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**Fiscal Year (FY) 2019 Budget and Appropriations Update**

Congress is currently in recess, but before leaving town last week the Senate followed the House's lead and passed its first FY 2019 spending package. This signaled the start of an anticipated series of "minibuses," and included the Energy & Water, Legislative Branch, and Military Construction/Veterans Affairs appropriations measures.

The Senate Appropriations Committee also completed consideration of their final two FY 2019 spending bills, with the passage of the Labor-HHS-Education and Defense measures on Thursday, June 28. The House Appropriations Committee has completed consideration of ten of the twelve spending bills, with the Labor-HHS-Education and Homeland Security measures still outstanding. As previously reported, the House Appropriations Committee was scheduled to consider their FY 2019 Labor-HHS-Education bill on Tuesday, June 26, but the Committee postponed that markup until a date yet to be determined after the July 4<sup>th</sup> recess. The Committee did, however, **post the report** to accompany the Committee's spending bill prior to the postponement. Despite uncertainty due to the House Appropriations Committee's decision to postpone the markup of its Labor-HHS-Education bill a second time, Senate Labor-HHS-Education Appropriations Subcommittee Chairman Roy Blunt (R-MO) has expressed optimism about getting his bill to the Senate floor, possibly packaged with the Defense Appropriations bill.

Details on both the Senate and House Labor-HHS-Education bills are below.

**Senate Labor-HHS-Education Appropriations Bill**

On Tuesday, June 26, the Senate Labor-HHS-Education Appropriations Subcommittee approved their FY 2019 bill by unanimous consent. The full Senate Appropriations Committee approved the bill 30-1 on Thursday, June 28, with Senator James Lankford (R-OK) casting the only "no" vote. The Committee summary can be found **here** and the Committee report **here**.

The following language related to funding for the Social Security Administration (SSA) was included in the **press release** issued by Labor-HHS-Education Appropriations Subcommittee Democrats.

***Social Security Administration (SSA).*** *The bill provides \$12.95 billion for Social Security's administrative budget, including an increase of \$115 million in SSA's base operations budget. Accounting for some one-time funding provided in fiscal year 2018, this increase will help SSA continue to improve service to the public and focus on critical workloads. The bill includes \$100 million, the same level as fiscal year 2018, in designated funding to help reduce the disability hearings backlog, and provides an additional \$85 million towards the agency's IT modernization initiative.*

The **report** also included the following language related to SSA, which may be of interest:

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***Social Security Administration.-The Committee recommendation includes \$12,945,945,000 for SSA's administrative expenses, an increase of \$77,000,000. Accounting for one-time funding provided for IT modernization efforts in fiscal year 2018, this increase will help SSA continue to improve service to the public and work down backlogs in critical workloads.***

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*Continuing Disability Reviews.-The Committee notes that SSA, as a result of directives included in the fiscal year 2017 Consolidated Appropriations Act, is in the process of reviewing and updating its CDR prioritization models. The Committee looks forward to an update on the results of this assessment in the next CDR Report to Congress.*

*Consultative Examinations.-The Committee encourages SSA to evaluate the feasibility and potential administrative savings and program improvements from using competitively awarded multistate contracts for Consultative Exams [CEs]. Such contracts could standardize policies, and reduce overhead by requiring a vendor to manage scheduling, credentialing, recruitment and training of CEs, and provide certain quality assurances. The Committee encourages SSA to work with State Disability Determination Services to encourage them, to the extent practicable, to pilot such a contract.*

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*Disability Hearings Backlog.-The Committee recommendation includes \$100,000,000, the same as the fiscal year 2018 level, in dedicated funding for processing the backlog of disability hearings. The Committee strongly encourages SSA to work with ALJs and other stakeholders to evaluate and implement changes, as appropriate, to streamline and improve the efficiency of the disability adjudication process while maintaining the integrity of disability programs. The Committee directs SSA to submit a report within 90 days of enactment to the Committees on Appropriations of the House of Representatives and the Senate on potential administrative changes SSA has taken and could take to streamline the disability determination and adjudication process. This could include centralizing administrative work and reorganizing management structures to focus more staff on frontline workloads; reviewing the Hearings, Appeals, and Litigation Law Manual for changes to improve the efficiency or effectiveness of the hearing process; establishing procedural rules for hearings (while preserving the non-adversarial manner of hearings and ensuring that unrepresented claimants are not disadvantaged); establishing a list of specialists and medical personnel which can be consulted by ALJs when they need access to medical experts; issuing Social Security Rulings that lists common combination of limitations for which work exists in the economy; and assigning law clerks or clerical employees to specific ALJs to reduce the number of clerical tasks that Judges are currently required to perform.*

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*Field Office Closures.-There remains concern about decisions to close field offices that may not be in accordance with law, regulations and SSA procedures. While the SSA's Inspector General [IG] reviews decisions to close field offices, the Acting Commissioner is directed to take every action possible to maintain operations at the offices under review. SSA is directed to provide the Senate Appropriations Committee a response to IG field office reviews within 45 days of the release of the IG report, addressing any recommendations and coordinating with the General Services Administration when appropriate.*

## **House Labor-HHS-Education Appropriations Bill**

On Monday, June 25, the House Appropriations Committee released their report to accompany the FY 2019 Labor-HHS-Education appropriations bill. The text of the bill was released earlier in the month on June 14. The report and bill text are available [here](#). Overall, the \$177.1 billion measure would provide the same level of discretionary funding as the FY 2018 bill. This is in contrast with Senate appropriators who have allocated \$179.3 billion for their version of the measure.

Following release of the bill text, the House Labor-HHS-Education Appropriations Subcommittee passed the measure on a party-line voice vote the morning of Friday, June 15. During the markup, Democrats criticized the bill, pointing to what they described as underfunding for key programs and unacceptable (poison pill) policy riders ([statement from Ranking Member Rosa DeLauro \(D-CT\)](#)). Subcommittee Chairman Tom Cole (R-OK) appeared to acknowledge that some of the funding could be higher, and indicated he hoped they could increase some of the funding levels as the appropriations

process moves forward. Democrats did not offer any amendments at the Subcommittee markup, but said they will when the full Committee takes the bill under consideration. The date for full Committee consideration remains outstanding.

A summary released by the House Appropriations Committee can be found [here](#), and includes the following language related to the Social Security Administration (SSA):

**Social Security Administration (SSA)** – *The bill provides \$12.4 billion to administer SSA activities, which is \$332 million below the fiscal year 2018 enacted level, and \$164 million above the budget request. This funding level is sufficient to ensure those served by the program receive efficient and timely assistance and service.*

The report also included the following language related to SSA, which may be of interest:

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*Within the total for LAE, the Committee provides not less than \$3,475,000,000 for Field Offices and not more than \$1,750,000,000 for Information Technology.*

*Administrative Law Judge Hiring.*—*SSA’s National Hearing Centers (NHCs) provide SSA with invaluable flexibility and support to address the hearings backlog. Understanding the value of this flexibility and support, the Committee directs SSA to ensure that its upcoming administrative law judge (ALJ) hiring decisions result in allocating additional ALJs to NHCs.*

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*Consultative Exams.*—*The SSA Inspector General has recommended that all State Disability Determination Service (DDSs) periodically assess the feasibility of using a competitively awarded contract for Consultative Exams (CEs) to improve program integrity and lower costs (Disability Determination Services’ Use of Volume Consultative Examination Providers, A–07–02–12409, March, 2003). Similarly, GAO has recommended the use of competitive contracts finding that DDSs, and thus SSA, can save millions (Use of Competitive Contracts for Consultative Exams Can Save Millions, HRD–90–141, August 1990). The Committee supports efforts by SSA to develop a multi-state pilot program, focused on States with large disability review backlogs, including high appeals backlog, and continuing disability reviews, to evaluate the use of competitively awarded, multiple State contract(s) for CEs. This contract shall require the vendor to manage the scheduling of CEs; to oversee provider credentialing, recruitment, and training; provide timely completion of the CEs and reports; and offer quality assurance for completed CE reports. This contract shall also require negotiated fees that are comparable to Medicare rates with volume discounts and shall assess savings to SSA, provide fraud prevention and improved provider monitoring by preventing the use of providers suspended or debarred from receiving Federal funds, and improved exam quality with adequate medical evidence that decreases the number of sustained appeals. The Committee recommends that SSA consult with the Department of Veterans Affairs on its successful demonstration of similar multiple State contracts for disability examinations.*

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*Implementation of New Capability Determination Instructions.*—*The Committee recognizes the importance of SSA accurately assessing whether an individual needs a representative payee. SSA’s regulations specify that the agency will appoint a representative payee in cases where a beneficiary is not able to manage or direct the management of his or her Social Security benefits. However, the Committee recognizes that generally SSA has only evaluated a beneficiary’s ability to manage his or her benefits and has not considered a beneficiary’s ability to direct someone else to manage his or her benefits. In 2017, SSA drafted new program instructions for its front-line employees in assessing whether an individual is able to direct others to manage his or her benefits. Despite the complexity of implementing this policy, and SSA’s lack of experience making such evaluations, the instructions were developed without input from external stakeholders. The Committee is encouraged by*

*the recent steps SSA has taken to gather stakeholder feedback and expert advice, including holding a National Disability Forum on representative payment which included some discussion of this policy. However, due to the complexity of this policy and the importance of correctly evaluating the extent to which an individual can manage (directly or indirectly) his or her benefits, the Committee believes more stakeholder engagement and expert consultation is required. The Committee also notes that SSA should consider ways to test this new policy to ensure it achieves its goals and can be implemented effectively by field office employees before expanding it program-wide. Any test of this policy should include specific objectives and metrics to assess the policy's effectiveness. Given the Committee's continued concerns, the Committee expects that SSA will provide the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate regular updates and briefings on the agency's plans prior to moving forward with this policy.*

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*Information Technology.—The Committee requests an update of the plan referenced under this heading in House Report 114–699.*

*Occupational Information System.—SSA is developing a new Occupational Information System (OIS) that will replace the Dictionary of Occupational Titles as the primary source of occupational information used in SSA's disability adjudication process. SSA expects to begin a new five year data refresh cycle in fiscal year 2018 and to start using the OIS in 2020. To provide the Committee with a better understanding of the project's costs, the Committee directs SSA to include in its annual Report on the Occupational Information System Project the estimated costs for each future fiscal year until the project is expected to be completed and the estimated cost for a five-year data refresh cycle.*

*Pilot Program Metrics.—Pilot programs are valuable opportunities to test the effects of potential process changes but require a well thought out design that includes clear objectives and appropriate measures to evaluate the pilot's effectiveness. Although sometimes terms are used interchangeably, the Committee uses the term "pilots" as distinct from "demonstration programs," which relate to programmatic changes, such as changes in eligibility rules. In addition, the Committee notes that there is not always a clear distinction between what constitutes a pilot, compared to an initiative, or a test. The Committee uses the term "pilot" to encompass all efforts to test the effects of process changes. The Committee continues to be concerned about pilot programs that lack clear objectives, evaluation plans, or metrics. The Committee expects that, prior to undertaking any new pilots, SSA will ensure that it has developed a research design that includes clear objectives for the pilot and an evaluation plan, including adequate metrics to determine the pilot's effectiveness. Metrics should be specific, quantifiable measures that can be used to evaluate success. The Committee directs SSA to submit a report to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 90 days after the enactment of this act with a description of any new pilot, initiative or test of process changes launched in fiscal year 2018, or proposed for fiscal year 2019; the objective of the pilot; the plan and timeline for evaluation; which SSA components are involved in the pilot; and the measures or metrics the SSA will use to determine the pilot's effectiveness. In addition to the requested information for new pilots, the report should include a list of the SSA's ongoing pilots, along with the start date for each of these pilots. Similar information should be provided in the fiscal year 2020 Congressional Justification. All SSA pilots should be included in the requested report and justification, including those undertaken as part of the Compassionate and Responsive Service (CARES) plan and in other parts of the agency. The report (and section in the justification) does not need to include programmatic demonstrations.*

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*Report on LAE Expenditures.—The Committee continues to request the report referenced under this heading in House Report 114–699 as part of the fiscal year 2020 Congressional Justification.*

### *Continuing Disability Reviews and Redeterminations*

*The Committee recommends \$1,683,000,000 for program integrity activities. In the wake of multiple large-scale disability fraud cases, the Committee believes that successful program integrity activities are vital to maintaining the public's support for benefit payments to recipients deserving of assistance. The Committee includes bill language transferring \$10,000,000 to the Office of the Inspector General for the cost of jointly operating co-operative disability investigation units.*

In written testimony submitted earlier this year to both the House and Senate, NCSMA included the following request:

*NCSMA respectfully requests that Congress consider allocating at least \$13.509 billion for SSA's LAE account in FY 2019 to meet the agency's multitude of public service responsibilities. SSA must have the resources necessary to provide quality service to the American public, maintain program integrity efforts that save taxpayer dollars, and continue to address the high volumes of initial claims being filed and post-entitlement work.*

It is important to remember that the Senate and House versions of the bills are just steps in the FY 2019 appropriations process. We will continue to provide additional information as it becomes available.

### **NCSMA Twitter Account**

Reminder: NCSMA has a Twitter account and we encourage you to join in and follow us! You can view and follow our page on your **home computer** at <http://twitter.com/NCSMAORG> or your **personal mobile device** at <https://mobile.twitter.com/NCSMAORG>.

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