



Washington Report Headlines

Congressional & Administration News

- Kavanaugh Vote Delayed as Senate GOP Backs One-Week FBI Inquiry

Agriculture News

- Farm Bill Talks Will Pass Deadline, Agriculture Lawmakers Say
- Farm Bill Payment Limit Amendment Should Be Upheld: Lawmakers

Federal Employee News

- Federal Workers Face 1.5 Percent Health Premium Hike in 2019
- Trump Signs Spending Bill with CR Funding Through Dec 7
- Policies on Shutdowns Remain Largely Unchanged

Congressional & Administration News

Kavanaugh Vote Delayed as Senate GOP Backs One-Week FBI Inquiry

- Trump says he'll rely on Grassley for next steps on nominee
- Flake, Murkowski urge brief FBI probe of sexual assault claims

By Laura Litvan, Steven T. Dennis and Erik Wasson | September 28, 2018
Bloomberg Government

Senate Republicans agreed to delay Brett Kavanaugh's Supreme Court confirmation vote to allow a one-week FBI investigation of sexual assault claims leveled against the nominee.

The scope of the investigation being sought wasn't immediately clear. Second-ranking Republican John Cornyn of Texas announced the delay. He said the chamber will take a procedural vote on Saturday.

The move followed a demand Friday by GOP Senator Jeff Flake of Arizona for a one-week FBI investigation into Christine Blasey Ford's claim that Kavanaugh sexually assaulted her in high school. Kavanaugh categorically denied it.

Republican Senator Lisa Murkowski of Alaska told reporters she backed Flake's proposal. "I support an FBI investigation," she said.

Senator Joe Manchin, a West Virginia Democrat who has been viewed as a possible vote in favor of Kavanaugh, said in a statement that Flake's plan for an FBI investigation was "right and fair."

President Donald Trump would need to authorize reopening the FBI's background investigation into Kavanaugh. The president told reporters at the White House, "I will be totally reliant on Grassley and what he decides to do," referring to Judiciary Chairman Chuck Grassley.

Asked whether he had a message for wavering Republican senators, the president said he had "no message." "They have to do what they think is right," Trump said. "They have to be comfortable with themselves."

Democrats have repeatedly demanded an FBI investigation since Ford's allegation surfaced a few weeks ago, and they hammered at the issue throughout Thursday's raucous Judiciary panel hearing where Ford and Kavanaugh testified.

Republicans who back Kavanaugh said there was no corroborating evidence for Ford's allegation. Democrats pointed to the lack of an impartial investigation and the committee's refusal to call witnesses who might be able to back up her claim, or to seek testimony from two other women who accused Kavanaugh of sexual misconduct.

Separately, former Kavanaugh classmate Mark Judge -- who Ford says witnessed and encouraged the attack -- said he will cooperate with any law enforcement agency that investigates confidentially, the Associated Press reported. Judge had previously notified the Judiciary Committee in a letter that he didn't want to testify in public.

The Judiciary Committee voted 11-10 on party lines Friday to send Kavanaugh's nomination to the Senate floor.

'Due Diligence'

Flake of Arizona, who had been undecided until Friday morning, announced his demand for an FBI investigation not long after announcing his support for Kavanaugh.

Flake said he would "only be comfortable moving on the floor until the FBI has done more investigation than they have already." He added: "It may not take them a week. We owe them due diligence."

Flake's proposal was endorsed by GOP Senator Lindsey Graham, a strong Kavanaugh backer who said, "What Jeff is saying makes sense to me."

"Somebody's got to explain this to Trump. So, I guess that'll be my job," said Graham of South Carolina. Senator Orrin Hatch of Utah, a top GOP backer of Kavanaugh, told reporters he thought an FBI investigation was "overkill" but that he was okay with the idea.

Grassley said at the committee meeting that he told Flake, "I would advocate for the position he took but I don't control it." After the committee meeting concluded, Grassley told top Democrat Dianne Feinstein of California the plan was "a gentlemen's and women's agreement." Flake said he would make a request to the White House to direct the FBI to do the probe.

Democrat Chris Coons told reporters that Flake only struck the deal with Democrats "after having reassurances from some other senators in his party."

Coons of Delaware said that after Flake announced his support for Kavanaugh earlier Friday, they had a private conversation and Coons said he told Flake, "I respect you as my friend, but I'm having difficulty with your vote. It became a much broader conversation."

Re-Opening Investigation

The White House will need to ask the FBI to re-open the background investigation, which hasn't happened yet, according to a U.S. official with knowledge of the matter.

The FBI also will need the White House to define the scope and parameters of the investigation, according to the official. The bureau could complete an investigation within a week, but the timeline ultimately depends on what is involved, such as the number of interviews that need to be done and whether newly uncovered information needs to be followed-up on, the official said.

Connecticut Democrat Richard Blumenthal, a Democrat on the Judiciary panel, said an FBI investigation "has to be more than a sham, and a charade."

"What's really needed now is a penetrating, complete, fair and impartial investigation by the FBI," Blumenthal said, including an interview of Judge.

On Thursday the Judiciary committee heard Ford, a California psychology professor, testify that she's "one hundred percent" certain Kavanaugh attacked her in 1982 when they were teenagers, describing in detail being held down on a bed at a drunken high school gathering. She described "uproarious laughter" by Kavanaugh and Judge, who has said he doesn't recall such an incident.

Kavanaugh angrily, tearfully and "unequivocally" denied any wrongdoing involving Ford and other women who have made claims of sexual misconduct in recent days. He denounced his treatment as a political hit orchestrated by Democrats.

The American Bar Association and Heather Gerken, dean of Yale Law School where Kavanaugh earned his law degree, called for a delay in Kavanaugh's confirmation to allow an investigation.

Agriculture News

Farm Bill Talks Will Pass Deadline, Agriculture Lawmakers Say

- A farm bill compromise will not be done before Sept. 30
- Lawmakers will need several more weeks

By Teaganne Finn | September 27, 2018
Bloomberg Government

Farm bill negotiators need several more weeks to reach a final compromise, said the Senate Agriculture chairman, pushing negotiations past the Sept. 30 deadline of current law with no extension in sight.

"I don't want to even hear the word extension," Senate Agriculture Chairman Pat Roberts (R-Kan.) told reporters Sept. 27.

House and Senate Agriculture leaders met again earlier this week, but said they will not be able to come to an agreement on a final farm bill before current law expires in three days. Negotiators have ruled out an extension because it delays work and "takes away from a sense of urgency to get this [farm bill] done," said Roberts.

House Agriculture Chairman Mike Conaway (R-Texas) said he would like to work through October, so once lawmakers come back after the midterms, they could vote on the final conference report during the lame duck session.

“That would be the best alternative to where we are right now is to get all are idling done in October and move forward,” Conaway told reporters Thursday.

The farm bill (H.R. 2) being negotiated would authorize agriculture programs for five years. The biggest divide is over Supplemental Nutrition Assistance Program work requirements, with House lawmakers proposing to tighten restrictions and add a mandatory training program and Senate negotiators opposing changes. House lawmakers will leave for an October recess, but Conaway said he’s willing to come back to Washington next week to meet with counterparts in the Senate to continue negotiations.

“If we can meet, which I’ve encouraged all of us to meet next week, I’ll be here for whenever we can make that happen,” said Conaway.

Farm Bill Payment Limit Amendment Should Be Upheld: Lawmakers

By Joi Preciphs | September 26, 2018
Bloomberg Government

A bipartisan group of House and Senate lawmakers are urging their colleagues to maintain the payment limit provisions passed by the Senate in the final 2018 Farm Bill.

“The Farm Bill is an \$860 billion spending bill that impacts every single American,” the lawmakers write in letter to House and Senate Agriculture Cmte leaders

- “While there are significant differences between the House and Senate bills, there is one area where overwhelming bipartisan, bicameral agreement exists – allowing only one additional manager per farm entity to be eligible for \$125,000 in farm subsidies of \$250,000 if the manager is married. We do not believe the farm safety net should provide unlimited payments to farmers year after year”
- Signatories: Sens. Chuck Grassley and Dick Durbin, and Reps. Mark Meadows and Ron Kind

Federal Employee News

Federal Workers Face 1.5 Percent Health Premium Hike in 2019

- New Blue Cross Blue Shield insurance plan slated for 2019
- Federal workers say OPM withheld information on new focus plan

By Ayanna Alexander | September 26, 2018
Bloomberg Government

The 8.3 million federal employees, retirees, and their family members will see their health insurance premiums rise an average of 1.5 percent in 2019, the lowest increase since 1995, the Office of Personnel Management said Sept. 26.

The agency announced its list of 265 health-care plans that are available under the agency's 2019 Federal Employees Health Benefits Program. Blue Cross Blue Shield, one of the largest insurance providers in the country, offered its newest option, but details on the plan won't be available until November.

The rate is a smaller increase than last year and the lowest it's been since the 1995 plan year, the agency's director of health care and insurance Alan Spielman, told Bloomberg Law.

Federal workers would be responsible for roughly \$346 per month, about 31 percent less than the providers' other options. Workers have until Dec. 10 to choose a plan, which will take effect Jan. 1, 2019.

Jacque Simon, policy director for the American Federation of Government Employees, told Bloomberg Law that the union asked the agency what the program covers and how it will work, but hasn't received answers.

"The OPM knows, but they just won't tell us," Simon said. "There's this big mystery what's in it. We asked lots of questions and they wouldn't answer them. Blue Cross Blue Shield just introduces this new plan, which is so much cheaper than the other, you've got to wonder what it covers."

The federal workers' union is an AFL-CIO affiliate and represents about 2 million federal employees. Simon told Bloomberg Law that the union has heard that the new health plan is not a high-deductible plan but is part of a network and that employees need information sooner than November.

OPM officials didn't respond to requests for comment.

The HR agency finalized a rule in April that allows all federal employee health benefit carriers to offer the same number and type of service plans. Previously, it limited who could offer certain numbers and types of plans to employees. Blue Cross Blue Shield is one of three companies supplying a new third option, which is available to workers nationwide. reducing mission-related funding in any way" but merely shifting work among existing offices.

In an unusual move, one of the three members of the FLRA's governing board wrote a dissent to the announcement in the Federal Register, saying that "now is the worst time to downsize further a dispute resolution agency like the FLRA . . . given the current effort to streamline federal government agencies, there is very likely to be an increase in the number of grievances and labor-management disputes."

Trump Signs Spending Bill with CR Funding Through Dec 7

September 28, 2018
Fedweek

Updated: President Trump this week signed into law an appropriations bill covering the VA and related agencies, the legislative branch, the Energy Department, and several components of Interior and Defense including the Army Corps of Engineers. Those agencies are now funded through the new budget year, fiscal 2019, and do not face the threat of a partial shutdown from a funding lapse.

On Friday he also signed a second bill that funds the remainder of DoD, along with Labor, Education, most of HHS, SSA, and related agencies. That bill provides full-year funding for those agencies while also extending funding, generally at current levels, through December 7 for agencies not in one of those two bills.

The outcome had been in doubt – and Trump called the second bill “ridiculous” – mainly due to disagreements over funding for a border wall; the bill, which contains no such funds, was the last available to the administration to use as leverage on that issue before the elections.

However, there there was also pressure to have the bill enacted on time, not only to prevent a partial government shutdown but because it would complete full-year funding for DoD—a separate annual authorization bill already has become law—on time and before the elections.

A third combined bill, still in a House-Senate conference, would cover the rest of Interior along with financial regulatory agencies, central agencies such as OPM, GSA, OMB and FLRA, the IRS, Agriculture, Transportation, HUD and related agencies.

That measure further will serve as the vehicle for a decision on a federal pay raise for January. Indications so far are that a 1.9 percent raise advocated by the Senate stands a good chance of acceptance but that decision won’t be finalized until the conference concludes.

Even if that conference were to conclude soon, it is uncertain whether that bill could reach final voting in the two weeks remaining before the planned congressional recess through the elections. A delay would leave it to the post-election session along with departments and agencies whose budgets have not advanced even to a conference. Those include DHS, Commerce, Justice and science-related agencies, and State and foreign operations-related agencies.

Policies on Shutdowns Remain Largely Unchanged

September 28, 2018

Fedweek

Individual agency and government-wide policies on shutdowns have remained largely unchanged for many years and the results will be familiar for employees if a funding lapse were to occur for agencies that don’t have funding authority in place as of December 7, when temporary funding would run out under a second minibus spending bill signed by President Trump on Friday. That bill extended current level funding for several remaining agencies without full year funding – including part of Interior along with financial regulatory agencies, central agencies such as OPM, GSA, OMB and FLRA, the IRS, Agriculture, Transportation, HUD and related agencies.

Excepted vs. Non-Excepted

Each agency has a shutdown “contingency plan” that describes the categories of employees who would be required to stay at work – albeit unpaid – until funding is restored (“excepted” employees) and those who would be sent home on unpaid furloughs (“non-excepted” employees). Most of those plans were updated late last year or early this year in advance of shutdown threats that did materialize with two short funding lapses, while others have been unchanged for several years.

The distinctions are largely based on OMB policy in effect for decades involving agency obligations to provide safety and security regardless of the availability of funds. Those decisions also created the principle that employees kept on the job during a partial shutdown are guaranteed to be paid when funding is restored because the government has incurred an obligation to them.

There is no such guarantee for those who are furloughed. In practice, in all shutdowns during that time, furloughed employees later were paid as if they had worked, but that requires agreement of Congress and the White House each time.

In addition, some agencies, or parts of agencies, are “exempt” because they are self-funding. The TSP and USPS are exempt totally, for example. Further, some agencies have trust funds, rollover funds, multi-year funds and other sources of income that would allow them to remain fully open, at least for a time. Also, this time full-year funding has been enacted for several agencies, most notably VA and Energy.

If a shutdown is imminent, OMB issues a memo to affected agencies telling them to put their contingency plan into effect; that memo typically isn’t sent until nearly the end of funding authority and is virtually the same every time.

In that memo, OMB also describes their obligations to notify employees of their status, procedures to conduct “orderly” shutdown-related activities. This typically includes calling even furloughed employees into work for part of their first scheduled workday after a shutdown starts, to secure their work and make other needed arrangements. During the partial shutdowns earlier this year, many furloughed employees worked the entire first day, or nearly the entire day, on such responsibilities. That OMB memo also includes instructions on recalling furloughed employees to work after a shutdown ends –or earlier, in some cases.

And when funding is restored, OMB sends another memo, also virtually identical each time, telling agencies that they should “reopen offices in a prompt and orderly manner.”