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**FEW Washington Update
August 1-15, 2019
Congress is in Recess**

In Congress:

An amendment inserted into the House's fiscal 2020 Homeland Security spending bill by Appropriations Committee Democrats during the panel's June markup would bust the subcommittee's allocation by nearly \$3.1 billion, according to the Congressional Budget Office.

Adopted on a 28-21 vote, the amendment from Reps. David E. Price of North Carolina, Pete Aguilar and Barbara Lee of California, and Mark Pocan of Wisconsin, would block a number of the Administration's immigration policies, including protecting beneficiaries of the Deferred Action for Childhood Arrivals from deportation and revoking the President's travel ban against predominantly Muslim countries.

The committee report on the Homeland Security bill, filed July 24, 2019, noted in the summary tables that "House full committee amendment (Price, et al)" would cost \$3.07 billion, incorporating CBO data. The major cost-driver of the amendment, according to a House Appropriations aide, is a provision that would block the Department of Homeland Security's (DHS) proposed "public charge" rule from going into effect.

The proposed rule was published in the Federal Register on October 10, 2018. It would allow immigration authorities to deny entry into the U.S., or green cards for legal permanent residency for applicants already in the U.S., to those deemed likely to at some point rely on noncash public benefits, such as Medicaid, food stamps, low-income housing or Medicare prescription drug subsidies.

That would be on top of current restrictions, on the books for decades that deny admission or green cards to applicants who might rely on cash welfare benefits or long-term institutional care.

DHS argues in its proposed rule and on the U.S. Citizenship and Immigration Services website that the statute governing what constitutes a "public charge" has long been murky and ill-defined.

The agency "seeks to better ensure that aliens subject to the public charge inadmissibility ground are self-sufficient, i.e., do not depend on public resources to meet their needs, but rather rely on their own capabilities, as well as the resources of family members, sponsors, and private organizations," the proposed rule states. The regulations have not been finalized and will not be finalized until DHS "carefully considers public comments received on the proposed rule" and determine an appropriate effective date.

When the current administration proposed the rule, DHS officials estimated that the policy change would reduce transfer payments from federal and state governments by \$2.27 billion annually, "due to disenrollment or foregone enrollment in public benefits programs by aliens who may be receiving public benefits." That included a federal share of approximately \$1.51 billion and state share of about \$756 million, according to the Department of Homeland Security.

The CBO estimate is another major hurdle that House Democrats must overcome when their fiscal 2020 Homeland Security bill comes to the floor for a vote. It's one of just two appropriations bills in that chamber that haven't yet reached the floor, the other being the Legislative Branch measure, held up in a dispute over lifting the decade-old member pay freeze. As reported earlier, the House has already passed 10 other spending bills.

The amendment barring the new potential public charge rule is among other Administration proposed immigration policies that will likely get caught up in the broader funding fight over the DHS bill. The House bill, which includes the Price Amendment, has reached \$66.88 billion, which also includes \$14.08 billion in disaster relief funding that doesn't count towards the subcommittee's allocation, known as the 302(b) allocation.

But under the new two-year budget deal signed by President Donald Trump, House Democrats have to find \$15 billion to trim within nondefense accounts across the federal government from their already-written spending bills. And the President is seeking \$5 billion for his proposed southern border wall project in DHS accounts. This will put added pressure on Senate Republicans to try to comply with the president's demands now that there is agreement to spend more money across the board.

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Tier I

Federal Retirement:

Federal retirement claims appear to be declining again, according to data released by the Office of Personnel Management (OPM). Although the numbers haven't quite fallen back to April nor May lows —around 8,000 — the backlog is a little lighter.

OPM received 201 less claims in July than in the previous month, while also processing more than 1,100 additional claims and shaving at least five days off processing times. The current backlog sits at 18,413, in relatively the same ballpark as this time last year. OPM received less claims in July 2019 than in July 2018 — but also processed less. Still, the difference wasn't significant in the 12-month span.

The threat of another government shutdown is not imminent, since the President signed a two-year, bipartisan budget deal into law that will allow the government to resume borrowing to pay its bills. The legislation also sets an overall \$1.37 trillion limit on agency budgets approved by Congress annually. However, negotiations over unfinished business will continue once Congress returns from the August recess.

The House and Senate will also have to agree to a potential pay raise and pass some sort of measure to override the President's proposed pay freeze. Draft legislation for fiscal 2020 could include the 3.1 percent federal pay raise. This too could affect the number of retirement claims in the future.

Despite an overall decrease in retirement claims in July, most agencies saw an increase across the board. The three agencies with the most significant increase — more than 100 — claims were the Departments of Defense, Veterans Affairs, and the United States Postal Service (USPS). USPS once again has the largest number of retirement cases, falling around 2,305, an increase of 1,096 since June.

USPS numbers come as no surprise, as the postal union (the National Association of Postal Supervisors) filed a lawsuit against the agency over pay and representation at the end of July. Those involved are seeking back pay for managers, postmasters, and other administrative professionals to match what their counterparts earn in the private sector.

The only two agencies to see a decrease in retirement claims were the Department of Homeland Security and the Environmental Protection Agency. Most agencies also produced less errors associated with new retirement claims. The Departments of Transportation and Justice were the only two agencies to see an increase in errors.

Government-wide, the percentage of errors decreased from 16 percent in June to only 11 percent in July. There were also 2,917 less cases reviewed with errors.

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Sexual Assault in the Military:

The Department of Defense is implementing a new program that it hopes will help identify serial sexual assault offenders in the military.

The Catch A Serial Offender (CATCH) program collects identifying information on offenders from victims to compare against existing reports of assault in the CATCH system and other law enforcement databases.

The goal is to empower victims who submit restricted reports to see if their assaulter has harmed others in the past, and to give those victims an option to convert to an unrestricted report.

Restricted reports allow victims to confidentially disclose sexual assault incidents without triggering an investigation. Victims can still get needed medical treatment, advocacy services, legal assistance and counseling once filing the report. The assailant remains unpunished in the restricted report option.

Conversely, unrestricted reporting gives victims the same care, but the report will go through law enforcement.

Victims can anonymously submit an entry on the CATCH website. From there, military criminal investigators at military service headquarters will analyze the information.

If they get a match — meaning another person submitted a report about the same person or a person with the same features — then investigators will notify DoD's Sexual Assault Prevention and Response.

From there a CATCH representative will contact the victim — who will remain anonymous. The victim will then have the choice to convert the report to unrestricted.

If the report is switched to unrestricted, the investigator will be notified of the victim's name, and the suspect's commander and victim's commander will be notified that a criminal investigation is underway.

If victims choose not to participate, they will be asked if they want to be contacted of a future match over the next 10 years. If victims don't agree then they will not be contacted again.

CATCH is operated by the Naval Criminal Investigation Service, but can be used by all service members. Sexual assault and harassment are becoming headline issues for the Department of Defense.

House Armed Services Personnel Subcommittee Chairwoman Jackie Speier (D-CA), along with presidential candidate and Senate Armed Services Personnel Subcommittee Ranking Member Kirsten Gillibrand (D-NY) are championing the issue.

The nominee for Vice Chairman of the Joint Chiefs of Staff Gen. John Hyten has recently faced allegations of sexual assault while testifying before the Senate Armed Services Committee. The allegations put his confirmation in jeopardy and lead to questions about his leadership abilities.

The most recent report on sexual assault in the military estimated 20,500 service members were sexually assaulted in 2018, that's compared to nearly 15,000 in 2016.

The Pentagon started a sexual assault task force in March after former Air Force pilot Sen. Martha McSally (R-AZ) called for the Pentagon to prioritize sexual assault and harassment issues. Sen. McSally said she was raped by a superior officer while serving in the military.

Gender Wage Gap:

The U.S. Soccer Federation has hired two Washington lobbying firms to push back against claims that it pays the women's national team less than half of what it pays the men's team.

The women's team was celebrated for winning the World Cup last month, as it battled U.S. Soccer over what the players say is unfair pay. The players filed a lawsuit in March claiming that, under their previous contract, a player on the women's team could have earned in a year as little as 38 percent of what a men's team player made.

Sen. Dianne Feinstein (D-CA) and Rep. Doris Matsui (D-CA) both cited that statistic when they introduced legislation last month requiring U.S. Soccer to pay the men's and women's teams equally. U.S. Soccer has disputed there's a pay gap.

In meetings late last month, lobbyists representing U.S. Soccer circulated a presentation that emphasized the benefits the women's team players receive — including a guaranteed salary, maternity leave, a nanny subsidy, health benefits, retirement perks, and injury protection — that players on the men's team do not.

The presentation states the women's team players was paid far more than those on the men's team last year, earning \$275,478 in average cash compensation per player, compared with \$57,283 for the men's team.

Comparing compensation between the two teams is not as simple as it would seem because they play a different number of games each year and because players on the

women's team receive a base salary, while the men's team players do not. U.S. Soccer President Carlos Cordeiro wrote in an open letter last week that U.S. Soccer had paid the women's team more than the men's team over the past decade — a statistic that the men's and women's teams both said was misleading.

U.S. Soccer general counsel Lydia Wahlke, two lobbyists, and a lawyer retained by U.S. Soccer met with staffers for Senator Patty Murray (D-WA), Representatives Rosa DeLauro (D-CT) and Feinstein, according to two people familiar with the meeting.

DeLauro is one of more than 70 co-sponsors on Matsui's bill, which would withhold federal funding for the 2026 World Cup, set to be hosted by the U.S., Canada and Mexico, if U.S. Soccer doesn't pay the women's and men's teams equally. Senator Joe Manchin (D-WV) introduced an identical bill in the Senate last month, which has drawn a dozen co-sponsors, including Feinstein.

Feinstein and Murray also introduced a separate bill last month mandating equal pay for women's national and Olympic teams, noting the women's national hockey team has had to fight for higher pay, too.

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Tier III

Federal Job Relocations:

The Agriculture Department and the union representing workers at the Economic Research Service (ERS) and National Institute of Food and Agriculture (NIFA) have reached an agreement that may make the upcoming move to Kansas City a little easier on its employees.

The American Federation of Government Employees (AFGE), which represents employees at both ERS and NIFA, recently announced that it had reached an agreement with USDA leadership.

The agreements don't guarantee additional benefits for relocating employees, but they describe the terms and a specific path forward for employees to request flexibilities.

The agencies agreed for example, to consider employee requests to work remotely for three months before making the move to Kansas City. The department will consider employee telework requests on a case by case basis and may consider additional extensions for remote work past December 30, 2019.

ERS and NIFA also agreed to work with the department and OPM to approve relocation incentive payments, worth a full month's salary, for employees who accepted a Kansas City reassignment and hold positions that are considered difficult to fill.

Once approved, employees must sign an agreement to remain at their jobs in Kansas City for at least a year. They'll receive relocation incentive payments after six months of work, according to the union agreements.

In addition, ERS and NIFA agreed to provide temporary housing for up to 60 days for employees who accepted USDA relocation. Employees can request another 60-day extension, according to the union agreements.

USDA initially gave ERS and NIFA employees until July 15 to accept or decline relocation to Kansas City. The union agreement allows employees to change their minds at any point until September 27, a point that the department had made in statements to Federal News Network and the media but is codified with a signed memorandum of understanding.

Employees who have declined relocation have begun to receive termination letters, which USDA has said are handled on a case by case basis.

Employees who are considering the USDA relocation and want more time to move can make reasonable accommodation (RA) requests with supporting medical documentation to their first-line supervisors.

"The agency agrees to continue existing approved RA arrangements and consider extensions for temporary RA arrangements where the current duty station is other than Washington, D.C., to the extent that the accommodation remains effective, medically necessary and such continuation does not interfere with the mission of the agency," the agreements read.

In a letter to the department last month, several House Democrats had described stories from employees impacted by the USDA relocation who, citing medical hardships, had asked for more time to consider or make the move.

The new union agreement specifies that USDA consider reasonable accommodation requests immediately and approve them within 20-to-30 days.

Both the department and the union began bargaining over the USDA relocation about a month after Agriculture Secretary Sonny Perdue announced Kansas City as the new site for ERS and NIFA headquarters.

A majority of both ERS and NIFA employees had voted to form collective bargaining units before an official site had been announced. AFGE at the time had told employees it likely couldn't block the USDA relocation altogether but vowed to give employees more of a voice in the move.

Both the union and lawmakers who have criticized the USDA relocation reiterated their concerns about the move but seemed relatively pleased with the agreement the two parties had reached.

It's still unclear if the agreement will encourage more ERS and NIFA employees to relocate.

Roughly 58 percent of the employees at the Economic Research Service who had been chosen to relocate had declined, while 67 percent of the selected workforce at the National Institute of Food and Agriculture had also rejected USDA's mandatory reassignments to Kansas City. The department has said it anticipated and planned for attrition due to USDA relocation.

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General Interest

Government Cybersecurity:

A pair of senators has re-introduced a bill designed to prop up a government-wide cybersecurity program and expand its use among state and local governments.

The Advancing Cybersecurity Diagnostics and Mitigation Act, S.2318, sponsored by Sens. John Cornyn (R-TX) and Maggie Hassan (D-NH) would codify the Continuous Diagnostics and Mitigation (CDM) program by placing it into the 2002 Homeland Security Act of 2002 – something original sponsor John Ratcliffe (R-TX) and others have said is necessary to ensure agencies take implementation seriously.

"Cyber-attacks on government networks are increasing in frequency and sophistication, so updating the programs and tools federal agencies use to thwart these attempts is critical," said Cornyn in a statement. "By codifying the CDM program and providing congressional oversight, we can ensure the federal government is better prepared for cyber threats."

The bill would ensure that program managers are persistently updating the program to incorporate emerging technologies and require a comprehensive strategy for CDM within six months of passage.

It would also direct the Secretary of Homeland Security to make the program available to state and local governments in addition to federal agencies. A number of high profile cyber and ransomware attacks have hit cities this summer, reigniting debates about whether states and localities have the resources or expertise needed to fend off sophisticated state-sponsored or criminal hacking groups.

The program, which makes a suite of pre-approved tools available for agencies to monitor network traffic, has had a bumpy few years of implementation. An initial round of purchasing was plagued by complaints from agencies about inflexibility on the part of DHS and integrators who were a mismatch for some agency IT environments. While

many of those concerns were addressed during the second round, many agencies continue to lag far behind the original timeline for implementing all four phases of CDM.

Eventually, officials at DHS plan for the program to do more than monitor traffic, with capabilities to granularly keep track of all devices and users connected to federal networks and implement better data protection protocols expected to be built in down the road. Later this year, DHS will debut a new complimentary algorithm, dubbed AWARE, that will provide a cybersecurity risk scoring for agencies on metrics like vulnerability management and patching and configuration, with an eventual goal a providing a risk score down to each individual agency system.

Right now, however, policymakers have determined that codifying the program into law will send a message to participating agencies that the program is not going anywhere and that it still enjoys broad support in Congress.

The bill was originally developed last year by Ratcliffe while on the House Committee on Homeland Security. The legislation passed the House and Senate leaders appeared receptive to bringing it to the floor, but a tight legislative calendar, budget negotiations and the start of a government shutdown scuttled hopes of passing it through both chambers in time.

FEW receives information from the following sources and contacts: Roll Call, Federal News Network, Politico, and FCW.