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Government Executive



Sen. Maria Cantwell, D-Wash., (above) introduced legislation with Sen. Susan Collins, R-Maine, that would restore administrative law judges to the competitive service. DON RYAN/AP

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Bipartisan Bill Would Restore Administrative Law Judges to Competitive Service

President Trump last year signed an executive order moving ALJs into the excepted service, claiming it was required to comply with a Supreme Court decision. But stakeholders argued it politicized the job.

ERICH WAGNER | AUGUST 1, 2019 03:41 PM ET

CONGRESS WHITE HOUSE



A bipartisan group of senators on Wednesday reintroduced a bill that would place administrative law judges back in the competitive service, effectively overriding a 2018 executive order.

In July 2018, President Trump signed an [executive order](#) moving administrative law judges from the competitive service to the excepted service. At the time, the White House claimed it was necessary to comply with the *Lucia v. SEC* Supreme Court decision, which found that administrative law judges are “inferior officers” under the Constitution, limiting their authority.

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The order shifted the method for hiring new administrative law judges. Previously, candidates' qualifications were vetted by the Office of Personnel Management before they were forwarded to agencies for final selection, but the order changed their selection to a more traditional presidential appointment process.

Lawmakers and groups representing administrative law judges have [disputed the administration's rationale](#), saying that the *Lucia* decision does not apply to the vast majority of the 1,900 administrative law judges across the federal government, and accused Trump of using the ruling as a pretext to politicize the ALJ corps.

On Wednesday, Sens. Maria Cantwell, D-Wash., and Susan Collins, R-Maine, reintroduced the ALJ Competitive Service Restoration Act ([S. 2348](#)) to reverse the Trump administration's executive order and restore administrative law judges to the competitive service. The lawmakers [first introduced](#) the bill in August 2018, but Congress did not act on the measure.

In a joint statement, Cantwell and Collins said it is vitally important that the federal government protect administrative law judges from political and partisan influence, starting with their hiring process.

"Administrative law judges perform very important roles for Social Security and Medicare benefit cases, and it's essential that they remain independent and not politically influenced in making decisions," Cantwell said. "They should be knowledgeable about the subject area they're overseeing and without any conflict of interest."

"Administrative law judges are tasked with making important decisions every day; they are intensely vetted and put through a competitive application process before being hired," Collins said. "Our bipartisan legislation would ensure that administrative law judges remain well qualified and impartial so that this crucial process remains nonpartisan and fair."

Association of Administrative Law Judges President Melissa McIntosh applauded the lawmakers for advocating for administrative law judges' independence. In recent weeks, her union accused the Social Security Administration of [bad faith bargaining](#) as judges and management have negotiated a new contract. In those negotiations, management negotiators have proposed eliminating contract provisions defining ALJs' judicial function at the agency, as well as removing all references to the Administrative Procedures Act.

"The majority of ALJs in the federal sector work at the Social Security Administration and are represented by our association," McIntosh said. "We are deeply committed to ensuring the due process rights of American citizens. This legislation preserves the independence of ALJs by restoring the rigorous and competitive selection of judges based solely on merit. Political influence has no place in our hearing rooms." [G](#)

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Senate Majority Leader Mitch McConnell said: "This is the deal President Trump is waiting and eager to sign into law." J. SCOTT APPLEWHITE/AP

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Senate Sends 2-Year Budget Deal to Trump, Shifting Focus to Shutdown-Averting Spending Bills

Lawmakers now have through Sept. 30 to pass appropriations.

ERIC KATZ | AUGUST 1, 2019 12:56 PM ET

BUDGET SHUTDOWN



The Senate on Thursday approved 67-28 a two-year budget deal that was negotiated by the Trump administration and congressional Democrats, sending to the president's desk a bill that will avoid drastic governmentwide cuts and turn attention toward ensuring federal agencies remain funded past the end of the fiscal year on Sept. 30.

The vote followed months of negotiations spearheaded primarily by House Democrats and the Trump administration and avoids drastic, across-the-board funding cuts that were set to take effect in October. It would also suspend the debt ceiling for two years, staving off the threat of a default.

The measure—which will now go to President Trump, who has been a vocal proponent of the deal and helped round up Republican support for it—would boost funding across defense and non-defense agencies by \$320 billion over the next two years compared to levels established under the 2011 Budget Control Act. Absent the budget deal, federal agencies would have seen a \$125 billion cut in fiscal 2020 alone across both defense and non-defense spending.

Many conservative senators refused to support the bill, despite its endorsement by leadership and the White House, over concerns about the impact it will have on federal deficits. The Senate was originally set to move the measure Wednesday, but delayed the vote as

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Republicans sought to win over additional supporters. Several Democrats, most of whom are running for president, also voted against the bill.

Sen. Rand Paul, R-Ky., introduced an amendment to the budget deal that would have established a new set of caps on federal spending over the next decade. The Senate easily rejected the measure, allowing the bill to permanently to end the so-called “sequester caps” created in 2011.

“It's irresponsible to raise the debt ceiling without any reform of our profligate spending ways,” Paul said. “Shame. Shame on the politicians who campaign as conservatives but govern as big spenders.”

The president on Thursday reiterated his support for the bill, seeking to address conservative concerns by suggesting spending cuts could come in the future. The deal will set spending top-line spending levels through fiscal 2021.

Budget Deal is phenomenal for our Great Military, our Vets, and Jobs, Jobs, Jobs! Two year deal gets us past the Election. Go for it Republicans, there is always plenty of time to CUT!

— Donald J. Trump (@realDonaldTrump) August 1, 2019

Senate Majority Leader Mitch McConnell, R-Ky., also made his pitch to solicit members of his caucus prior to the vote, noting it would boost defense funding and “secure the full faith and credit of the United States.”

“This is the deal President Trump is waiting and eager to sign into law,” McConnell said. “This is the deal that every member of this body should support when we vote later this morning.”

Congress will now move to setting line-by-line spending levels at agencies across government. The Senate will shortly join the House in entering recess, and will not return to Washington until early September. The upper chamber is expected to quickly work to pass appropriations bills upon returning, and will have to negotiate with Democrats to reconcile those measures with the legislation the House has already approved. Congressional leaders have said they will attempt to fund agencies in fiscal 2020 with separate spending bills, rather than by merging all 12 must-pass measures into one omnibus.

Current appropriations are set to expire Oct. 1.

Lawmakers are hopeful they can avoid a last-minute showdown and a subsequent government shutdown, as they have agreed not to attach “poison pill” policy riders to those spending bills, such as language to increase access to abortion and to prevent the administration from transferring funds to build barriers along the U.S.-Mexico border. 

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