

JANET M. GARRY
GOVERNMENT AFFAIRS CONSULTANT
P.O. BOX 749
ROCKVILLE, MD. 20848-0749
TELEPHONE (301) 770-1850/ FAX (301) 770-1852

DATE: June 8, 1998

TO: NATIONAL COUNCIL SSMA OFFICERS AND EXECUTIVE COMMITTEE

RE: Legislative Report #20

House Budget passes; commitment obtained by Reps. Davis and Wolf to hold federal employees harmless: The House budget passed on the floor Friday 216-204 along partisan lines. Budget Comm. Chairman Kasich presented it as an overall 1% cut below the figures in the five-year budget plan, but Budget's Ranking Democrat Spratt (D-S.C.) -- whose alternative budget failed -- criticized it as an unjustified 6% to 36% cut in various programs once mandatory spending is excluded. The budget savings are used under the House-passed bill to pay for elimination of the tax penalty on married couples who file joint tax returns. The bill also allows Congress to use budget surpluses (other than those in trust funds) for additional cuts -- and it projects those surpluses to be \$34 billion next year; \$223 billion over the next five years. Several Republicans who voted for the measure said they did not approve of the additional cut but wanted to move along a process which was already two months behind schedule.

During the final short period of floor debate (after two full days of it) just prior to the vote, federal employees and retirees received attention. **Rep. Tom Davis (R-Va.)** appeared on the floor to announce that Chairman Kasich had assured him that, although \$1.6 billion in additional cuts were taken from unnamed programs under the jurisdiction of the House Government Reform and Oversight Committee, none would be required in the areas of **FEHBP employee premium contributions, the defined benefit portions of retirement or any other federal pay and benefits.** House Budget Chairman Kasich responded that it was not the Committee's intent that the cuts come from the pay and benefits of federal employees, that the Budget Committee would work with the Gov. Reform Committee and if other means of taking the cuts could not be worked out, the Gov. Reform Committee would "not be held to this figure." Kasich further committed that "we will work with the Senate to be sure this money does not come out of those programs." Rep. Davis concluded his remarks by saying, "Federal employees are the greatest asset we have in this government. . . I am comforted by these remarks of the Chairman."

Rep. Wolf (R-Va) also appeared on the floor to raise his "serious concern" that federal employees and retirees not be "singled out for unfair reductions," but adding that he was "encouraged by Chairman Kasich's remark" on that front. Wolf also noted that the bill made

unspecified cuts in welfare programs and Medicaid, and he appealed for greater concern about the impact of the budget on the "poor and oppressed" in this country, noting that spending on the Highway bill had blown the budget caps for special interests.

House Minority Leader Gephardt maintained that passage of the Kasich budget would mean that the more moderate Senate-passed bill, which does not cut spending below the levels agreed to in the five-year plan, would prevail.

(Note: NCSSMA's letter to the House Budget Committee opposing the federal employee benefit cuts was included in last week's legislative report.)

Government Contracting debate continues:

The questions of whether and how to expand the contracting of federal work to the private sector continue to be asked, although the House Government Reform Committee has not been able to follow-through on mark-up of the bill currently before it because of lack of consensus. That bill, H.R. 716 requires agencies to analyze and categorize all workloads as to whether they are "inherently" governmental and put out for bid those that are not.

NCSSMA has sent to the Government Reform Committee a letter raising concerns about expanded contracting: uncertainty about how the bills under consideration would affect SSA; whether sufficient consideration has been given to both the efficiency and productivity of agencies such as SSA; the problems of holding contract employees accountable in the same ways that federal employees are accountable to the public for upholding the laws and providing stewardship of public funds; and the history of problems with contracting out, including overcharges, lack of timeliness, etc. A copy of the letter is attached. NCSSMA will submit a similar letter to the Senate Governmental Affairs Oversight of Gov. Management Subcommittee, which held a hearing last week on issues involved in Federal contracting.

Overtime bill and related issues:

As we work to obtain additional co-sponsors for H.R. 3956, the Federal Employees Overtime Pay Act, we continue also to urge the Office of Personnel Management also to work to correct the supervisory overtime problem. Attached is a letter sent to Director LaChance requesting a response regarding OPM's views and plans on this matter.

Note that the letter also touches on the need to get the Administration to promote a more inclusive model for partnership at SSA and throughout the federal government.

House passes Ticket to Work and Self-Sufficiency Act:

The House also passed last week H.R. 3433 directing SSA to set up a program providing SSDI and SSI disability recipients with a "ticket" with which they may obtain vocational rehabilitation services, employment services, or other support services from providers of their choice within an employment network. SSA's Legislative Bulletin 105-11 contains the details on the House-passed bill. (Reported March 30 in my Legislative Report #11 and

May 18 in Legislative Report #17).

House Social Security Subcommittee hearings on the future of SS continue. In recent weeks there have been two, with the last one focusing on proposals for Personal Savings Accounts. Another is planned for next week. An upcoming legislative report will summarize highlights of those. **Senators Judd Gregg (R-NH) and John Breaux (D-La) and Reps. Jim Kolbe (R-ARIZ) and Charles Stenholm (D-TX)** have announced their plan to introduce bi-partisan legislation based on recommendations of the **National Commission on Retirement Policy**, which they co-chaired. Legislation they will introduce will: divert 2% of the current 12.4% Social Security contribution into a personal savings account; establish an investment program modeled on the Federal employees' thrift savings plan, with choices from among a set of fund options; establish a minimum SS benefit provision to guarantee that workers who pay into the system are protected from poverty; raise the age of retirement with full benefits to 70 by 2029. They believe that such a plan maintains intact the core of the Social Security program and represents a highly supportable middle ground between proposals to more dramatically "privatize" the system and those who want essentially to preserve the program as it is now. They will also be proposing a repeal of the earnings limit and an expansion of the delayed retirement credit for people who work beyond normal retirement age. In addition, they plan to propose changes in the tax law to encourage and enable enhanced retirement savings in the private sector.

"Plain Talk":

Vice President Gore has given agencies until 2002 to rewrite all documents (other than regulations) in "plain language" which uses: common, everyday words, except for necessary technical terms; "you" and other pronouns; the active voice; short sentences. By Oct. 1, 1998, all new documents other than regulations must be written in this way (including letters, forms, notices, and instructions -- "to explain how to obtain a benefit or service or how to comply with a requirement"). By January 1, 2002 all of these type documents created before Oct. 1, 1998 must also be re-written in plain language. And even rules and regulations which are proposed on or after Jan. 1, 1999 must be written in this way.

Independent agencies, which are not technically covered by this memorandum to agency heads, are nevertheless asked by the Vice President to comply.

End

NCSSMA Letterhead

June 2, 1998

The Hon. Dan Burton
Chairman
Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515

The Hon. Steve Horn
Chairman
Subcommittee on Government Management
and Information Technology
Committee on Government Reform and Oversight
U.S. House of Representatives
Washington, D.C. 20515

Re: H.R. 716

Dear Chairman Burton and Chairman Horn:

The National Council of Social Security Management Associations represents SSA field office and teleservice managers serving the public in your districts and across the country. We are the individuals responsible for serving your constituents, and those of your colleagues, in person and over the phone every day. We take very seriously our responsibilities to provide the best service possible to the American public and to act as stewards of public monies. Our members nationwide are following closely the proposals before your Committee to expand the contracting of federal workloads to the private sector.

SSA is one of the most cost-efficient and productive organizations in the United States, public or private. Our administrative expenses -- of less than one cent per dollar for Social Security benefits administered and two cents per dollar for all SSA's program responsibilities -- are unequalled anywhere. During oversight hearings recently held by your Committees, you have heard the results of a comprehensive private financial management audit which found that SSA's finances are soundly managed and accounted for. In addition, the rate of accuracy for benefits paid is near 100%.

This excellence is founded in large measure on the sense of stewardship for public funds shared by employees at all levels throughout SSA. We are accountable to the public both for the quality of services we provide and for the wise expenditure of the taxpayer dollars which pay for those services. The public has paid for, and deserves, no less.

It is not clear, under the proposal being considered by your committees, whether the services we provide and the payment of Social Security benefits would be considered "inherently governmental" and therefore maintained as a Federal in-house operation.

Further, if SSA's services were to be contracted, we do not believe that contract employees would feel the same level of public accountability or the same degree of stewardship on which SSA employees pride themselves. We do not believe the public and public money would be protected by private sector contract employees in the same way they are by Federal employees who have sworn upon accepting Federal employment to uphold the laws of the country. For example, recently the Immigration and Naturalization Service had to resume handling citizenship testing because contracting out of that function led to serious fraud by private administrators who gave passing marks in exchange for payments from citizenship applicants.

NCSSMA maintains that accountability to the public argues very strongly against dramatic expansion of Federal contracting. Practical experience also teaches that there are serious pitfalls with contracting. As you know, there have been repeated incidents of egregious overcharges to the Government by private sector contractors. Management and control of contractors by Federal contract managers has historically been problematic. In addition, private sector employers, who are free to hire temporary employees to handle contracted workloads, are not accountable to the Government for equitable treatment of those employees.

The Federal workforce is today the smallest since the 1960s. Even before the downsizing initiatives which reduced the Federal workforce by over 300,000 during the present Administration, the Federal government was smaller than in the 1960s on a per capita basis (about 11 Federal employees per 1,000 people in the U.S. during the Bush Administration versus about 13 per 1,000 people during the Kennedy Administration).

Current law permits agencies to use the OMB Circular No. A-76 to determine whether contracting out makes sense for specific workloads or projects. It provides a means to conduct reasonable cost comparisons on a level playing field. We understand from those at agencies already engaged in contracting activities that the new A-76 process has brought down study times and encouraged contract awards based on cost-effectiveness and value rather than automatically awarding the "cheapest" bidder. Current law therefore appears to be working well.

NCSSMA urges your Committees to reconsider the questions of whether and how to further expand contracting of the Federal government's work, from both an ideological and a practical standpoint. The American public expects the Federal civil service to uphold the laws and protect their rights without a focus on "profit making," which is the rightful bottom line of private enterprise. Federal government responsibilities to the public are far greater than, and essentially different from, those of the private sector. We urge you to recognize and seriously weigh that fact before acting further on any legislation intended to encourage or force more Federal contracting to the private sector.

Thank you for considering our views.

Sincerely,
Ron Niesing
NCSSMA President

cc: Members of the Committee

NCSSMA Letterhead

June 2, 1998

The Hon. Janice LaChance
Director, Office of Personnel Management
1900 E Street, N.W.
Washington, D.C. 20015

Dear Director LaChance:

NCSSMA, representing SSA's field office and teleservice center managers and supervisors throughout the country, has very much appreciated the opportunity provided by you and your staff to participate in discussions of the Human Resource Management initiatives currently under development at OPM.

Representatives of each of the ten Social Security regions nationwide commented on the draft proposals and communicated their comments and questions to Janet Garry, our Washington representative. Ms. Garry then met with Doris Hausser at meetings between OPM and the Coalition for Effective Change, of which we are an active member, to convey those concerns.

Many of the comments from local managers across the country were positive. They are hoping that proposed flexibilities will truly result in their being better able to manage at the local level by providing the authority to match resources with front line needs for improved service delivery. I would like, however, to bring to your attention two serious concerns raised unanimously by our members.

First, NCSSMA strongly advocates expansion of the "partnership" concept to be more inclusive and hopes that anything OPM develops would reflect the need to expand partnership to include representatives of all employees in an agency. SSA's field office and teleservice center managers and supervisors have great interest, knowledge and expertise in all partnership topics -- such as awards, training, career enhancement, merit promotion, employee communications, external hiring, and claims taking initiatives.

Partnerships play a growing role in the delivery of services throughout SSA. Yet our national partnership councils and several regional partnership councils exclude representatives of middle management, whose hands-on expertise cannot be duplicated by upper management. We have appealed to Commissioner Apfel to move from an exclusive to an inclusive partnership model. We believe, however, that OPM should take a leadership role in ensuring that mid-level managers have a voice in the decisions that will shape Federal agencies and the service they provide to the American public.

Second, current inequities in supervisory overtime pay are worsening morale among supervisors and eroding working relationships in many SSA offices. As you know, supervisory employees are exempt from the Fair Labor Standards Act and therefore are not

covered by its overtime guarantees. Instead, they are under the Title 5 U.S.C. provision which caps the base for overtime at GS 10 Step 1 for those at or above GS 10. The GS 10 Step 1 cap is thirty-two years old (PL 89-504, 1966).

The cap has not kept pace with changes in the federal workplace. At SSA, Claims Representatives -- responsible for interviewing the public and accurately handling their benefits claims -- have been upgraded from GS 8 to GS 11 since 1966, due to increasing adjudicative responsibilities and added complexity resulting from legislative mandates and new programs such as SSI. Their supervisors, who have similarly been upgraded from GS 9 to GS 12 since 1966, often work alongside those they supervise on overtime, doing direct claims and review work, and are also responsible for troubleshooting and ensuring the quality and timeliness of the work. Yet some of these supervisors earn \$10 per hour less than those they supervise on overtime. Many earn less on overtime than their own regular rate of pay.

This inequity is compounded by SSA's ongoing reliance on overtime to carry out vital public services, while at the same time the agency has undergone significant downsizing and reduction in the numbers of supervisors. Remaining supervisors and managers must shoulder growing overtime responsibilities for quality control, for coverage of extended office hours, and for evening and weekend activities involved in public education about the Social Security program and the solvency debate. Overtime is frequently required in order to move congressionally mandated workloads, such as the recent re-review of children's SSI disability cases and increased numbers of Continuing Disability Reviews. The employees who bear such responsibilities deserve fair treatment from the government.

We therefore urge OPM to promptly review the overtime problem and take steps to address it. NCSSMA is working with several Members of Congress to move legislation correcting the overtime problem. Rep. Tom Davis has introduced the Federal Employees Overtime Pay Act of 1998, H.R. 3956, which would raise the outdated cap. Frankly, however, when our members speak with their legislators about the critical need for this bill, the question that often arises is "What is OPM doing about this?" It is recognized as a serious management issue about which the agency with responsibility for oversight of the Federal civil service should be concerned.

In light of the impact of the overtime inequities, an adjustment in the cap is needed to allow for overtime pay greater than the regular rate of pay for supervisors. NCSSMA asks you to include in OPM's human resource proposals a correction of the problem by recommending that the Title 5 cap be raised in keeping with changes in GS pay grades over the past thirty-two years.

Thank you for considering our views. We would very much appreciate knowing OPM's views and plans regarding this issue. I look forward to your reply.

Sincerely,

Ron Niesing
NCSSMA President