Summary of H.R. 2359
"The Disability Fraud Reduction And Unethical Deception (FRAUD) Prevention Act"

H.R. 2359, the "Disability Fraud Reduction And Unethical Deception (FRAUD) Prevention Act," updates and expands the Social Security Administration's (SSA's) tools to deter and punish fraudsters who cheat the system. This legislation imposes appropriate civil monetary penalties and felony charges on those defrauding either the retirement program (OASI), the Disability Insurance program (DI) or the Supplemental Security Income program (SSI). The recent disability scandals in West Virginia, New York and Puerto Rico highlight the need to strengthen and expand Social Security's penalties.

For example, in October 2013, the Senate Homeland Security and Governmental Affairs Committee concluded a bipartisan investigation into how a West Virginia law firm, judge, and several doctors colluded in awarding benefits to hundreds of applicants. Disability attorney Eric Conn hired doctors with suspended or revoked licenses to provide favorable medical evidence for his clients. Administrative Law Judge David Daugherty would then award benefits to Mr. Conn's clients based on falsified medical opinions. Despite the overwhelming evidence against him, the Department of Justice has so far declined to pursue criminal or civil charges against Mr. Conn.

The "Disability FRAUD Prevention Act" would take a number of steps to ensure that fraud rings like this are brought to justice and cannot continue to rip off taxpayers and disability recipients who rightfully deserve these benefits. These reforms include:

Immediate Dismissal of Criminal Claimant Representatives

- Due to a lengthy dismissal process, representatives who have been disbarred or convicted of a felony can represent claimants for a year or more after a conviction. H.R. 2359 would allow the Commissioner of Social Security to suspend an attorney convicted of a felony or a crime of moral turpitude immediately after notice, pending an expedited hearing.

Stronger Penalties and New Fines that SSA is Mandated to Collect Promptly

- *Conspiracy to Commit Social Security Fraud* – When a third party conspires with a person to defraud the SSA without causing that person to make false statements, it can be difficult to prosecute. H.R. 2359 provides that anyone who conspires with an individual to perpetrate fraud upon the SSA in violation of the fraud statutes of the Social Security Act be subject to fines and/or imprisonment for up to 5 years.
- *New Felony for Individuals in Positions of Trust* –Recent scandals involved individuals in a position of trust, such as claimant representatives, who collected "coaching" fees in exchange for helping claimants provide false information when applying for disability benefits. This bill would subject individuals in a position of trust who use their specialized knowledge to defraud the SSA to fines and/or imprisonment for up to 10 years.
- *Increased Civil Monetary Penalties (CMPs) for Individuals in Positions of Trust* – H.R. 2359 provides that if an individual in a position of trust violates the Social Security Act, but has not been criminally prosecuted or pursued civilly by the Department of Justice, SSA's Office of the Inspector General (OIG) may impose a civil monetary penalty of up to $7,500 for each false statement they have made.

Inflation Adjustment of Certain Civil Monetary Penalties

- Most agencies are permitted to adjust CMPs for inflation at least once every 4 years. However, the SSA is excluded from doing so. This bill conforms SSA policy with that of other agencies by requiring the Commissioner to adjust the amounts of CMPs for inflation within 180 days of enactment and then at least once every 4 years thereafter, and publish the new amount in the Federal Register.

Mandatory Restitution in Social Security and SSI Fraud Cases

- The criminal provisions of the Social Security Act provide that a court *may* order restitution. H.R. 2359 replaces current law with a requirement that courts *must* order individuals who commit fraud to pay full restitution.
- H.R. 2359 would disallow benefits for any individual who receives a CMP for fraudulently concealing work.
- Although the Commissioner would retain discretion in adjusting CMPs in individual cases, under this legislation the SSA would be required to pursue recovery of the CMP amount the Commissioner sets.

Review of Highest Earning Claimant Representatives

- Disability claimant representation has become a lucrative industry, with claimant representatives collecting over $1 billion in fee payments each year with little oversight by the SSA. The bill requires the OIG to review the highest earning claimant representative firms to ensure they are complying with Social Security laws and regulations.