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# Congressional & Administation News

### What to Know in Washington: House Passes Bipartisan Budget Deal

*By Zachary Sherwood and Brandon Lee | July 26, 2019 7:07AM ET*

The House passed a two-year debt ceiling extension and budget bill yesterday in a bipartisan deal backed by Trump that will lessen the chance of a government shutdown this fall and put any risk of a U.S. default off until after the 2020 election.

The measure, passed 284-149, would allow a $324 billion increase in discretionary spending for two years over existing budget caps. Most Republicans voted no despite Trump having urged them to support it. Senate Majority Leader Mitch McConnell (R-Ky.) called the plan a “good deal” and said he expects his chamber to clear it next week for Trump’s signature.

“House Republicans should support the TWO YEAR BUDGET AGREEMENT which greatly helps our Military and our Vets. I am totally with you!” the president wrote on Twitter Thursday morning, hours before the vote.

Voting for the bill were 219 Democrats and 65 Republicans, while 16 Democrats and 132 Republicans opposed it.

The bill would avert a potential default on payments in early September by extending the U.S. borrowing limit through July 31, 2021. Congress will still need to scramble to pass spending bills adhering to the new $1.3 trillion spending cap to fund the government when the new fiscal year begins Oct. 1.

Congress will work in September on passing spending bills to avoid a shutdown. Republicans and Democrats, as part of the deal, agreed that no “poison pills” will be in the spending bills, though they left that term undefined. That creates the risk that a dispute over a specific funding proposal, such as a border wall, could cause another shutdown. The Senate hasn’t drafted any of the spending bills and plans to vote on them in committees during that month. Given the backlog, a stopgap spending bill is likely to be enacted before the Oct. 1 deadline as the full-year spending bills are negotiated.

**Happening on the Hill**

**No Action Yet on Escobar Border Efforts:**The House yesterday left for recess a day earlier than planned and without passing one of its first major border-related bills. The measure aims to establish new oversight mechanisms and reports for the Department of Homeland Security’s immigration systems. The delay came despite a wave of scrutiny from lawmakers over the conditions of migrant facilities and allegations of crude behavior and sexual assault by agents. A spokesperson for House Majority Leader Steny Hoyer (D-Md.) said leadership planned to take up the legislation again in September, Michaela Ross and Emily Wilkins report.

The bill, by Rep. Veronica Escobar (D-Texas), had been slimmed down earlier yesterday to remove several controversial provisions, Hoyer said in a hallway interview. Last-minute changes made July 17 by the House Homeland Security Committee to an amended version of the bill worried some members, according to two senior Democratic aides. Concerns included the cost impact of the bill and a provision that could expose individual agents to lawsuits for violating family separation policies.

* At least 981 more children were separated from their parents under a Trump administration policy than were previously identified as part of the lead-up and early implementation of Trump’s “zero tolerance” policy last year, Jonathan White of the Health and Human Services Department’s Public Health Service Commissioned Corps told the House Judiciary Committee yesterday. Those children are in addition to the over 2,800 that White’s office had previously identified as part of the June 2018 court case that ordered reunification.

**Dozens of District Court Picks Eyed:**Senate leaders are preparing to put more federal judges on the bench before Capitol Hill shuts down for the August recess. McConnell filed for cloture, or to limit debate, on 19 judicial nominations. The list includes two who were first nominated by President Barack Obama and later renominated by Trump.

In private negotiations, leaders are seeking a bipartisan deal on nominees who could be confirmed by unanimous consent, shortening the amount of time that senators spend on floor debate. Sen. John Cornyn (R-Texas), a senior member of the Judiciary Committee, said the cloture filings could be viewed as a negotiating tactic. “Hopefully that won’t be necessary,” he said.

**Panel Releases Nixon Tax Details as Precedent:**House Democrats released documents yesterday to show that their attempt to get Trump’s tax returns has historical precedent. The House Ways and Means Committee voted to publish documents detailing how members of a congressional tax committee used their authority to get President Richard Nixon’s tax information and that the Internal Revenue Service immediately complied, according to a statement from panel Chairman Richard Neal (D-Mass.). The documents show that the congressional Joint Committee on Taxation requested several years of Nixon’s tax returns from the late 1960s to the early 1970s to see if he improperly took tax breaks.

**Venezuelan Immigration Relief Bill Passes:**A measure to provide temporary immigration protections for Venezuelans is headed to the Senate just days after an earlier attempt at House passage failed to get the necessary votes. The measure (H.R. 549), which passed yesterday on a vote of 272 to 158, would grant temporary protected status to Venezuelans currently in the U.S. in the wake of the Trump administration’s refusal to do so. The House voted 268 to 154 in favor of the bill on Tuesday, but the measure failed to garner the two-thirds supermajority needed to pass under suspension of the rules.

**Self-Help Panel Focuses on Tech:**Requiring lawmakers receive instruction in both cybersecurity and civility and making Congress more accessible for those with disabilities are a few of two dozen recommendations unanimously approved by a House panel seeking to update the chamber. The bipartisan proposals are the second batch from the Modernization Committee, which was established under the House rules package (H. Res. 6) in January and will dissolve by the end of the year.

The bulk of the recommendations approved yesterday dealt with technology, including updating how outside technology vendors are approved and creating a customer service portal. “You’re seeing massively disruptive technological changes,” said Chairman Derek Kilmer (D-Wash.). “Frankly I think Congress has been behind the 8-ball in that regard.”

**Business Groups to Push USMCA During Recess:**U.S. business groups are stepping up efforts to get Congress to ratify a new trade agreement with Mexico and Canada, pressing lawmakers when they go home for their August recess to support a vote when they return to Washington. The U.S. Chamber of Commerce gathered leaders from 18 trade associations Thursday at its headquarters near the White House to promote the U.S.-Mexico-Canada Agreement, or USMCA. The group released a letter to lawmakers this week on behalf of about 600 business and agricultural organizations urging support for the pact.

**Elections & Politics**

**Democrats Preparing For 2020 Senate Fight:**Democrats trying to win control of the Senate next year will depend on candidates like Mark Kelly. On paper, the Arizona Democrat looks like a blue-chip recruit: Navy combat veteran; former astronaut; prominent gun-control activist; husband of ex-Rep. Gabrielle Giffords. But the party out of power doesn’t yet have enough Kellys to go around, and Democrats won’t know until deep in the campaign season which of their contenders are good at parrying attack ads, opposition research, and Twitter harangues.

Republicans have advantages in 2020, including a Senate election map dominated by states Trump won in 2016. Trump won in 20 of the 22 states where Republicans are defending Senate seats, and he won 15 of them by at least 14 percentage points. For Democrats, that makes recruiting strong challengers essential. And so far they’ve had mixed results.

**Sanders, Warren Face a Potential Knockout Round:** New England Senators Bernie Sanders and Elizabeth Warren will face off early next year in New Hampshire’s Democratic primary with a huge prize at stake: the claim to the party’s progressive mantle. The two rivals have similar strengths and weaknesses. Each hails from a neighboring state and espouses popular left-leaning ideas such as Medicare for All and canceling student debt. Both are struggling to win over the black and Hispanic voters who will be influential in subsequent primaries, leaving little room for error in New Hampshire.

The Feb. 11 vote has broad implications for their campaigns. The outcome could determine which of the two candidates emerges as standard-bearer of the Democratic Party’s rising progressive wing, which is vying for dominance against an establishment represented by front-runner Joe Biden. The rivalry between Sanders

**Democrats Denounce Death Penalty’s Return:**Democratic presidential candidates renewed their opposition to the death penalty after Attorney General William Barr announced the Trump administration would resume executions following a de facto 16-year hiatus. Former Rep. Beto O’Rourke (D-Texas) was most to the point, tweeting simply: “Abolish the death penalty.” Sen. Kamala Harris (D-Calif.), a former prosecutor, called capital punishment “immoral and deeply flawed,” while Sen. Kirsten Gillibrand (D-N.Y.) called it a “violation of human rights.”

* Barr’s announcement followed a Supreme Court term that indicated an increasing receptiveness toward capital punishment now that Trump’s two appointees are on the bench. But as recently as 2015, the death penalty was under so much pressure that then- Supreme Court Justice Antonin Scalia said he “wouldn’t be surprised” if his colleagues outlawed it.

**Olson Says He Won’t Seek Re-Election:**Rep. Pete Olson (R-Texas) says his time serving in Congress has “come at great personal sacrifice to my family,” and that after completing his current term in Texas’s 22nd district he will not seek re-election. Olson said in his statement his wife has “carried the lion’s share of parenting” and that his mother-in-law “has suffered health issues that require more care and attention,”

**Sanders Campaign Labor Charge:**New details on an anonymous unfair labor practice charge filed against Sanders’ 2020 presidential campaign shine a light on some of the allegations against the campaign. The charge was filed by a former staffer, a campaign spokeswoman told Bloomberg Law. The staffer alleges that the campaign retaliated against certain workers for engaging in protected labor activity, according to a redacted copy of the document.

**Movers & Shakeups**

**House Passes FAA Waiver**: Dan Elwell is one step closer to keeping his job at the Federal Aviation Administration now that the House passed a legislative waiver (S. 2249) allowing two former military officers to fill top FAA spots at the same time. The measure awaits the president’s signature to allow Elwell and newly Senate-confirmed Steve Dickson to serve as deputy and administrator respectively.

**Trump Seeks to Fill HUD Post:**The White House announced yesterday Trump intends to nominate David Carey Woll to be assistant secretary of Housing and Urban Development. Woll is currently principal deputy assistant secretary of the department’s Office of Community Planning and Development, the White House said in a statement. He oversees $8 billion annually for “affordable housing and community revitalization initiatives across America,” the White House said.

**U.S. Envoy to Kuwait:** The White House also announced yesterday that Trump intends to nominate Alina Romanowski to be U.S. ambassador to Kuwait. She’s currently principal deputy coordinator for Counterterrorism at the Department of State, the White House said in a statement. Romanowski previously served as coordinator for U.S. assistance to Europe and Eurasia in the State Department’s Bureau for European and Eurasian Affairs, the statement said.

**Labor Chief Nominee Faces Recusal:**Labor Department secretary nominee Eugene Scalia likely would have to recuse himself from involvement in ongoing OSHA lawsuits in which he—or members of his law firm—represented clients if he is confirmed, ethics and labor law attorneys said. Such recusals wouldn’t likely have a major impact on the direction of Occupational Safety and Health Administration policy, however. That’s because Scalia likely wouldn’t be restricted from participating in general policy discussions or decisions on issues involved in cases in which he or other members of the law firm, Gibson Dunn & Crutcher LLP, previously or presently represented clients, the attorneys said.

**Former EPA Official Pushing Trump Energy Agenda:** Trump’s self-described environment and energy ambassador sees herself as a walking retort to the administration’s biggest detractors. “Democrats try to paint the picture that women and minorities don’t support the president,” says Mandy Gunasekara, a former EPA official. “They actually do. Democrats have tried to make that a political point, and I can prove them wrong just by showing up.” Gunasekara is young—34—and bluntly offers, “It helps that I’m a woman.” Gunasekara is no longer working for the president, at least not officially. But she says her new organization, the Energy 45 Fund, plans on helping him get re-elected by embracing his environmental record.

**What Else to Know**

**Trump ‘Disappointed’ Sweden Hasn’t Freed Rapper:**Trump said he was “very disappointed” in Swedish Prime Minister Stefan Lofven for not intervening in the detention of rapper A$AP Rocky, who’s facing assault charges after a fight in the streets of Stockholm. “Give A$AP Rocky his FREEDOM. We do so much for Sweden but it doesn’t seem to work the other way around,” the president said as part of two tweets on the hip-hop star’s fate.

The president’s criticism came after prosecutors in Sweden announced earlier Thursday they would be formally charging the 30-year-old, whose real name is Rakim Mayers. Trump called Lofven last weekend at the urging of Kanye West, offering to “personally vouch” for A$AP Rocky.

**Taking Message to Iranians:**Secretary of State Michael Pompeo said he would be willing to travel to Tehran to address the Iranian people about U.S. foreign policy as the Trump administration applies maximum pressure on the Islamic Republic to renegotiate a nuclear accord. “Sure, if that’s the call, happily go there,” Pompeo said. “I’d like a chance to go, not do propaganda but speak the truth to the Iranian people about what it is their leadership has done and how it has harmed Iran.” Pompeo likened such a trip to how Iranian Foreign Minister Javad Zarif communicates with the American public during his trips to the United Nations in New York.

**Warning to Turkey About Russian S-400:**Pompeo urged Turkey not to make the S-400 missile defense system it purchased from Russia “operational” as Trump holds off on implementing new sanctions required by law. “There could be more sanctions to follow but frankly what we’d really like is for the S-400 not to become operational,” Pompeo said yesterday in an interview on Bloomberg Television. Pompeo has to contend with a rift between Trump and lawmakers on the best way to respond to Turkey’s decision to buy the Russian system.

The U.S. has long said Turkey’s move is incompatible with its role in both NATO and the F-35 jet program, though Trump has also signaled he’s reluctant to put more sanctions on President Recep Tayyip Erdogan’s government. Pompeo’s focus on Turkey not making the Russian system “operational” appears to signal a step back from the previous U.S. focus on Ankara not accepting components of the missile defense system and may be an attempt at forging a compromise. Turkey has not yet received the actual missiles for the system.

**‘Do the Right Thing’ in Hong Kong Protests:**Pompeo said China should “do the right thing” in dealing with protests in Hong Kong, urging all sides to avoid the sort of violence that has broken out as the demonstrations stretch into their eighth week. “The president, I think, captured it right when he said that we need China to do the right thing,” Pompeo said. “We hope that they’ll do that, we hope that the protests will remain peaceful.” Pompeo’s comments followed remarks by Chinese Defense Ministry spokesman Wu Qian, who called the behavior of some demonstrators “intolerable” and suggested China could deploy troops if necessary.

**Kim Threatens South Korea:**While Kim Jong Un said his latest missile tests were aimed at South Korean “military warmongers,” the North Korean leader had a clear message for Trump: Bend in nuclear talks or bigger provocations may follow.

Kim oversaw the “power demonstration fire” of a new-type of tactical guided weapon yesterday “to send a solemn warning” to his southern rivals, the official Korean Central News Agency said in a dispatch on the launch. The report came a day after the regime launched what South Korea said were two short-range ballistic missiles that executed maneuvers to avoid detection before plunging into the sea east of the divided peninsula. Although the report criticized only Seoul -- and made no mention of the U.S. or Trump -- it referenced “moves to introduce the ultramodern offensive weapons” and “hold military exercises” as the reason for the provocation.

Pompeo said the door remains open for diplomacy with North Korea even though it launched short-range missiles early yesterday and that he hopes working-level talks between the two countries will begin in the next month or so. Pompeo described the missile launches as more a negotiating tactic than a move that would create a rupture or lead Trump to reverse his commitment to talks with North Korean leader Kim Jong Un.

# Agriculture News

U.S. Farmers Press to End Trade War as $16 Billion Aid Unveiled

*By Mike Dorning and Mario Parker | July 26, 2019 12:00AM ET*

The U.S. just unveiled $16 billion more in federal aid for agriculture. Farmers were of course happy for the funds, but mainly, they want an end to Donald Trump’s trade wars.

“America’s farmers ultimately want trade more than aid,” said Zippy Duvall, president of the American Farm Bureau Federation, the nation’s largest general farm organization. “It is critically important to restore agricultural markets and mutually beneficial relationships with our trading partners around the world.”

The fresh package comes after last year’s $12 billion tranche for farmers. Agriculture incomes have been depressed in the wake of China’s retaliatory tariffs which hurt demand for everything from cotton to pork to soybeans. For Trump, appeasing his rural-voter base has become crucial ahead of 2020 elections.

“This is a band-aid when we really need a long-term fix,” said Ben Scholz, president of the National Association of Wheat Growers, adding producers understand holding China accountable for “unfair trade practices. But a trade war is not the solution, especially when farmers are the casualties.”



The second round of aid payments will help shore up farmer incomes and give Trump time to strike a deal with China, Agriculture Secretary Sonny Perdue said on a conference call Thursday. U.S. Trade Representative Robert Lighthizer and Treasury Secretary Steven Mnuchin are set to travel to China Monday for the first high-level, face-to-face trade talks between the world’s two biggest economies since discussions broke down in May.

But in the meantime, farmers are suffering. American farm income dropped 16% last year to $63 billion, about half the level it was as recently as 2013. Years of overproduction have kept crop prices near historical lows, with the trade spat only adding more pressure. In the meantime, rival Brazil has taken advantage of the U.S. dispute to strengthen its ties with China.

Not only are farmers wary of the prolonged trade war, but there are also concerns over how the latest aid package was constructed.

The aid uses similar damage criteria as last year’s $12 billion aid package. But rather than funds based on crop type, the new program sets a per-county rate based on the blend of crops grown in the area, with payments ranging from $15 to $150 an acre.



“We harbor some concerns about disparities in payments from county to county, which could put some farmers at a financial disadvantage,” said Roger Johnson, president of the National Farmers Union, the second-largest U.S. general farm group. “This assistance is desperately needed, but the ad-hoc rollout and convoluted structure of these programs has caused significant confusion among producers.”

Debbie Stabenow, the top-ranking Democrat on the Senate Agriculture Committee echoed the criticism.

“Today’s announcement only confirms my previous concerns that this aid is not equitable and favors certain farmers over others,” the Michigan senator said. “Bottom line -- it’s not fair.”

Agricultural markets largely took the announcement in stride, given the package is designed to avoid distorting planting decisions.

“It’s a discussion point, but not really” a factor for prices, said Rich Nelson, chief strategist at Allendale Inc. in McHenry, Illinois. The payments may be a consideration for acreage decisions next year, and so could influence trading further down the road.



The new payments will be based on the shortfall in exports of each crop compared with the highest year of exports over the past decade, said USDA Chief Economist Robert Johannson. Last year’s payments were based on the shortfall in exports compared to 2017, so this tranche may end up being more generous.

Still, Perdue said individual farmers shouldn’t expect the aid will fully compensate them for trade losses.

“There’s no promises and no thoughts this will make anyone whole,” he said.

Overall trade aid is capped at $500,000 per person.

Trump announced the new package in May as he stepped up his trade war with China by threatening new tariffs against the Asian nation.

With aid flowing to farmers, he has avoided erosion of his political support in rural areas. In June, 54% of rural voters approved of Trump’s job performance versus a national approval rating of 42%, according to a Gallup survey of 701 self-identified rural voters.

John Brengle, a fifth-generation farmer who grows corn and soybeans on 5,000 acres in Metcalf, Illinois, said in a telephone interview the aid was “very necessary” after “the trade war has hurt us tremendously.”

He’s had to cut costs because of the trade dispute’s impact and delay replacement of equipment. Still, he stands by Trump.

“There’s no doubt in my mind” that something had to be done about China, Brengle said. “I’m not 100% sure the American farmer can afford the” war, but as long as Trump’s standing up to China, he’s backing him, he said.

Agriculture Giant Cargill Reviews Business Amid Trade Spat

*By Isis Almeida, Mario Parker and Andy Hoffman | July 26, 2019 2:02AM ET*

Agribusiness giant Cargill Inc. is looking to shake up its business as President Donald Trump’s yearlong trade war with China makes it harder to navigate unpredictable crop markets.

The U.S.’s largest closely held company is reviewing its plans given operational headwinds and a slowdown in earnings, it said in emailed responses to Bloomberg questions on Thursday. The Minneapolis-based firm is focused on cutting costs and two senior executives have already departed, according to people familiar with the matter.

Agricultural commodity traders have struggled to make money as years of bumper crops depressed prices and curbed volatility. The tit-for-tat spat between Washington and Beijing has exacerbated the challenges, with Cargill saying fourth-quarter earnings from origination and processing were hit by the “deep uncertainty” caused by the trade spat.

“Given headwinds in our operating environment and an earnings slowdown in the final months of our last fiscal year, we are reviewing our business plans to ensure that resources are aligned with our top priorities,” Cargill said. “Roles could be impacted as part of the normal course of business.”

Earlier this month, Cargill reported its steepest quarterly profit decline in four years as it dealt with tumult ranging from trade disputes to inclement weather in the U.S. Midwest and lower feed demand in China due to the spread of African swine fever, a deadly virus that kills most infected pigs within 10 days.

The shakeup has already seen the departure of Mark Stonacek, chief financial officer of Cargill’s agricultural supply chain, and Tom Erickson, vice president of commodity markets compliance, said the people, who asked not to be named because the information is private. That follows a surprise announcement earlier this year that G.J. van den Akker, head of Cargill’s agricultural supply chain, was retiring and being replaced by Joe Stone.



Cargill isn’t alone in reviewing businesses and cutting costs. Archer-Daniels-Midland Co., the ‘A’ in the storied quartet of agricultural commodity firms known as the ABCDs, is also undergoing a transformation to focus more on animal nutrition and reduce costs.

Bunge Ltd. is looking to offload some business, most recently announcing a joint venture with British oil major BP Plc, while Louis Dreyfus Co. reshuffled its top traders. Marubeni Corp. said this week that U.S.-based unit Columbia Grain Trading Inc., stopped all new sales of soybeans to Chinese customers.

Cargill said in the email it hadn’t instigated a company-wide workforce reduction. The firm, which was the first of the ABCDs to restructure a few years ago, is now benefiting from better animal-protein earnings, ranking as the third-largest beef producer in the U.S. after JBS SA and Tyson Foods Inc.

“We remain wholly committed to our strategy to bring the best of Cargill to our customers and move more quickly to deliver what matters most to them,” it said. “We continue to hire and add new capabilities to drive our future growth initiatives.”

# Federal Employee News

**Budget Agreement Could Benefit Federal Employees**

Fedweek | July 26, 2019

The new budget agreement between the White House and congressional leaders could relieve several pressures on federal employee pay and benefits as well as the threat of another partial government shutdown in the fall.

The agreement would allow for spending in the next two fiscal years well above the limits set in an earlier budget law. Those limits had been a major barrier to enacting agency spending in time for the October 1 start of the new fiscal year; an attempt to stay within them could have triggered a move to find savings in programs such as federal retirement and health insurance. The agreement also would lift another threat that could have hit around the same time by suspending the federal debt ceiling through July 2021.

The House hopes to vote on the plan later this week with the Senate potentially to follow next week, after which Congress would be in recess through Labor Day. Approval is not guaranteed, however.

Concerns about another shutdown had been growing as Congress made only limited progress on the regular appropriations bills for fiscal year 2020. The House has passed 10 of the 12 but the Senate has passed none. Among those passed by the House is the general government measure (HR-3351) that provides for an average 3.1 percent federal employee raise in January; raising the amount of money available in general could improve chances of that raise being enacted despite the White House’s call for a freeze.

A higher topline amount for defense spending also could speed consideration of the annual DoD authorization bill, differing versions of which (HR-2500, S-1790) have already passed the House and Senate. Those bills, which contain a number of provisions affecting federal employment policies government-wide, could now be on track to be signed into law before October 1.

However, agreement on funding levels still leaves many policy differences to be resolved. The House general government spending bill for example would stop the breakup of OPM and would bar agencies from unilaterally changing the terms of negotiated contracts. Also, its version of the defense bill would return the standard probationary period at DoD from two years to the one year applying elsewhere and also pave the way for repealing special RIF policies applying there that make performance the top retention factor. That bill also would convert the maximum 12 annual weeks of leave for parental and other family purposes from unpaid to paid time for federal employees.

The agreement does call for some offsetting spending cuts; any such move raises concerns that federal employee pay and benefits will be targeted. However, the only cuts specified involve extending several spending restrictions in Medicare and some customs fees currently set to expire.

**White House Backs More Paid Leave, but It’s Complicated**

Fedweek | July 26, 2019

The White House has issued a policy statement in favor of paid parental leave for federal employees, although it does not directly address broader language the House recently passed to provide paid leave for both parental and other family purposes.

The statement related to a provision in HR-3494, an intelligence agencies authorization bill now passed by the House. It would provide up to 12 weeks of paid parental leave to employees of intelligence community agencies on the birth, adoption or foster placement of a child “unless the requested leave would unduly disrupt operations.”

Previously the House had accepted, while passing the annual DoD authorization bill (HR-2500), government-wide language to turn the annual 12 weeks of leave available to federal employees per 12 months under the Family and Medical Leave Act from unpaid time to paid time.

That provision—which the administration did not comment on as that bill was in progress—differs from the language in the intelligence agencies bill. The DoD bill would extend paid leave to family-related purposes other than parental leave for which the FMLA now allows unpaid leave: to care for a spouse, child or parent with a serious condition; for a personal condition that makes the employee unable to work; and for needs arising from the fact that the employee’s spouse, child, or parent is on, or has been called to, active military duty.

Said the administration statement on the intelligence bill, “While the administration supports paid parental leave, it has concerns with limiting such a program to a select few federal agencies. The administration looks forward to working with the Congress on proposals to provide parental leave to all families nationwide, including to all United States government employees, as set forth in the president’s budget.”

The administration’s budget documents have proposed a national paid parental leave program although Congress has not actively considered the issue until recently.

Both of the recently passed House bills now are before the Senate. The Senate version of the intelligence bill contains similar language on paid parental leave while its version of the defense bill does not address leave policies.

**Administration Appointees Question Pay Gap Figures**

Fedweek | July 24, 2019

The Trump administration’s appointees to the Federal Salary Council have questioned that group’s annual conclusions that federal employees on average are about a third behind comparable private sector positions.

In an unusual statement attached to the group’s annual report, the three said that the council “is in danger of becoming largely irrelevant, at least when it comes to its original raison d’être; that is, to make recommendations to the President’s Pay Agent on the broader questions of pay comparability between federal and non-federal employers.

“For far too long, the Council has not addressed whether its annual estimate of the so-called “pay gap”—that single number that we proffer every year—truly represents the federal government’s ability to compete in today’s hypercompetitive talent market…across all locales, grade levels, and occupations. And that same “suspect” approach is used to estimate local “pay gaps” that may or may not be real…but that have very real consequences for those federal employees potentially affected by them,” they wrote.

The statement mirrors positions those three members took at two meetings of the group last year. At the second, they raised options for changing the methods used in arriving at the pay gap figure—including a measure of “total compensation” taking the value of benefits into account as well as pay—but were voted down by the more numerous representatives from federal employee unions.

In a separate statement with the annual report, the three added details to those options and pointed out that in a strong job market, federal employee attrition “is as low as it has ever been. And while some of that low attrition can certainly (and gratifyingly) be attributed to the “public service motivation” of those employees, something still does not compute.”

“That paradox casts a harsh light on the double-digit pay gap, and it is no wonder then that it has largely been ignored by the President’s Pay Agent and the relevant committees in the Congress…not just of this administration and this Congress, but of every one that has preceded them, going all the way back to the initial passage of the Federal Employee Pay Comparability Act of 1990. Something is wrong here, and we three members of the Council want to get to the bottom of it,” they wrote.

The three are Ronald Sanders, a long-time federal personnel official now a college professor; Jill Nelson, who heads a separate council on blue-collar pay; and Katja Bullock, an official with the White House personnel office.

The report doesn’t include a reply from the union members although it does include their statement at last fall’s meeting opposing the options, especially adopting a total compensation approach, as a move to hold down pay and potentially cut the value of federal employee benefits.

Separately, as part of the President’s Management Agenda the administration is conducting a study of a total compensation approach but that study is not expected to be completed until early next year and no recommendations are expected until late next summer.

**Next Battle Front on Executive Orders: When Ban Will End**

Fedweek | July 24, 2019

Even though a federal appeals court has ruled that a district court erred in considering a challenge to the administration’s orders on disciplinary and union policies, the injunction the lower court issued against the main parts of those orders could remain in effect through next month at least—unless the court grants a newly filed request by the Justice Department on behalf of the White House to lift the injunction sooner.

A panel of the appeals court found last week that federal unions should first have brought their challenge to the orders at the FLRA and that the district court erred in considering it—agreeing with the administration on both points. The reviewing court took no position, however, on the lower court’s rulings in favor of the unions—that portions of the orders violated provisions of law governing bargaining and many other union-related matters, as well as some restrictions on employee rights in discipline.

Under the appeals court’s procedures, the losing side has 45 days ask for reconsideration, which the unions say they will request, either by the same three-judge panel or by the full court. The panel’s decision does not take effect until the court decides whether to rehear a case, meaning in this case that the injunction remains valid until then.

The Justice Department this week asked the court to lift the injunction immediately, saying that otherwise it could remain in effect “indefinitely” while the legal process plays out. The unions likely will oppose that bid.

A request for rehearing by the same panel commonly occurs when one of the judges dissents from the ruling; in this case, though, the panel’s decision was unanimous. The court’s rulebook says that requests for rehearing by the full court “are frequently filed but rarely granted.” If the unions make such a request and it is granted, the injunction would continue; if it is denied, the injunction would be lifted and the unions would then have 90 days to appeal to the U.S. Supreme Court.

The unions continue to complain that some agencies are acting as if the injunction never had been issued, by imposing new and more restrictive policies on matters such as telework, alternative working schedules, and official time, equipment and office space for unions. The latest was the EPA, where such restrictions took effect this week. Unions have filed unfair labor practice complaints at the FLRA against the EPA and a number of other agencies that also invoked such policies after declaring bargaining at an irreconcilable impasse.

Language in the House-passed general government spending bill (HR-3351) would prevent agencies from imposing changes to previously negotiated policies unless an agreement was reached in new bargaining or unless an outside party such as the Federal Service Impasses Panel imposed them. A White House policy statement objected to that language; the Senate has not started writing its version of that bill.