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FEW Washington Update
December 15 - 31, 2019

Congress is in recess until January 7, 2020
"End of the Year 2019 Wrap-Up!"

In Congress:

The House and Senate finalized two omnibus appropriations bills and the National Defense Authorization Act (NDAA). This year was challenging with Democrats running the House and Republicans running the Senate and the White House. The House passed nearly 400 bills in 2019 but only 70 of them passed the Senate and were signed into law. Meanwhile in the Senate, only 22 floor amendments were considered all year as most floor activity entailed confirmation of judicial nominations. While we have another year for this Congress to come together to pass major legislation, to include the Violence Against Women Act (VAWA), the election year calendar could make it more difficult. Instead, we expect next year to be about rhetoric and campaigns although the must-pass appropriation bills and NDAA will probably move through the House and Senate.

2019 Legislative Year-in-Review

Appropriations:

This year, the lead up to enactment of the $1.4 trillion FY2020 Appropriations funding legislation through an omnibus was dubious. The House and Senate passed a Continuing Resolution (CR) to keep the government open during negotiations that expired on November 21. Then on November 21, the chambers sent President Trump another CR (which he signed) that level funded programs again through December 20 and included a 3.1 percent pay raise for military service members. The House passed 10 out of 12 appropriations bills before the budget caps deal was even negotiated so their numbers were more aspirational than realistic.

Meanwhile the Senate waited until a deal was inked and then passed a four-bill appropriations package, and thus was much closer in line with the new spending caps. A major sticking point was funding for the border wall as well as domestic spending, but the differences in funding levels for various departments and programs were finally negotiated.

Also, the omnibus included some tax measures. It eliminates several Obamacare taxes, including the 2.3 percent excise tax on medical devices, a health-insurance industry fee starting in 2021, and a 40 percent excise tax on the most generous and expensive health-insurance plans, known as the “Cadillac tax,” which would have hit in 2022.

Lobbyists for corporations and unions have sought the repeals for years. The omnibus also extends a $1-per-gallon biodiesel tax credit and a break for short-line railroads through 2022. It also renews more than two dozen incentives through 2020, including a credit for wind energy, a tax cut for beer producers, subsidies for motorsport racetracks, and a credit for investing in low-income communities.

For nonprofits, the omnibus includes important language clarifying that expenses incurred cannot be taxed. It specifically eliminates the tax on fringe benefits for charities, places of worship, and nonprofits. It also expands the New Markets Tax Credits (NMTC) which helps drive investment in low-income communities.

It does not include an extension of a solar tax credit or an expansion of an electric car credit that were sought by Democrats but opposed by the White House. It also does not address medical billing as a bipartisan attempt to end surprise medical bills but was defeated in the face of a huge lobbying blitz. The package also raises the age for tobacco purchases to 21, extends the U.S. Export-Import Bank for seven years and renews the National Flood Insurance Program through September 30, 2020.

Defense Funding:

The border wall was the main hurdle blocking the Defense Appropriations measure. The Senate rejected a procedural motion on October 31 to begin debate on a package of spending bills that included defense due to this opposition to the border wall funding as well as disagreements about domestic spending. The 51-41 vote needed 60 votes to pass. However, appropriators were able to finalize a deal in time to pass before the December 20 deadline. Both the House and Senate versions address a range of issues, including directives on the national Manufacturing Innovation Institutes, cyber talent recruitment and more inclusion of women and minorities in Congressionally Directed Medical Research Programs (CDMRP). The **CDMRP** originated in 1992 via a Congressional appropriation to foster novel approaches to biomedical research in response to the expressed needs of its stakeholders-the American public, the military, and Congress.

As for the border wall, it provides the same $1.375 billion for the wall as in FY2019 (much less than the nearly $9 billion the president sought) and leaves it to the courts to decide whether he can continue to use military accounts for more funding over congressional members' objections. In addition, it dedicates $40 million to establish a new, sixth armed service for space, which was $32 million less than the administration's request. Even as Congress approved a sweeping defense policy bill this week that re-designates Air Force Space Command, it included language that the organization must be built with existing forces.

Also tucked away in the omnibus is language impacting Veterans. It requires the VA and Office of Management and Budget (OMB) to issue a report on service-connected illnesses to help veterans with chronic health conditions related to exposure to Agent Orange in Vietnam. This is an important step for all those struggling with chronic conditions tied to service provided decades earlier and paves the way for expanded healthcare coverage in the future.

National Defense Authorization Act (NDAA):

President Trump signed the NDAA into law on December 20. The Senate passed its initial $750 billion measure (S. 1790) 86-8 on June 27 while the House passed its $733 billion measure (H.R. 2500) 220-197 on July 12. The two chambers then worked over the summer and fall to finalize a compromise that includes a base budget of $635 billion for the Defense Department (DOD) and $71.5 billion in Overseas Contingency Operations (OCO) funding that doesn't count against the discretionary spending caps.

There were several major sticking points that initially held up this process, including the border wall, immigration issues, military action against Iran, Transgender troops, Guantanamo Bay and environmental issues and drinking water standards language. As reflected in the CR, both bills as well as the final version provide our troops with a 3.1

percent pay raise. Addressing cyber concerns, the final bill requires the DOD to establish trusted supply chain and operational security standards for microelectronics products it buys.

The agreement allows the Defense Department to purchase as many as 90 F-35s from Lockheed Martin Corp. and establishes the Space Force as part of the Air Force. **For the first time, it creates a paid parental leave program for federal employees,** phases out over three years of the "widow's tax" that reduces survivor benefits when other payments are received, and provides a 3.1 percent pay raise for service members. It reduces the use of "forever chemicals" — per- and polyfluoroalkyl substances, generally referred to as PFAS — on military bases, although it doesn't include language from the House bill that would have broadly restricted their use. It also requires an assessment of the impact of any planned or proposed border wall construction on the volume of illegal narcotics entering the U.S. It also authorizes intelligence programs across the federal government for FY2018 through 2020.

2019 Was a Successful Legislative Year for FEW!

Paid Parental Leave for Federal Workers in Defense Bill:

New regulations to implement the paid parental leave law for federal employees are in the works. Employees with questions about the new Federal Employee Paid Leave Act should direct them to their agencies' human resources offices. Those subject to the Family and Medical Leave Act will have access to 12 weeks of paid parental leave. The law applies to leave taken in connection with the birth or placement of a new child on or after October 1, 2020.

The National Partnership for Women and Families estimated the program could save the government $50 million in reduced employee turnover costs and prevent the departure of more than 2,600 women from the federal workforce. Lawmakers also note that paid parental leave gives the government a better chance of recruiting and retaining its employees.

A report from the Congressional Budget Office estimates the Federal Employee Paid Leave Act — will cost about $774 million in 2021. That price increases to $817 million in 2022, and $846 million in 2023.

2020 Federal Employee Pay Increase:

The pay raise federal employees will get in the new year varies a lot from place-to-place, and Washington, D.C. is at the top of the list. Congress and the president approved an average pay increase of 3.1 percent for civilian feds in 2020. But because of the government's locality pay system, the actual raises depend on where they live and work. Out of the more than 50 locality pay areas, the raise for the National Capital Region will be the highest in the nation, at approximately 3.52 percent. On the other end

of the spectrum, feds who work outside of any designated locality pay area will get 2.85 percent. The link to the federal pay tables can be found here.

Des Moines, Iowa, has been approved as a new locality pay area. The new location isn't official until it goes through the Office of Personnel Management's rulemaking process. It's unclear how long that will take. The earliest federal employees in Des Moines may see new locality pay rates is January 20-21. Des Moines wasn't included on the list of 53 locality pay areas the president approved earlier this month for 2020 pay raises.

WEP Reform Bills Offer New Solutions to Longstanding Issue:

Two bills (H.R. 3934 and H.R. 4540) introduced in the 116th Congress would provide relief to individuals affected by the Windfall Elimination Provision (WEP), which reduces the Social Security benefits of individuals based on public-sector employment not covered by Social Security, such as federal employment under the Civil Service Retirement System (CSRS).

Year after year, legislation (the Social Security Fairness Act, H.R. 141/S.521) is introduced to repeal the WEP and the Government Pension Offset (GPO), which reduces spousal benefits based on government pensions. But those bills ultimately languish in committee, with little chance of passage.

The new WEP reform bills may ultimately suffer the same fate, but given they are sponsored by the chairman and ranking member of the House committee – Ways and Means – with jurisdiction over the issue, they stand a bunch better chance of progressing further in the process than past repeal efforts. Notably, Ways and Means Chairman Richard Neal, D-MA, introduced the Public Servants Protection and Fairness Act, H.R. 4540 and Ways and Means Ranking Member Kevin Brady, R-TX, introduced the Equal Treatment of Public Servants Act, H.R. 3934.

Both bills would provide a monthly rebate to individuals currently affected by WEP – $150 per month for the primary worker under H.R. 4540 or $100 per month for the primary worker and $50 per month for a spousal-based benefit under H.R. 3934. These rebates would apply to anyone turning age 62 (and therefore eligible for Social Security) prior to 2022.

Under both bills, Social Security benefits for future retirees – those turning 62 in 2022 or later – would see their WEP penalty calculated using a new, fairer formula based on the proportion of earnings covered by Social Security to total earnings. The application of the new formula would increase benefits for those affected by WEP by an average of $75 a month.

Both bills would start by allowing these future retirees to receive a benefit that is the greater of that calculated based on the new formula or the old one. However, H.R. 4540 always provides the greater of the new formula or the current one, whereas H.R. 3934

eventually only uses the new formula (for workers turning age 62 in 2061 or later). As a result of this difference, H.R. 3934 does not increase costs for the Social Security Trust Fund over a 75-year window, whereas H.R. 4540 does.

As close as the bills are, they remain far apart by differing in two major ways. H.R. 4540 relies on transfers of general revenues to the Social Security Trust Fund to cover the increased costs over a 75-year window, a likely non-starter for conservatives. H.R. 3934 reduces Social Security benefits for some recipients at some point in the future, a likely non-starter for some progressives.

Despite this gap, the bill sponsors have at least expressed optimism. Reps. Neal and Brady both expressed interest in working across the aisle. Notably, with bill introduction, Neal commended Brady "…for his work to address the WEP issue for many years. He is a tireless advocate for affected workers, and I appreciate his commitment to fixing this problem. I look forward to working with him to move a solution through Congress expediently."

The National Active and Retired Federal Employees Association (NARFE) supports both bills (in addition to repeal), as they would both provide much-needed relief to individuals unfairly penalized by WEP and continues to urge both sides of the political aisle to work together on a compromise that improves fairness, provides real relief for current retirees, and, importantly, passes into law. If you're interested in using NARFE's Legislative Action Center to express your support for these bills, please visit www.narfe.org/legislation. You do not need to be a member to take action.

Only time will tell whether a compromise will be negotiated. But it's good news that Neal and Brady – the relevant committee leaders – are focused on finding a solution that stands a chance at moving through the legislative process.

By John Hatton, Director of Legislative and Political Affairs, NARFE

Partnership's Best Places to Work in the Federal Government

Recent data from the Federal Government's rankings underscore just how poorly some — though certainly not all — OPM subcomponents fared over the past year.

Of course, much of these events occurred in pockets throughout government. No department is the same, and no agency leader will approach big changes or major challenges in the same way.

And even when it seemed like there might be simply too much in flux to keep the federal workforce engaged and motivated in 2019, annual Federal Employee Viewpoint Survey results proved those assumptions wrong.

Federal employees showed up, did their work and apparently enjoyed it in 2019 — at least with about the same enthusiasm as the previous year. Employee engagement

across government was relatively stable in 2019. OPM officials said the results showed the true resiliency of the federal workforce.

The Federal Workforce Year Ahead 2020

Many of the federal workforce issues and initiatives that featured prominently in **2019** have the potential to carry over into the new year. Here are some of the major sticking points to keep an eye on:

Management & Budget

Longtime capital-residing agencies and offices will likely find themselves pressed to move in the coming year, as the administration pursues a policy that looks to get more federal jobs in other parts of the country. The relocation of the Bureau of Land Management and two U.S. Department of Agriculture research agencies, and some members of Congress whose districts could stand to profit from an influx of federal jobs are likely to encourage the initiative. Sens. Josh Hawley, R-Mo., and Marsha Blackburn, R-Tenn., have already introduced legislation to make more of those moves happen.

IT – Cloud

2019 was a big year for the federal government in cloud computing. The Office of Management and Budget released its “Cloud Smart” strategy, an update on the Obama administration’s “Cloud First” strategy. In 2020, look for agencies to continue to migrate to the cloud and shut down data centers in a big push to modernize. Several agencies have also put out solicitations this year for enterprise clouds to be built in coming years. Another big question in 2020 is how Pentagon components will decide what to migrate to the DoD’s newly awarded JEDI cloud, which has been marred in controversy for two years and has captured the attention of other agencies.

Acquisition

Online shopping for government looks likely to be a real possibility for agencies sooner rather than later with the General Services Administration planning a speedy award-to-rollout of the prototype e-marketplace in early 2020. If all goes to plan, agency acquisition shops will get more visibility into what the agency is buying, whether it meets certain requirements and how that stacks up with other agencies. And agency purchase cards could have far fewer uses as a result. For the rest of the federal workforce, it may become that much easier to get that order of pens or staplers their office has been needing.

Impeachment Update

The U.S. House of Representatives voted almost entirely along party lines to impeach President Trump on two articles of impeachment – abuse of power (229-198) and obstruction of Congress (229-198) with just two Democrats voting against both articles, Reps. Collin Peterson (MN) and Jeff Van Drew (NJ). Van Drew is expected to become a Republican in 2020. Rep. Jared Golden (D-ME) voted for one impeachment article while Independent (former Republican) Rep. Justin Amash (MI) for both articles. Democratic presidential candidate, Rep. Tulsi Gabbard (HI) voted present for both articles. The vote in the House now shifts the proceedings to the Senate. The Speaker is waiting for guidelines on the Senate process before she sends the articles to the Majority Leader where a trial is expected to begin in January.

FEW receives information from the following sources and contacts: NARFE, Roll Call, GovExec, FedScoop, Bloomberg, The Hill, Rewire, and The Gazette.