

Window On Washington - March 26, 2018, Vol. 2, Issue 12

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Outlook for This Week in the Nation's Capital

Spring Break. Congress is on recess for the next two weeks while observing the Easter and Passover holidays. Both Chambers will return the week of April 9.

Gun Control. Following marches throughout the country this weekend, national gun control organizations say they have seen their membership and mailing lists skyrocket by double-digit percentages since the shooting. The groups are planning to seize the moment by registering participants to vote and encouraging them to elect like-minded lawmakers in November. The issue could be the key to victory for many Democrats in the midterms this year as multiple districts in the past few weeks have become either toss-ups or lean Democratic.

Last Week in the Nation's Capital

CONGRESS

Budget

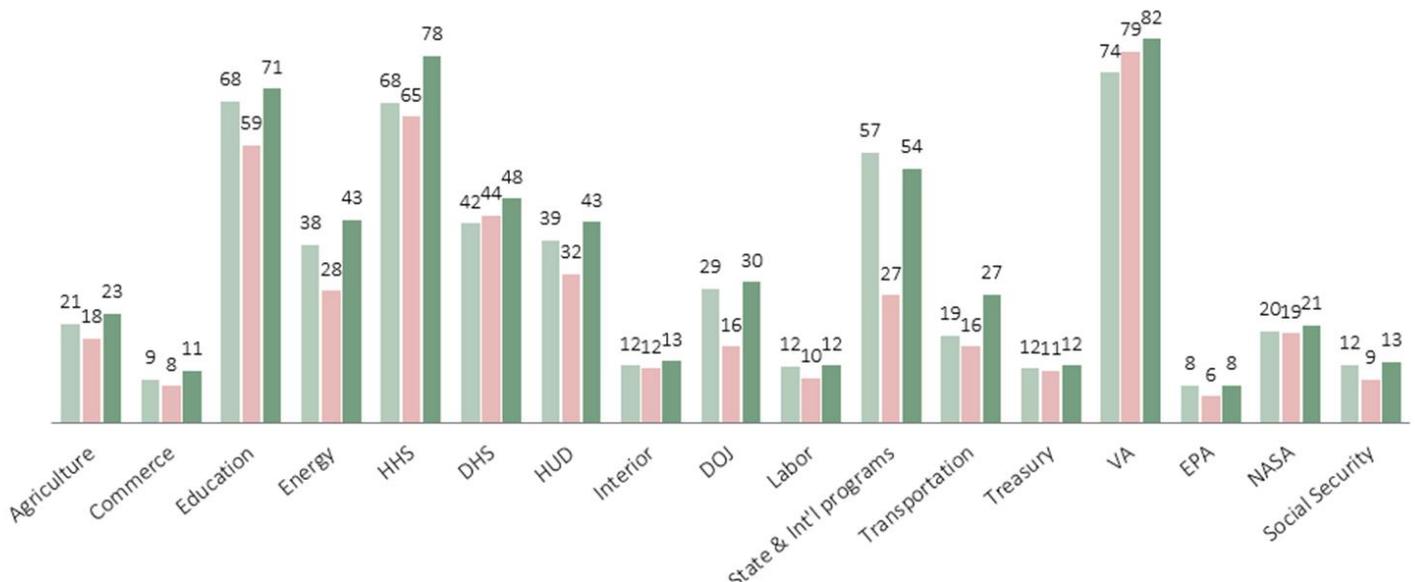
Congress Passes Budget Bill Just In Time to Avoid Shutdown: The \$1.3 trillion bill, H.R. 1625, is stuffed with new cash for programs that President Trump and his Cabinet have protested — national parks, renewable energy programs, the Army Corps of Engineers — while delighting Democratic leaders. The bill broadly rejects the Trump administration's attempts to downsize the federal government and even surpasses former President Barack Obama's requests. Trump signed the bill into law despite threatening to veto it. The chart below from the National Journal details the increases by Department. ([Politico](#))

FY18 funding up across the board over FY17, except for the State Department

Overview of the FY18 omnibus budget

IN BILLIONS OF DOLLARS

■ FY17 enacted level ■ FY18 request (Trump) ■ FY18 enacted level



Tax Reform

Congress Gives IRS \$320M Funding Boost to Administer New Tax Law While Fixing 'Grain Glitch': The \$320 million appropriation increase in the Omnibus was somewhat lower than the Trump administration's funding request of \$400 million in extra spending for administering the new tax law, including money for updating the IRS's aging computer systems, some of which date back to the Kennedy administration. The bill also includes a fix to the so-called "grain glitch" to change a provision in the Tax Cuts and Jobs Act that had given a preference to farm co-ops over other agribusinesses. ([Accounting Today](#))

Health

ACA Market Stabilization Not Included in Omnibus: Of the \$88 billion HHS appropriation, not a penny is going toward Obamacare. Congress is however extending oversight requirements on HHS regarding its administration of the health exchanges. Despite initial optimism from insurers, House leaders announced they were dropping the stabilization plan, hours after the release of legislative text from Sens. Lamar Alexander (R-Tenn.) and Susan Collins (R-Maine) and U.S. Reps. Greg Walden (R-Ore.) and Ryan Costello (R-Pa.). ([Modern Healthcare](#))

House Approves 'Right-to-Try' Bill Giving Seriously Ill Patients Access to Experimental Drugs: The House approved "right-to-try" legislation that would bypass drug regulators and give critically ill patients access to experimental treatments, a victory for Republicans after the same bill got sidetracked last week. Debate over the bill, which passed the House 267 to 149, pitted Republican lawmakers, President Trump and Vice President Pence against Democrats, patient groups and four former commissioners of the Food and Drug Administration. ([The Washington Post](#))

Transportation

Transit Spending Increased in Spending Bill: The \$1.3 trillion Omnibus spending bill Congress offered renewed hope for transit advocates, who feared the steep cuts initially put forth in the president's budget proposal. The bill, which covers spending through the end of September, includes significant increases in transit funding. A number of programs received funding increases, including the Community Development Block Grant program, which many local governments have used to fund streetscaping, cycling, and pedestrian-friendly projects, received a significant boost, rising to \$3.3 billion from the \$3 billion allocated in 2017. Initially, President Trump's budget called for eliminating the program. ([Curbed](#))

Labor and the Workforce

Spending Bill Prevents Employers from Pocketing Tips Under Tip-Pooling Rule: The \$1.3 trillion spending deal released last Wednesday night includes language to prevent employers from being able to steal workers' tips under the Labor Department's controversial tip-pooling rule. Sen. Patty Murray (D-WA) reached the deal with Labor Secretary Alexander Acosta to add a rider in the bill that amends the Fair Labor Standards Act to prevent employers, managers or supervisors from pocketing workers' tips regardless of whether they earn gratuities on top of a full minimum wage. ([The Hill](#))

Is Tech Dividing America?: Economists broadly agree that technology will continue to be an engine of economic growth. But it also will upend old certainties about who benefits. Already, we can see a growing inequality gap, with winners and losers by region and workplace. The next wave of changes, handled badly, could make this gap even more extreme. ([Politico](#))

Banking/Housing

Frustration Mounts as Dodd-Frank Rollback Stalls: Banks and credit unions desperate for regulatory relief are ramping up pressure on House Republicans to quickly pass a bill easing Dodd-Frank banking rules. The Senate earlier this month cleared a bipartisan bill that would exempt dozens of lenders from stricter federal oversight, sending it to the House. The measure is a longtime goal of Republicans and the financial services industry. But Speaker Paul Ryan (R-Wis.) is keeping the bill off the House floor until senators agree to add on a slew of banking reforms that have passed the lower chamber. Senators are resisting any changes to the bill, arguing their bill is the result of hard-fought negotiations and the best chance for sweeping bipartisan reform of Dodd-Frank. ([The Hill](#))

Energy

Perry Testifies Before Senate on FY19 Budget: The Department of Energy's proposed budget for fiscal year 2019 includes steep cuts to renewable energy, research and carbon capture programs, but Secretary Perry could not find a bad thing to say about those initiatives in his appearance before the Senate Energy and Natural Resources Committee last week. When Sen. Maria Cantwell (D-WA), the ranking member on the committee, referenced planned cuts to the DOE's 17 national laboratories around the country, Perry said a reduction in funding would not impact their operations. ([Utility Dive](#))

Omnibus Rejects Big EPA Cuts, Hikes Energy and Interior Funds: Energy and environmental programs are boosted in a massive fiscal 2018 funding package that reverses years of mostly austere federal spending. Leaders and appropriators hailed the bill as a series of compromises made easier by a budget deal earlier this year that gave Congress a combined \$200 billion more in discretionary spending in fiscal 2018 and 2019. ([E&E News](#))

Justice

Goodlatte Subpoenas DOJ over Clinton Investigation, McCabe Firing: The House Judiciary Committee subpoenaed the Justice Department for records connected to the FBI's 2016 investigation of Hillary Clinton — as well as the internal report that led to the ouster of former FBI deputy director Andrew McCabe. Judiciary Chairman Bob Goodlatte (R-Va.) revealed the subpoenas last week, citing a frustratingly slow pace of cooperation from the department. ([Politico](#))

EXECUTIVE BRANCH

DOJ

DOJ to Ban Bump Stocks: The Justice Department is proposing rule changes that will effectively ban bump stocks, devices that allow semi-automatic weapons to fire like a machine gun. In February, President Donald Trump signed a memorandum directing the Justice Department to make the regulatory change. ([Reuters](#))

DOE

Science at Department of Energy Gets Large Increase in Final 2018 Appropriations: DOE's basic research wing, the Office of Science, gets a 16% boost, to \$6.26 billion, in a 2018 omnibus spending bill passed by Congress this week. In contrast, last May President Donald Trump's administration had proposed a 17% cut in its budget for the fiscal year that ends on 30 September. ([Science Magazine](#))

DOD

Trump Moves to Ban Most Transgender Troops: President Trump issued orders to ban transgender troops who require surgery or significant medical treatment from serving in the military except in select cases — following through on a controversial pledge last year that has been under review by the Pentagon and is being fought out in the courts. The memorandum, which drew swift condemnation from gender rights groups, states that while the secretary of defense and other executive branch officials will

have some latitude in implementing the policy. ([Politico](#))

Appropriations Bill Provides Increase for DOD: The bill contains \$700 billion for defense spending for fiscal 2018, plus another \$10.1 billion for military construction projects and \$185.4 billion for the Department of Veterans Affairs. Each is a substantial increase over fiscal 2017 spending, and above what mandatory budget caps would have allowed before lawmakers reached a new budget deal in February. The defense spending portion of the bill includes \$589.5 billion in the base military budget and another \$65.2 billion for overseas contingency operations. It features a 2.4 percent pay raise for troops (which began in January), a 21 percent increase in both defense research and development (to \$89.2 billion) and procurement (to \$144.3 billion), and \$238 billion for military operations and maintenance, almost \$1 billion more than what the White House had requested. ([Defense News](#))

Labor and Workforce

Fiduciary Duties: A Bigger Concern Than Ever?: Two recent court cases bring benefit plan fiduciary duties back into focus. With the risk of large financial liability, class action lawsuits and lots of negative publicity, these cases offer a reminder to keep your fiduciary house in order. ERISA fiduciary duties are among the highest level of care that exists in US law, and carry personal liability. Many employers realize only too late that this is a problem best addressed with preparation and planning. ([Clark Hill Insight](#))

CFPB

CFPB Deferment of Enforcement Authority to States Will Lead to Increased Scrutiny: At a recent gathering of states attorneys general, Mike Mulvaney, Acting Director of the Consumer Financial Protection Bureau ("CFPB" or "Bureau") indicated his preference that they take the lead on the enforcement of consumer protection laws along with state regulators. According to Acting Director Mulvaney, "States know best how to protect their own consumers". This approach marks a stark contrast from the previous regime at the CFPB. Historically, under the CFPB's previous director, Richard Cordray, states often took a back seat to the CFPB on enforcement actions. ([Clark Hill Insight](#))

NASA

NASA Receives \$20.7 Billion in Omnibus Appropriations Bill: A final fiscal year 2018 spending bill released by House and Senate appropriators March 21 would give NASA more than \$20.7 billion, far above the administration's original request. The omnibus spending bill, completed after weeks of negotiations, restores funding for Earth science and education programs slated for cancellation by the White House and includes additional money for the agency to build a second mobile launch platform for the Space Launch System. ([Space News](#))

House Members Call on Senate to Confirm Bridenstine as NASA Administrator: A letter signed by more than 60 House members calls on the Senate to advance the stalled nomination of fellow congressman Jim Bridenstine to be NASA administrator. In the March 20 letter to Senate Majority Leader Mitch McConnell (R-Ky.) and Senate Minority Leader Charles Schumer (D-N.Y.), the House members, led by space subcommittee chairman Rep. Brian Babin (R-Texas), argued that the impending retirement of Robert Lightfoot as the agency's acting administrator "makes it all the more critical" the Senate act on the nomination. ([Space News](#))

Trade

Section 232 Tariff Exclusion Process Explained: On March 19, 2018, the Department of Commerce ("DOC") published a notice of interim rules for requesting exclusions from the new Section 232 tariffs on imported steel and aluminum. These tariffs, 25% on steel and 10% on aluminum, were proclaimed on March 8, 2018 by President Trump under section 232 national security provisions and went into effect March 23rd. ([Clark Hill Insight](#))

HHS

Trump Appoints New CDC Director: A leading AIDS researcher will be the next director of the U.S. Centers for Disease Control and Prevention, the federal government's top public health agency. Dr. Robert Redfield Jr., who rose to prominence in the 1980s as a top researcher into the emerging AIDS epidemic. Redfield, 66, is a medical school professor at the University of Maryland, where he co-founded the Institute of Human Virology. He has extensive experience treating HIV patients as well as heroin addicts and has been praised for his work in Maryland on the opioid crisis. ([CBS News](#))

Trump Unveils Opioid Plan: President Trump spelled out in new detail several steps he favors to fight a U.S. epidemic of opioid abuse, including the execution of drug dealers, a proposal that has gained little support from drug abuse and judicial experts. At an event in New Hampshire, Trump said that he was working with Congress to find \$6 billion in new funding for 2018 and 2019 to fight the opioid crisis. The plan will also seek to cut opioid prescriptions by a third over three years by changing federal programs, he said. ([Reuters](#))