
Window On Washington - March 19, 2018, Vol. 2, Issue 11

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Outlook for This Week in the Nation's Capital

Omnibus Could Be Released Today. House Republicans are scheduled to have a meeting early this evening to discuss the FY18 Omnibus bill and the text of the bill could possibly be released afterwards. The current continuing resolution is set to expire on Friday allowing only a short window for passage in the House and Senate. The original plan had been to take up the bill in the House last week but there were still major issues that had to be resolved going into the weekend. Disputes largely focused on controversial policy riders related to abortion and immigration. The abortion related issues focus on providing grants to Planned Parenthood and the “conscience” objection clause which would allow some providers to opt out of performing the service. On immigration, it had been suggested that a short-term protection for “Dreamers” could be included in order to gain support for border wall funding. It is currently unknown how these issues were resolved.

Phase Two of Tax Plan. Incoming White House Economic Advisor Larry Kudlow called to make the tax breaks passed last year for individual taxpayers permanent which are currently scheduled to expire in 2025. There has been some discussion from Republicans of possibly bringing this to a vote this year in order to make Democrats vote on the issue during an election year.

Last Week in the Nation's Capital

CONGRESS

Budget

Senate Appropriators to Decide New Chairman April 9: The Senate Appropriations Committee is expected to vote on its next chairman on April 9 after a recess break. Senator Richard Shelby (R-AL) is expected to succeed Chairman Thad Cochran who announced earlier this month that he will resign soon for health reasons. (Clark Hill Insight)

House Appropriations Hearings Continue This Week: Multiple Cabinet Secretaries are scheduled to testify before the House Appropriations Committee including: Sec. Wilbur Ross of Commerce, Sec. Ben Carson of Housing and Urban Development, Sec. Betsy DeVos of Education, and Sec. Sonny Perdue of Agriculture. ([House Appropriations Committee](#))

Tax Reform

Trump and Brady Say More Tax Cuts Coming: President Trump and the House's top tax writer said separately Wednesday that Republicans are working on a second round of tax cuts. House Ways and Means Chairman Kevin Brady (R-Texas) declined to discuss many details of what Republicans have in a mind, but said a proposal would be unveiled sometime this year. ([Politico](#))

Health

House To Vote Again on “Right to Try” Legislation: The House plans to try anew to approve a Republican bill making it simpler for fatally ill people to try unproven treatments. And this time, the measure seems certain to pass. Lawmakers previously voted for the legislation by a lopsided 259-140 vote. But it lost because GOP leaders had used a procedure, normally reserved for uncontroversial bills, that requires a two-thirds majority for passage. The previous vote fell just short of that. ([TIME](#))

Democrats Calling for Resignation of HHS Official Blocking Abortions to Unaccompanied Immigrant Minors: Democrats and liberal groups have ramped up their calls for the resignation of Scott Lloyd, the Trump administration health official who has tried to block multiple unaccompanied immigrant minors from receiving abortions. In depositions of Lloyd recently released by the ACLU, he agreed that he doesn't think unaccompanied minors have a constitutional right to abortion and described it as the destruction of human life, enraging Democrats in Congress. ([The Hill](#))

Transportation

Congress Struggles to Identify Funding for Trump's Infrastructure Plan: Congress did not come any closer to resolving key funding questions about President Donald Trump's \$1.5 trillion infrastructure proposal, even after five Cabinet secretaries testified before a Senate panel on March 14. Transportation Secretary Elaine Chao, who was joined by the secretaries of Labor, Commerce, Energy, and Agriculture, reminded senators on the Commerce Committee that the White House maintains an “everything is on the table” approach when it comes to the initiative's direct federal funding. ([Transport Topics](#))

Banking and Housing

Senate Passes Bipartisan Bill to Roll Back Parts of Dodd-Frank: The Senate last Wednesday passed a bipartisan measure to exempt dozens of banks from the Dodd-Frank Wall Street reform law enacted by former President Obama in 2010. In a 67-31 vote, the Senate approved the most sweeping changes yet to Dodd-Frank that have earned bipartisan support. All present Republicans and 13 Democrats voted to approve the measure,

sending it to the House. ([The Hill](#))

Hensarling's Last Stand - Blocking Senate Banking Bill: Texas Republican Jeb Hensarling is standing in the way of President Donald Trump's next big legislative victory. The outgoing chairman of the House Financial Services Committee, backed by House leadership, is refusing to rubber-stamp the landmark bank deregulation bill the Senate passed Wednesday night in an overwhelming, bipartisan vote after years of work. ([Politico](#))

Energy

Secretary Perry to Testify before Senate on FY19 Budget: Energy Secretary Rick Perry will testify on his agency's budget request before the Senate Energy and Natural Resources Committee on March 20. Perry's fiscal 2019 budget request would cut the agency's budget less than 1 percent. It would offset increases in spending on weapons cleanup and the fossil energy office with the elimination of programs like ARPA-E and deep cuts to renewable energy programs. ([Committee Hearing Notice](#))

Justice

Lawmakers Defend Mueller after McCabe Firing: Lawmakers rallied to the defense of special counsel Robert Mueller after concerns were raised over his job security following the abrupt firing of FBI Deputy Director Andrew McCabe. McCabe said his firing was an attempt to undermine the Mueller investigation into Russia's election interference and possible collusion between members of Trump's campaign and Moscow. The president targeted Mueller's investigation in a series of tweets over the weekend, further alarming many lawmakers. ([The Hill](#))

Senate Republicans Call for Special Counsel to Investigate DOJ's Russia Probe: A group of Republican senators called for the appointment of a special counsel to investigate how the Department of Justice and FBI conducted a probe of possible collusion between the Trump campaign and the Russians. They requested that a special counsel assist the DOJ inspector general in digging into possible misuse of the foreign intelligence surveillance system to obtain warrants against a former Trump campaign aide, leaks of classified intelligence to the media, and "potential improprieties in the FBI's relationship with Christopher Steele." ([ABC News](#))

EXECUTIVE BRANCH

HHS

HIV/AIDS Expert Expected as Trump's Next Pick to Head CDC: Robert Redfield, an HIV/AIDS expert at the University of Maryland Medical Center, is seen as the White House's favored candidate to lead the Centers for Disease Control and Prevention (CDC). The Trump administration is currently vetting Redfield. He is seen as the top choice to replace former CDC Director Brenda Fitzgerald, who resigned earlier this year after it was discovered that she had traded tobacco stocks while running the CDC. ([The Hill](#))

CMS Will Cover DNA Sequencing for Medicare Cancer Patients: The CMS announced that it will cover diagnostic laboratory tests using gene sequencing technology for Medicare cancer patients. The CMS said the tests — called next generation sequencing — can help patients and their oncologists make better treatment decisions as well as help more patients enroll in clinical trials. Patients with recurrent, metastatic, relapsed, refractory or stages III or IV cancers will be eligible to get the tests covered under Medicare. ([Modern Healthcare](#))

DOD

Trump Touting 'Space Force' Puts Air Force in Awkward Spot: In a speech last week, Trump said his National Security Strategy "recognizes that space is a war-fighting domain, just like the land, air and sea," and that he's considering "a space force" that would be the equivalent of the Air Force, Army and Navy. The remarks put the Air Force in an awkward spot. The White House, Defense Secretary Jim Mattis and Air Force leaders lobbied against the idea last year when it was proposed in the 2018 National Defense Authorization Act that a Space Corps be carved out of the Air Force. ([Defense News](#))

Labor and Workforce

States Increasingly Look to Apprentices to Bolster Their Workforce: A lack of skilled professionals is driving some states to adopt a more European approach to filling vital positions – apprenticeships. The White House recently asked Congress to double funding for apprenticeships to \$200 million, but there are concerns on how to scale up such programs and government's role. ([Government Technology](#))

Limit of a General Contractor's Liability Under the Common Work Area Doctrine: The Court of Appeals, in the recent decision *Cockfield v. Sachse Construction & Development Corporation, et al.*, has again analyzed the affirmative obligations a general contract has to ensure the safety of subcontractors' employees working on a construction site. The answer, consistent with prior Supreme Court and Court of Appeals decisions, hinges on the application of the common work area doctrine to the specific facts at hand. ([Clark Hill Insight](#))

DOE

New Mexico Facility Will Be Studied for Plutonium Storage: The U.S. Department of Energy has commissioned a national group of scientists to study the viability of diluting surplus weapons-grade plutonium and storing it permanently at the federal government's underground repository in New Mexico. The panel will evaluate the storage potential at the Waste Isolation Pilot Plant, the nation's only facility for permanently disposing of tons of Cold War-era waste contaminated with small amounts of plutonium and other man-made radioactive elements. ([Santa Fe New Mexican](#))

IRS

IRS Reduces HSA Limits and Continues Sending ACA Penalty Letters: The IRS recently announced a reduction in the family contribution rate to \$6,850 (from \$6,900). For those who may have already contributed the full amount or those scheduled to do so, it is important to correct or prevent the situation. On a related front, the IRS has continued to send 226J Letters to employees assessing the Employee Shared Responsibility Penalty (ESRP) under the Affordable Care Act (ACA). These letters often come without warning and carry a hefty price tag (regularly in the hundreds of thousands of dollars). With quick and careful review, some employers are successfully reducing or eliminating the liability proposed in the letter. ([Clark Hill Insight](#))

NASA

Lightfoot Expects Few NASA Changes Despite Leadership Uncertainty: Robert Lightfoot, NASA associate administrator who has been serving as acting administrator since January 2017, announced March 12 his plans to retire from the agency at the end of April. His retirement comes as the nomination of a new administrator, Jim Bridenstine, remains stalled in the Senate. Despite uncertainty about who will lead the agency after the end of April, NASA's current acting administrator says he expects little change in the agency's activities in the near future. ([Space News](#))

Industry Worried About Regulatory Backlash After Unauthorized Cubesat Launch: The launch of several cubesats by an American company without authorization from a federal agency has the rest of the industry worried of a potential regulatory and public relations backlash. IEEE Spectrum first reported March 10 that Swarm Technologies, a Silicon Valley-based startup operating in stealth mode, flew four picosatellites as secondary payloads on an Indian Polar Satellite Launch Vehicle in January absent approval from the FCC. ([Space News](#))

Campaign Finance

FEC: Online Political Ads Surge 780%, Demands Regulation: The Federal Election Commission, trying to catch up to the internet age, is proposing to apply sweeping new regulations to online ads as tiny as those appearing on a smartphone. Dueling Republican and Democratic proposals offered are aimed at tackling the \$1.4 billion online political advertising market. That spending record set in 2016 is 780 percent higher than it was 10 years ago. ([Washington Examiner](#))

DOJ

Sessions Fires FBI Deputy Director McCabe Only Days Before Retirement: Attorney General Jeff Sessions said that he had fired former FBI deputy director Andrew McCabe, a regular target of President Donald Trump's anger and criticism, just two days before his scheduled retirement date. McCabe immediately decried the move and suggested it was part of the Trump administration's "war on the FBI." The dismissal was made on the recommendation of FBI disciplinary officials and comes ahead of an inspector general report expected to conclude that McCabe had authorized the release of information to the news media and had not been forthcoming with the watchdog office as it examined the bureau's handling of the Hillary Clinton email investigation. ([Chicago Tribune](#))

SUPREME COURT

Bankruptcy

Dodging the Issue: The Supreme Court "Weights" in on Bankruptcy Law: The Supreme Court has been unusually busy in addressing bankruptcy-related matters by issuing two recent opinions – Merit Management Group, L.P. v. FTI Consulting, Inc. ("Merit") and U.S. Bank, N.A., as Trustee v. Village at Lakeridge, LLC ("Lakeridge"). Indeed, the decisions are more notable for the questions that they do not answer than the questions that they do. ([Clark Hill Insight](#))