widow is eligible for a pension based on a public sector job that was not covered by Social Security. A total of 465,000 Social Security beneficiaries are affected by the GPO, seventy-five percent of whom are women and over forty percent are widowed. No offset affects spouses receiving pensions from private sector employers.

The Windfall Elimination Provision is another inequity that disadvantages many federal retirees receiving Social Security benefits and a federal pension which did not require payment into Social Security. It reduces the Social Security benefits federal retirees receive based on the number of years they served in a federal position that did not require their payment of Social Security taxes. Nearly one million Social Security beneficiaries are affected, and roughly twenty percent paid into Social Security for more than twenty years.

FMA supports the Social Security Fairness Act of 2019 (H.R. 141), legislation introduced early in the 116th Congress by Representative Rodney Davis (R-IL), which would repeal GPO and WEP. Contemporaneously, we recognize that full repeal of both GPO and WEP would be costly and full repeal is unlikely at this time. FMA therefore also supports legislation that seeks partial repeal, such as the Equal Treatment of Public Servants Act of 2019 (H.R. 3934), introduced by Representative Kevin Brady (R-TX) and the Public Servants Protection and Fairness Act, H.R. 4540, introduced by House Ways and Means Chairman Richard Neal (D-MA). These bills would create a new formula for WEP, calculating benefits by taking into account the actual wage and work history of public sector employees. FMA encourages Congress to take action to remedy this issue on behalf of affected workers.

12. CONGRESS SHOULD NOT INTERFERE WITH FRTIB STEWARDSHIP OF THRIFT SAVINGS PLAN INVESTMENTS

Congress should not interfere with the independent, responsible administration of the Federal Retirement Thrift Investment Board's (FRTIB) stewardship of Thrift Savings Plan investments.

- **TSP's broadened investment of the international (I) fund will align TSP with the majority of private sector 401(k) offerings.**
- **TSP funds belong to plan participants and FRTIB fiduciaries manage assets in the sole interest of participants and beneficiaries.**
- **FMA opposes the Taxpayers and Savers Protection (TSP) Act (S. 2791 / H.R. 5018).**

The Federal Retirement Thrift Investment Board administers the Thrift Savings Plan , a tax-deferred defined contribution plan, similar to private sector 401(k) plans, providing federal employees an opportunity to save for retirement security. The board's mission is "to administer the TSP solely in the interest of participants and beneficiaries."

In November 2017, the board made a decision to expand TSP's international (I) fund, and base its investments on a stock index that includes companies from China. The FRTIB noted that by shifting to the broader international index, "TSP will match what all the top 10 of the largest U.S. companies' 401(k) plans offer, what all the top 10 federal contractors' 401(k) plans offer, what all six of the six largest target date fund providers offer, as well as what all 20 of the largest public employee benefit plans for state employees offer." In other words, the overwhelming majority of private sector employers already include Chinese investments in their 401(k) offerings.

Some members of Congress have been critical of this decision, calling on the FRTIB to reverse it. When FRTIB upheld its decision, critics introduced the Taxpayers and Savers Protection (TSP) Act (S. 2791 / H.R. 5018), which would prevent the shift. And on November 22, 2019, Senators Rick Scott (R-FL) and Marco Rubio (R-FL) wrote President Donald Trump encouraging him to replace members of the FRTIB. The senators expressed concern with the TSP's expansion, specifically because the expansion "forces the U.S. government to invest" in Chinese companies.

In response, Michael Kennedy, chairman of the FRTIB, and Clifford Dailing, chairman of the Employee Thrift Advisory Council (ETAC), pointed out, "TSP funds are solely the property of plan participants – it is not federal money and it is not taxpayer money . . . The FRTIB is required by Congress to make decisions that are in the best interest of all TSP participants, and not consider issues better left to other federal entities," Kennedy and Dailing wrote. They also noted that, "as with all other funds, the choice to invest in the international fund would rest solely with participants."

FMA is a member of ETAC and supports the position ETAC and FRTIB have taken in this matter. FMA urges Congress to oppose the TSP Act and to refrain from interfering with the board's stewardship of the TSP.

13. ADDRESS SALARY COMPRESSION AND REMOVE PAY CAPS ON FEDERAL EMPLOYEES

Congress should address salary compression and remove pay caps on federal employees.

- **More and more federal employees are impacted each year by pay compression and the salary cap on feds.**
- **FMA recommends Congress introduce legislation to address this issue to improve recruitment and retention.**
- **Policies that enable pay compression over several years cause demoralization and lead to widespread dissatisfaction.**

The federal pay ceiling cap has not kept up with the higher cost of living in many cities across the United States. This impacts many managers and technical employees across the country whose salaries are currently compressed and the issue will only get worse if it is not addressed.

Federal employees on the General Schedule (GS) cannot exceed the pay rates for political appointees and others at level IV on the Executive Schedule. As a result, many federal employees, particularly GS 14s and 15s, are reaching a pay ceiling which not only impacts take home pay, but also reduces their annuity calculation. As reported by *Federal News Network*, a GS-15, step 10 in Washington, D.C., should make $185,509 in 2020, but those employees are capped at $170,800. However, it is not simply the most experienced federal workers who are impacted. In the Washington, D.C. area, step 7s are now capped. In the New York metropolitan area, employees at step 6 and above are capped.

While federal employees in areas such as San Francisco, New York City, and Washington, D.C., have been impacted for many years, employees in North Carolina, Georgia, Oregon, and elsewhere across the country are feeling the effects as well, and the problem grows every year. This issue can and will play a role in recruitment and retention to the federal workforce, which already has hiring issues. If an employee is offered a promotion at a higher level, with more responsibilities, but no corresponding salary increase, will they take on the new role? Technology employees who are now capped may be tempted to leave the government for the private sector, where there is no pay cap. The time is now to address the problem, before it grows exponentially.

One potential remedy is to allow employees who are currently capped to receive up to 0.5 percent above the highest locality pay cost-of-living adjustment (COLA) for ten years. For example, in 2020, San Francisco is the highest locality pay area. Employees would receive a 2.6 percent COLA, plus locality pay of 1 percent, for a total raise of 3.6 percent. Under this proposal, employees who are capped would receive a 0.5 percent raise above the 3.6 percent, for a total of 4.1 percent. If this formula went into effect every year, the cap would slowly diminish rather than continue to worsen. The U.S. Senate has addressed pay cap issues in the 116th Congress. Specifically, the Senate passed the Competitive Pay for Leaders in Veterans Health Care Act (S. 3084), which would end an out-of-date pay cap for top health professionals at the Department of Veterans Affairs.