
Window On Washington - January 22, 2019, Vol. 3, Issue 4

Jan 22, 2019

Outlook for This Week in the Nation's Capital

Partial Government Shutdown Grinds into 5th Week: The effects of the partial shutdown continue to grow in Washington and elsewhere with Federal contractors and civil servants now feeling the pain from the 30+ day long stalemate. On Capitol Hill, the House and Senate both cancelled week-long district work periods planned for this week to remain in town to continue to try to negotiate a spending deal for the myriad number of federal agencies shuttered due to a lack of FY 2019 funding and President Trump's refusal to reopen agencies by signing any more short-term "continuing resolutions" (CR) to fund them at the previous year's levels. Saturday's announcement by the President proposing to end the impasse by agreeing to a temporary DACA fix for Dreamers here in the US was met with great skepticism by Democrats and many conservatives. Twenty one Republican Senators are up for reelection in 2020, and reports circulated last week that some of these Senators have been trying to work to find a path forward, either for a temporary CR (to avoid federal employees missing a second paycheck later this week) or passing versions of the FY19 appropriations bills combined with a larger "deal" on immigration issues with Democrats in exchange for more border security funding. Senate Majority Leader McConnell plans to roll out the President's proposal combined with the notional conference agreements worked out in December on most of the spending bills that are outstanding, but no one is optimistic that Senate Democrats will support this approach without a substantially bigger immigration package. Speaker Pelosi continues to return rhetorical fire with the White House and believes that this battle has unified her party, with Democrats linking arms in defense of their ideals and in defiance of Trump. She pointed to polls that suggest that a majority of Americans are with them, and that the "optics" of the fight were overall good for their party, despite it being "horrible for the country" Pelosi said of the shutdown. As a result, with another potential payday without relief looming at week's end, no one is quite sure how the shutdown ends though growing global concern about the adverse effects on the world economy from it suggest that pressure will continue to increase on both sides before Friday

White House: The President has canceled travel planned for this week for senior Administration figures who were scheduled to attend the annual Economic Summit in Davos, Switzerland, due to the ongoing impasse on border security spending which has in turn become a partial government shut down. The President also caused the cancellation of a congressional delegation trip (led by Speaker Pelosi) over the long weekend to several foreign countries, most notably Afghanistan, presumably in retaliation for the Speaker's suggestion that the President postpone his planned January 29 State of the Union Speech, also due to the impact of the shutdown. His rhetoric suggests he is also dug in on his border funding position and ready for a "long shutdown" if necessary. For now, the vast majority of Congressional Republicans are standing by him albeit that support will likely begin to badly fracture should the shutdown continue for several more weeks as the President suggests it might.

Last Week in the Nation's Capital

CONGRESS

Budget & Appropriations

Hill and Agency sources as well as OMB staff are starting to acknowledge what many in federal budget circles have feared for several weeks – the partial government shutdown will also be responsible for the release of the President's Fiscal Year 2020 Budget Request to the Congress being delayed beyond the usual early February release date. Agency and OMB sources have confirmed that budgets will be released "late", because of both the unresolved status of FY19 appropriations for some agencies, and the effect of the shutdown which has prevented agencies from completing the annual "pass back" process with the OMB for their FY20 budgets. No word yet on exactly how long the budgets will be delayed (March is possible) and the potential effect on the FY20 Budget and Appropriations processes on Capitol Hill this year...Stay tuned for more... (Clark Hill Insight)

House Democrats' Latest Gambit for Ending Shutdown Involves Bills Republicans Negotiated: House Democrats plan to ramp up the pressure on Republicans to reopen the government by holding votes next week on spending bills the GOP helped negotiate. The plan is to hold a vote on a package of six fiscal 2019 appropriations bills that were agreed to by House and Senate negotiators last year but never brought to the floor. The package also includes language to pay federal employees who have been working without pay or who have been furloughed during the partial government shutdown. (Roll Call)

Tax Reform

Tax Court Provides Operational Update during Government Shutdown: The US Tax Court closed its doors on December 28, 2018 until further notice. However, trial sessions schedule for the weeks of January 7 and 14, 2019, were to proceed as scheduled. The Tax Court has updated its [website](#) to confirm that the trial sessions scheduled for the week of January 14 will proceed as scheduled, but that trial sessions scheduled for the week of January 28, 2019 are canceled. (National Law Review)

Space/NASA/NOAA

New House Science Chair Seeks More Oversight of NASA Projects: The new chair of the House Science, Space and Technology Committee says upcoming oversight hearings will "be a little more in-depth" on major NASA programs like plans to construct a lunar outpost orbiting the moon. "We intend to have the subcommittees function, which will give us time to be more in-depth in our questions and getting answers than I think we've had in the past

few years," Rep. Eddie Bernice Johnson tells POLITICO. "Our subcommittees have just had cursory hearings and that's been it. We want to be a little more in-depth to get more information and make sound recommendations." The Texas Democrat also said she wants the committee to hear from more rank and file officials at NASA to get a better picture of agency operations. "We've got to get beyond just the leadership," she explains. "There are a lot of hidden figures at NASA [and] researchers who are very involved." ([Politico](#))

House NASA Spending Bill Funds JWST Cost Overruns, Also Fires Warning Shot: House leadership announced late Jan. 17 that they plan to introduce a package of spending bills for most of the government agencies currently affected by the ongoing shutdown, now nearly a month old. The bills will be taken up by the House the week of Jan. 21, House Majority Leader Steny Hoyer (D-MD) said in a statement. That package of bills includes a commerce, justice and science (CJS) spending bill that provides \$21.5 billion for NASA. That is slightly less than last year's House bill but above the \$21.323 billion that the Senate version, passed by the House earlier this month, provided for the agency. That bill includes the full \$304.6 million requested for JWST in 2019, but the report accompanying the bill offered harsh language, and a warning regarding cancellation, regarding the space telescope given the cost overruns and schedule delays announced last year. ([Space News](#))

Environment

Johnson Plans to Restore Credibility to House Science Committee: Rep. Eddie Bernice Johnson, a Democrat from Texas who is the new chairperson of the House of Representatives' Committee on Science, Space, and Technology, is proving that elections make a difference. Johnson plans a full and active agenda for the committee to address the challenge of climate change and ensure U.S. global leadership in science, technology, engineering, and mathematics (STEM) areas. Also on the agenda is to "restore the credibility" of the committee "as a place where science is respected and recognized as a crucial input to good policymaking," Johnson said in a statement after the Democrats won back the House in last November's midterm elections. ([Earth & Space Science News](#))

Defense

Democrats Announce Membership for House Armed Services Committee: Last week, Democrats revealed the newly appointed members of the House Armed Services Committee. Members include: Reps. Bill Keating (MA), Filemon Vela (TX), Gil Cisneros (CA), Jason Crow (CO), Veronica Escobar (TX), Jared Golden (ME), Deb Haaland (NM), Katie Hill (CA), Kendra Horn (OK), Chrissy Houlahan (PA), Andy Kim (NJ), Elaine Luria (VA), Mikie Sherrill (NJ), Elissa Slotkin (MI), Lori Trahan (MA), and Xochitl Torres Small (NM). ([Clark Hill Insight](#))

Top House Dems Say Trump Can't Use Army Corps of Engineer Funding for Wall: Four top House Democrats, including Appropriations Chairwoman Nita Lowey (D-NY), sent a letter this week telling President Trump he is "misinformed" in thinking he has the authority to use an emergency declaration to shift billions of dollars in Army Corps of Engineers funding to build his border wall. ([Clark Hill Insight](#))

Immigration

Bill Roundup: H-2B Cap Relief, Heightened Asylum Standards: In the opening days of the new Congress, lawmakers introduced legislation tackling H-2B temporary non-agricultural visas, sanctuary city policies, asylum standards, and alternatives to immigration detention. Here, [Law360](#) examines their proposals. ([Law 360](#))

Cyber

Lawmakers Reintroduce Grid Analog Back-up Bill: On Thursday, a bipartisan group of House and Senate members reintroduced legislation creating a pilot program to isolate some critical electricity grid systems to protect them from cyberattacks. The bill, sponsored by Sens. Angus King (I-Maine) and Jim Risch (R-Idaho) and Reps. Dutch Ruppersberger (D-Md.) and John Carter (R-Texas), would direct the Energy Department to test and research analog back-ups. The legislation [passed the Senate](#) by voice vote just before Christmas last year. ([Clark Hill Insight](#))

Campaign Finance

Democrats Seek FEC Assurance on Campaign Finance Oversight During Shutdown: The partial government shutdown, the longest in U.S. history, is affecting the Federal Election Commission's ability to enforce campaign finance laws and investigate possible infractions, Democrats on the Senate Rules Committee wrote to the FEC on Wednesday. Ninety percent of the agency's 300 employees have been furloughed, forcing it to skip its first scheduled meeting of the year, according to the letter. ([Politico](#))

Justice

Dems Still Fear Barr Interference in Mueller Probe Despite Promises of Independence: Senate Democrats remain largely skeptical of William Barr for attorney general after he appeared before the Senate Judiciary Committee, underscoring the partisan fight over his nomination won't be ending any time soon. Much of their resistance centers on lingering uncertainty on how Barr would handle special counsel Robert Mueller's investigation into Russian interference in the 2016 election and potential collusion with President Donald Trump's campaign. Barr this week pledged that he wouldn't interfere with Mueller's probe and vowed to be as transparent under the law as possible. ([Politico](#))

Energy

E&C Rosters Announced: Memberships for House E&C (Energy and Commerce) Committee were announced this week. On Tuesday, House E&C

Chairman Frank Pallone (D-NJ) unveiled the Democratic rosters for his six committees, with Rep. Bobby Rush (D-IL) helming the Energy Subcommittee. In addition to Rush, the Energy subpanel includes Reps. Scott Peters (CA), Jerry McNerney (CA), Paul Tonko (NY), Nanette Diaz Barragán (CA), Donald McEachin (VA), Lisa Blunt Rochester (DE), Mike Doyle (PA), John Sarbanes (MD), Dave Loebsack (IA), G.K. Butterfield (NC), Peter Welch (VT), Kurt Schrader (OR), Joe Kennedy (MA), Marc Veasey (TX), Ann McLane Kuster (NH), Robin Kelly (IL) and Tom O'Halleran (AZ) and Pallone.

On Friday, E&C's ranking member Greg Walden (R-OR), announced the Republican members, with Rep. Fred Upton (R-MI) serving as ranking member of the Energy Subcommittee. He'll be joined by Reps. Bob Latta (OH), Pete Olson (TX), Adam Kinzinger (IL), Morgan Griffith (VA), Larry Bucshon (IN), Richard Hudson (NC), Tim Walberg (MI), Cathy McMorris Rodgers (WA), David McKinley (WV), Bill Johnson (OH), Bill Flores (TX), Jeff Duncan (SC) and Walden. (Clark Hill Insight)

Homeland Security

Senate GOP Blocks Bill to Reopen Homeland Security: Senate Republicans blocked legislation on Friday that would have temporarily reopened the Department of Homeland Security. Sen. Tim Kaine (D-VA) asked to take up a House-passed bill that would fund the department through Feb. 8. It's the third time Democrats have tried to bring up the stopgap measure. But Sen. James Lankford (R-OK.) objected to the request "on behalf of the majority leader," referring to Majority Leader Mitch McConnell (R-KY). ([The Hill](#))

EXECUTIVE BRANCH

Health/HHS/NIH

Recently Released 2019 "How-to Manual" Aims to Improve NIH R01 Funding Approval Rates for Applicants: The publisher Principal Investigator Leader is now marketing what they claim is a unique manual that utilizes recently funded NIH grant applications and veteran grant winners and reviewers to walk researchers through the R01 application process. The hands-on examples it contains are meant to help readers know how to avoid common R01 application missteps and reviewer pet-peeves, as well as assisting researchers in preparing a stronger, more compliant R01 proposal and improving their funding chances. ([PR News Wire](#))

Antibiotics Are Failing Us. Crispr Is Our Glimmer of Hope: Humans and antibiotics have had a good run. These "miracle" molecules have saved millions of lives and alleviated incalculable suffering around the globe. But in the last few decades, as millions of tons of antibiotics were indiscriminately pumped into humans (and farm animals), the pace of bacterial evolution began to outstrip pharmaceutical innovation. Today, nearly every disease-causing bacteria has acquired defenses against these drugs. As the world's armory of effective medicines draws down, humans are running out of time to either change the behaviors that got us here, or come up with radically new treatments. ([Wired](#))

A Dearth of Physician Innovators Can Derail New Biomedical Startups: Much has been made of the looming shortage of physicians. But there's one place where the shortage is being felt acutely, is talked about even less, and the effects will ripple far into the future: the founding of new biomedical startups. It's now entirely possible to create innovative and scalable new companies in the field with relatively modest initial funding. In other words, it's salad days to be a bio startup, with so many new tools, data sources, and ideas at our disposal. Yet there's a moment of failure that crushes many such startups: when the new tool or technology connects with the real world of patients, physicians, medical records, hospitals, and insurers. That's when a physician who can navigate the nuances of the medical landscape is needed: one with an innovative mindset who can explain how the new product will function in the system, or touch a patient's life, or integrate into a doctor's day. For many startups, finding that person is the hardest personnel problem to solve. ([Stat News](#))

Space/NASA & NOAA

NASA May Decide This Year to Land a Drone on Saturn's Moon Titan: The spacecraft that have peered through the yellowish haze surrounding Saturn's moon Titan discovered a strange, yet strangely familiar world where life could theoretically take root. Now, scientists want to return — this time buoyed by Earth's fascination with drone technology. That's precisely what a team of scientists working on a proposed mission called Dragonfly want to do: combine terrestrial drone technology and instruments honed by Mars exploration to investigate the complex chemical reactions taking place on Saturn's largest moon. Later this year, NASA will need to decide between that mission and another finalist proposal, which would collect a sample from a comet. ([Space News](#))

White House resubmits NOAA Nominee: The White House has once again nominated Barry Myers to be administrator of the National Oceanic and Atmospheric Administration after his nomination from the 115th Congress expired two weeks ago. Myers, until recently the chief executive of commercial weather forecaster AccuWeather, was originally nominated to lead NOAA in October 2017. The Senate Commerce Committee favorably reported the nomination in December 2017, and again in January 2018 when the nomination has to be resubmitted to comply with a Senate rule. However, the full Senate did not take up the nomination. Myers faced opposition from Democratic members of the Senate because of concerns he had conflicts of interest because of his role at AccuWeather, which is owned by family members. Myers, at his November 2017 confirmation hearing, vowed there would be a "complete separation" between the company and NOAA. AccuWeather announced Jan. 4 that Myers had stepped down from his positions at AccuWeather and sold his stake in the company, effective Jan. 1. ([Space News](#))

DOE

U.S. Department of Education Announces Initiative to Address the Inappropriate Use of Restraint and Seclusion to Protect Children with

Disabilities, Ensure Compliance with Federal Laws: Secretary of Education Betsy DeVos announced today that the U.S. Department of Education will launch an initiative to address the possible inappropriate use of restraint and seclusion in our nation's schools. The Office for Civil Rights (OCR), in partnership with the Office of Special Education and Rehabilitative Services (OSERS), will oversee this proactive approach which will protect students with disabilities by providing technical assistance and support to schools, districts, and state education agencies, and strengthen enforcement activities. ([DOE Press Release](#))

DOD/Defense

Pentagon Warns of Dire Risk to Bases, Troops From Climate Change: The Defense Department issued a dire report on how climate change could affect the nation's armed forces and security, warning that rising seas could inundate coastal bases and drought-fueled wildfires could endanger those that are inland. The 22-page assessment delivered to Congress says about two-thirds of 79 mission-essential military installations in the U.S. that were reviewed are vulnerable now or in the future to flooding and more than half are at risk from drought. About half also are at risk from wildfires, including the threat of mudslides and erosion from rains after the blazes. ([Bloomberg](#))

Trump Vows to Reinvent Missile Defenses, but Offers Incremental Plans: On Thursday, President Trump vowed to reinvigorate and reinvent American missile defenses in a speech at the Pentagon that recalled Cold War-era visions of nuclear adversaries — though he never once mentioned Russia or China, the two great-power threats to the United States. While the President infused the new missile efforts with his ambitions for a Space Force, the actual plans released by the Pentagon were far more incremental. ([New York Times](#))

DOE/Energy

FERC Chairman Prioritizing LNG Plants: Neil Chatterjee says getting LNG (liquefied natural gas) plants approved and advancing a grid resilience docket will be "high priorities" this year. The natural gas industry is nervous that LNG plants aren't getting permits from FERC quickly enough to compete in the global market, and the grid resilience docket dates back to an attempt by Energy Secretary Rick Perry to press FERC to subsidize coal and nuclear power. Chatterjee also said he'd like to work through comments on the pipeline certification process, attempt to update regulations related to the Public Utility Regulatory Policies Act and "remain vigilant" on cybersecurity and the grid. ([Clark Hill Insight](#))

PG&E Spikes after a Hedge Fund Challenges its 'Damaging, Avoidable, and Unnecessary Bankruptcy': PG&E, California's biggest utility provider, said on Monday that it intends to file bankruptcy petitions under Chapter 11, after its value plunged by 85% following last November's devastating wildfire. However, one of PG&E's biggest stakeholders, hedge fund BlueMountain Capital Management, challenged the plan to seek bankruptcy protection, claiming that "there is overwhelming evidence that PG&E is solvent." ([Business Insider](#))

Trade

U.S.-China Trade Talks Falling Short on Make-or-Break IP Issues: Ever since negotiators from the U.S. and China sat down in Beijing after a Christmas meltdown in global markets, President Trump has sought to calm investors and claim his trade talks are making great strides. But that glosses over a more uncomfortable reality. According to people close to the discussions, the two sides have so far made little progress on the issue any deal Trump strikes with China may ultimately be judged on: ending what the U.S. has dubbed as decades of state-coordinated Chinese theft of American intellectual property. ([Bloomberg](#))

DOT/Transportation

Carmakers Hedge Bets on Electric, Self-Driving Future: During the North American International Auto Show on Tuesday, Ford and Volkswagen said that they plan to pool their efforts on electric and self-driving cars — proof that even some of the most powerful automakers in the world aren't sure where the technology is headed. As traditional sources of revenue dry up and new players compete for tomorrow's customers, companies like Ford and VW must decide how much to expose themselves to a future that is far but certain. ([Axios](#))

Electric Vehicles Are in the Spotlight at Detroit's 2019 Auto Show: Automakers are preparing to introduce dozens of fully electric cars and plug-in hybrid vehicles over the next three years, and Hyundai, Kia, Mini, Nissan and Audi will display electric models due in the United States this year. However, it's unclear how many mainstream car owners will rush to make the leap from gasoline. ([New York Times](#))

Trump Meets with Cabinet Officials to Revive Infrastructure Push: President Trump is reviving efforts to win approval for a significant infrastructure plan lasting up to 13 years, two people briefed on the matter said, as the administration seeks to bring a long-stalled campaign promise back to life. In a meeting of top advisers at the White House last week, the sources said participants discussed aspects of a potential infrastructure plan and whether to include details of it in Trump's State of the Union address scheduled for later this month. ([Reuters](#))

TSA Says Absences Rise Because Airport Screeners Can't Afford to Work Unpaid: Financial difficulties are prompting a higher absentee rate of TSA officers at U.S. airports, the agency says. The TSA officers are among the 420,000 government employees who have been deemed essential and have to work without a paycheck. Staffing shortages hit major airports this week but most waits have been within TSA standards. ([CNBC](#))

DHS

What Isn't Getting Done at the Department of Homeland Security During the Shutdown: While the majority of Department of Homeland Security

employees are working without pay during the partial government shutdown, thousands are furloughed and no longer doing the daily work of the department. About 32,000 employees, out of the 245,000-person DHS workforce, are not working and not getting paid as the partial shutdown reached its 25th day with no end in sight. The empty offices include strategic planning, oversight functions, research and employment verification. ([CNN](#))

DOJ

Justice Department Says All Online Gambling Is Illegal: A November opinion made public Monday reversed a 2011 opinion on the Wire Act, which established the law as applicable to only sports betting. The DOJ claims that the 2011 opinion misinterpreted the statute and reinterprets the Wire Act to encompass all forms of gambling that crosses state boundaries. ([Fortune](#))

Trump Administration to Appeal Ruling Against 2020 Census Citizenship Question: The Department of Justice filed a notice declaring it is appealing a federal judge's decision that the addition of a citizenship question to the 2020 census would be unlawful. The notice did not give any information on the substance of the administration's appeal, but the Justice Department had argued that Commerce Sec. Wilbur Ross had the authority to add the question to the census and that in the past, the question had been included. ([The Hill](#))

Labor & Workforce

Talent Crisis Sends Feds to School to Attract Younger Workers: An increasing U.S. population is requiring greater reliance on federal government services as the public sector workforce faces a growing talent crisis. Thomas Ross, president of the Volcker Alliance, said 7.2 percent of the federal government workforce is younger than 30 years old compared to 25 percent in the private sector where young people interested in areas such as cybersecurity can command higher pay. Meanwhile, the federal workforce is aging, with retirements creating vacancies. Solutions to easing the talent gap are expediting hiring for college graduates and post-secondary students and enabling federal agencies to determine recruitment processes to compete for top talent. ([Workforce](#))

Union Membership Falls to Historic Low: According to numbers released Friday by the Bureau of Labor Statistics (BLS) the numbers show that the percent of wage and salary workers who are members of unions fell to 10.5 percent in 2018, the lowest number recorded since BLS began tracking the statistic. Some 14.7 million workers belong to unions, compared to 17.7 million workers, or about 20.1 percent of the workforce, in 1983, the first year for which comparable union data are available. Union membership in both the public and private sectors declined, with 7.2 million employees in the public sector belonging to a union, compared with 7.6 million workers in the private sector. However, the union membership rate of public-sector workers, at 33.9 percent, was more than five times higher than that of private-sector workers, 6.4 percent. ([The Hill](#))

FEC

As 2020 Candidates Emerge, the Shutdown has Shuttered Agency that Polices Elections: The list of Democrats launching presidential campaigns grows daily -- at least seven people have declared their intentions and dozens more are considering running. But the agency that enforces federal campaign finance laws remains shuttered in the nation's longest-running government shutdown. ([CNN](#))

Immigration

Feds Block 3 Countries' Eligibility For H-2A, H-2B Visas: The Trump administration is planning to strip the Dominican Republic, Ethiopia and the Philippines from eligibility for the H-2A and H-2B nonimmigrant visas for the rest of 2019, citing concerns over either their lack of cooperation in repatriating deported citizens or a high percentages of their citizens overstaying U.S. visas. ([Law 360](#))

Interior

U.S. Interior Department To Recall Some Furloughed Workers For Gulf Oil Lease Work: The Interior Department intends to temporarily recall some workers furloughed by the partial federal government shutdown to prepare an upcoming Gulf of Mexico oil lease sale, using funds left over from last year, according to a department document. The move would add to the administration's push on its energy portfolio despite the partial shutdown. ([E&P](#))

Cyber

DNC: Target of Russia Cyberattack After 2018 Midterms: The Democratic National Committee filed a legal complaint Thursday night alleging that it was the target of a cyberattack by Russia one week after the 2018 midterm elections. The complaint is part of an ongoing lawsuit against Russia, WikiLeaks, Donald Trump's presidential campaign and other key individuals. ([Politico](#))

Tim Cook Thinks Consumers Should Have More Control Over Their Data: In an article penned by the Apple CEO Wednesday in Time, Tim Cook attempts to explain how we can better control "our digital lives." Along with others notables, Cook called on Congress to pass federal privacy legislation which would include four key principals: the right to have personal data minimized, the right to know what data is being collected and why, the right to access and delete that data, and the right to data security. ([Fortune](#))