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FEW Washington Update November 15-30, 2019

*Congress is in recess for the Thanksgiving Holiday
The House will reconvene on Tuesday, December 3
The Senate returns on Monday, December 2*

In Congress:

Congress is not in session Thanksgiving week, but the impeachment inquiry into President Trump is still moving at full speed.

In an indication that Democrats are moving quickly, House Intelligence Committee Chairman Adam Schiff wrote in a letter to House colleagues yesterday that investigators "are now preparing a report summarizing the evidence we have found this far, which will be transmitted to the Judiciary Committee soon after Congress returns from the Thanksgiving recess."

Here's the latest timeline:

- **This week**, they're working on a report: Democratic House aides are spending Thanksgiving week preparing a report that will spell out the case for impeachment. The report, which will be released by the House Intelligence Committee and two other panels, is likely to be a guiding document as the impeachment proceedings move through the House Judiciary Committee.
- **After that**, there will be articles of impeachment: Senior aides on the House Judiciary Committee and Intelligence Committee plan to continue deliberation with House Speaker Nancy Pelosi's staff to determine the size and scope of the articles of impeachment. Ultimately, the decision will be made by Pelosi. They are looking at multiple articles of impeachment — including abuse of power, obstruction of Congress, obstruction of justice and bribery.
- **There could be more hearings next week**: Democratic lawmakers and aides privately say they expect hearings to begin in the Judiciary Committee the first

week in December when Congress returns, in order to keep on schedule to finish impeachment before Christmas.

SENATE

Averting a Government Shutdown:

With the passage of a stopgap spending bill passed Thursday, November 21 by the Senate, Congress averted a government shutdown that was set to begin just hours later at midnight.

This is the second resolution in recent months. The stop-gap measures have kept the government running as lawmakers' disagreements with fiscal year 2020's budget have continued. The first CR was passed by Congress and approved by Trump in September.

The Senate passed Thursday's resolution 74 to 20 and will, for the most part, fund the government at current spending levels. Included in the money is a 3.1 percent pay raise for military members.

When the Senate reconvenes on Monday, following Leader remarks, the Senate will resume consideration of Dan R. Brouillette, of Texas, to be Secretary of Energy, post-cloture and will vote on the motion to invoke cloture on Eric Ross Komitee, of New York, to be United States District Judge for the Eastern District of New York.

See more [here](#).

HOUSE

In the House, the “*Workplace Violence Prevention for Health Care and Social Service Workers Act*,” passed 251-158 after House Republican leaders urged Grade Old Party (GOP) lawmakers to vote against it because they said Democrats have prioritized the impeachment inquiry into President Donald Trump over other critical issues. The Education and Labor Committee legislation seeks to address workplace violence in the health care and social service sectors. Specifically, the bill would require the Secretary of Labor to issue an occupational safety and health standard mandating that certain employers within the health care and social service industries develop and implement a comprehensive workplace violence prevention plan. The bill was reported favorably (26-18) out of the Committee during its June markup, with two Republicans — Reps. Elise Stefanik (R-NY) and Phil Roe (R-TN) — joining the majority in support of H.R. 1309.

FEW Washington Update – November 15-30, 2019 Tier I

Equal Rights Amendment (ERA):

Maloney Wins Oversight Chair:

Our sincerest congratulations to long-time ERA champion Rep. Carolyn Maloney (D-NY) for winning the powerful position of Chair of the Oversight Committee in the House of Representatives. She takes over from the late Elijah Cummings, who died last month. She becomes the first woman chair of the Committee.

House Judiciary Committee Votes 21-11 to Remove the Time Limit Set in the Preamble of the 1972 Equal Rights Amendment (ERA)

On November 5, the state of Virginia elected enough Democrats to take control of the Senate and the House of Delegates for the first time in more than 20 years. That made it almost certain that the state will become the 38th and final state needed to ratify the ERA in 2020.

That, then, leaves the matter of the expired ratification deadline, a tradition entertained by Congress since its debate over Prohibition — but one it ignored with the passage of the 27th Amendment, which was first passed by Congress in 1789 but not ratified by the states until 1992.

It was to that end that, on November 13, the House Judiciary Committee convened to consider California Democratic Rep. Jackie Speier's bill, House Joint Resolution 79, to remove the time limit for ratification originally written in the amendment's preamble. It passed, 21-11, and now moves to the full House for a vote after which it's up to the Senate to vote.

See more [here](#).

Passage of legislation in Virginia would mean 38 states have ratified the Equal Rights Amendment, meeting the Constitutional requirement (*Senator Jennifer McClellan's Press Release*)

On November 21, Senator Jennifer McClellan (D-Richmond) introduced legislation for the Commonwealth of Virginia to ratify the Equal Rights Amendment to the United States Constitution. If this bill is passed by the Senate and House of Delegates during the 2020 legislative session, Virginia will become the 38th state to ratify the Equal Rights Amendment, giving the amendment the constitutionally-required ratification by three quarters of the states.

Sen. McClellan's bill will parallel similar efforts by Sen. Mamie Locke (D-Hampton) and Democrats in the House to pass the ERA into law, a bill that in 2019 passed the Senate but failed to clear a GOP-controlled House subcommittee on a party-line vote.

“Virginia is ready to make history,” said Senator Jennifer McClellan. “It’s time to finally ratify the Equal Rights Amendment and bring our nation one step closer towards equality.

“I want my daughter and son – and every daughter and son in America – to grow up in a country where equal rights for women are enshrined in our Constitution,” McClellan said. “It will be poetic justice to pass this historic equal rights law in 2020, the year that marks the 100-year anniversary of the 19th amendment, which guarantees women’s suffrage.”

“The Virginia Senate has passed a resolution to ratify the Equal Rights Amendment six times since 2011. We look forward to a seventh and final passage, followed by an epic celebration as the majority of American citizens will finally, specifically, have a promise of equality of rights under the law,” said Kati Hornung, Campaign Coordinator of VAratifyERA.

The ERA strengthens protections against discrimination on the basis of sex. Ratifying the ERA in Virginia paves the way for constitutional equality for all American citizens regardless of sex.

Delegate Jennifer Carroll Foy To Sponsor Resolution to Ratify the Equal Rights Amendment This Upcoming General Assembly Session (*Delegate Jennifer Carroll Foy's Press Release*)

On November 21, Delegate Jennifer Carroll Foy (HD-2) filed a resolution to have Virginia be the 38th and final state to ratify the Equal Rights Amendment to the United States Constitution for the upcoming 2020 General Assembly session.

Forty-seven years after Congress passed the Equal Rights Amendment, the ERA has still not met the threshold in order to become a constitutional amendment. A constitutional amendment will make discrimination against women unconstitutional and prohibit gender discrimination in regards, to education equality in pay, and employment opportunities.

The resolution advocates the position that the 1972 Equal Rights Amendment remains viable and may be ratified notwithstanding the expiration of the 10-year ratification period set out in the resolving clause, as amended, in the proposal adopted by Congress.

“This year’s elections were a turning point for women not only in Virginia, but throughout the country,” said Delegate Jennifer Carroll Foy. “Women across the commonwealth have been pouring their hearts and souls into this issue, and we now need to take bold action in order to give women equal rights under the law. There is no time to waste -- we are ready for our country to live up to its worthy assertion that despite race, class or sex, we are all created equal.”

FEW Washington Update – November 15-30, 2019 Tier II

Equal Employment Opportunity Commission, National Labor Relations Board, Department Of Labor:

The Equal Employment Opportunity Commission (EEOC) , National Labor Relations Board (NLRB), and the Department of Labor (DOL) will all issue regulations governing joint employment, according to the federal government’s Unified Agenda of Federal Regulatory and Deregulatory Actions – Fall 2019 (regulatory agenda), released on November 20, 2019. The regulatory agenda lists agency rulemaking activities at various stages of development, and includes a description of agencies’ priorities for the upcoming months. While the deadlines are often aspirational, they do provide insight into which rules are advancing. A discussion of the DOL’s Wage and Hour Division regulatory priorities, including its upcoming rule on joint employment, can be found [here](#). [This](#) article focuses on the EEOC’s and NLRB’s agenda items.

EEOC

For the first time, the EEOC’s agency rule list mentions an upcoming proposed rule to clarify when an entity may be considered a joint employer subject to the jurisdiction of federal equal employment opportunity laws. This proposed rule, which the EEOC estimates will be issued next month, “would, among other things, update and consolidate the EEOC’s position on the topic to regulatory locations that are easier for stakeholders to find, as opposed to having the Commission’s position represented in a smattering of different sub regulatory guidance documents.”

The EEOC also intends to revise its regulations under the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act (GINA) related to incentivizing employer-sponsored voluntary wellness plans. The EEOC’s rulemaking efforts on this issue are in response to the U.S. District Court for the District of Columbia’s 2017 decision in *AARP v. EEOC*. The court in that case invalidated the EEOC’s final regulations on the operation of voluntary wellness programs under the two statutes, and ordered the EEOC to further consider its rules as required by the Federal Administrative Procedures Act (APA). The EEOC intends to issue new proposed rules under the ADA and GINA by January 2020.

Pay equity is still on the EEOC’s radar, even though the Commission announced in September that it would not seek approval from the Office of Management and Budget to collect detailed employee compensation data on its Form EEO-1 next year. The EEOC is considering a rulemaking “that may include a new reporting requirement by which employers would submit pay data or related information as reasonable, necessary, or appropriate for the enforcement” of Title VII and the Equal Pay Act. The

EEOC plans to seek public input in or around September 2020 “regarding the potential benefits to its enforcement of anti-discrimination laws, appropriate methods of collecting pay data, and burdens on respondents to collect and report pay data or related information under proposed alternatives as well as other alternatives suggested by commenters.”

NLRB

The National Labor Relations Board’s agency rule list includes six items, half of which are at the final rule stage. Notably, the Board’s final rule to establish the standard for joint employment under the National Labor Relations Act is expected to be published in the Federal Register next month. Under the proposal, an employer would be considered a joint employer of a separate company’s employees only where that employer possesses and exercises “substantial direct and immediate control” over the essential terms and conditions of employment (such as hiring, firing, discipline, supervision, and direction) of the second company’s employees. Even where an employer exercises direct control over another employer’s workers, it would not be held to be a joint employer if such control is “limited and routine.”

In addition, two final rules to revise the Board’s representation election regulations are expected within the next two months. In 2017, the Board issued a request for information (RFI) on its election regulations, “with a specific focus on amendments to the Board’s representation case procedures adopted by the Board’s final rule published on December 15, 2014.” The Board’s agency rule list states that by the end of this month, it will issue a final rule on this issue. A separate final rule slated for a January 2020 release will “focus on amendments relating to the procedures for the conduct of representation elections under the Board’s representation case procedures.”

The NLRB also plans to establish the standards under the NLRA for access to an employer’s private property. The Board estimates that a proposed rule will be ready for publication in the Federal Register by February 2020.

In September, the NLRB issued a proposed rule seeking to exclude from the National Labor Relations Act undergraduate and graduate students at private colleges and universities who perform services in connection with their studies. Under the proposal, these students would no longer be able to join or form a labor union or engage in collective bargaining. The comment period on this proposal closes on November 22, 2019. The NLRB’s agency rule list includes this rulemaking, but does not provide an estimated issue date for a final rule.

Similarly, a final rule date is not listed for the Board’s proposal to make three amendments to the representation election regulations contained in 29 CFR Part 103. One amendment would modify the Board’s blocking charge policy by establishing a vote-and-impound procedure for processing a representation petition when a party seeks to stay an election while an unfair labor practice (ULP) charge is pending. The

second would change the current recognition-bar policy by reestablishing a notice requirement and a 45-day open period for filing an election petition following an employer's voluntary recognition of a labor organization. The third proposed amendment would overrule Board law holding that contract language, by itself, can establish the existence of a Section 9(a) bargaining relationship for companies in the construction industry. The NLRB's rule list notes that the comment period on this rulemaking has been extended until December 10, 2019, but does provide an estimated date for the next step in the process.

Littler's Workplace Policy Institute (WPI) will continue to monitor agency rulemaking activities and report on significant developments.

FEW Washington Update – November 15-30, 2019 Tier III

Violence Against Women Act:

Iowa Republican Sen. Joni Ernst said Tuesday that Democrats trying to undermine her 2020 reelection contributed to stalled talks to reauthorize the Violence Against Women Act (VAWA).

Ernst had been working with Democratic Sen. Dianne Feinstein of California for months on a bipartisan reauthorization bill before both sides said the negotiations fell apart earlier this month.

Democrats argued they had reached an impasse on gun rights provisions that the House, over the objection of most GOP members, added to the bill earlier this year.

Ernst laid the blame partially at the feet of Senate Minority Leader Charles E. Schumer, a Democrat from New York.

"Basically, anybody that's up in 2020, Schumer doesn't want to move on legislation sponsored by them," Ernst said.

Democrats said Republicans were doing the work of the National Rifle Association.

"The House passed it more than 200 days ago," Schumer told reporters on Tuesday. "Sen. Ernst is simply afraid of the NRA."

Gun purchases banned

Last week, Feinstein introduced the House version of the reauthorization, and every member in the Democratic caucus was a cosponsor.

Existing law bars gun purchases by people convicted of felonies and some misdemeanors. The House renewal of VAWA would add convictions for misdemeanor stalking and more domestic abuse crimes to that list.

Feinstein told CQ Roll Call that she felt no pressure from Democratic leadership over working with Ernst.

She said talks “haven’t broken down, they just weren’t going anywhere,” after eight months, so Feinstein introduced the House-passed measure. She said she’s still open to a compromise with Ernst.

Ernst argued the House-passed bill was a “nonstarter” in the Senate, saying it is “full of political talking points.”

She said she was preparing to introduce a bill that would not include an expanded ban on gun purchases and provisions to increase support for LGBTQ victims at shelters. The measure also would change House-approved language that expanded Native American jurisdiction over non-tribal defendants on reservations.

Ernst said she plans to introduce her own version of the bill later this week, but is still approaching colleagues to add cosponsors. Two she mentioned to reporters — Sens. Lindsey Graham of South Carolina and John Cornyn of Texas — will also be on the ballot next year.

Ernst and Cornyn ranked 7 and 10 on CQ Roll Call’s list of the most vulnerable senators on the ballot next year. Inside Elections with Nathan L. Gonzales rates Ernst’s race Lean Republican, and Cornyn’s Likely Republican. President Donald Trump carried both of their states by 9 percentage points in 2016.

It’s not clear how either bill could move without bipartisan support, because Senate rules require bipartisan support for current legislation.

See the full article [here](#).

FEW Washington Update – November 15-30, 2019 General Interest

Presidential election calendar: Here are the 2020 dates to know:

As we near the end of 2019, we want you all to be aware of the upcoming dates for the 2020 election. To check your voting status, please click [here](#). Also, one of FEW's coalition partners shared the following for informational purposes:

[PL+US Action Fund 2020 presidential scorecard](#)

Candidate scores range from A through F, and are based on public support of the [principles of high-quality paid family and medical leave](#) along with whether the issue is prioritized in the campaign and proposals. The scorecard and methodology can be found [here](#). PL+US Action Fund will continue to educate voters as new proposals are introduced and provide candidates an opportunity to improve their scores as they introduce their paid family and medical leave proposals.

December 2019

- December 19: Democratic primary debate in Los Angeles

February 2020

- February 3: Iowa caucuses
- February 11: New Hampshire primary
- February 22: Nevada Democratic caucuses
- February 29: South Carolina Democratic presidential primary

March 2020

- March 3 (Super Tuesday): Alabama primary, American Samoa Democratic caucuses, Arkansas primary, California primary, Colorado primary, Maine primary, Massachusetts primary, Minnesota primary, North Carolina primary, Oklahoma primary, Tennessee primary, Texas primary, Utah primary, Vermont primary, Virginia Democratic primary
- March 3-10: Democrats Abroad primary
- March 8: Puerto Rico Republican primary
- March 10: Hawaii Republican caucuses, Idaho primary, Michigan primary, Mississippi primary, Missouri primary, North Dakota Democratic caucuses, Washington primary
- March 12: Virgin Islands Republican caucuses
- March 14: District of Columbia Republican caucuses, Guam Republican convention, Northern Mariana Islands Democratic convention
- March 17: Arizona Democratic primary, Florida primary, Illinois primary, Ohio primary, Northern Mariana Islands Republican caucuses
- March 24: American Samoa Republican caucuses, Georgia primary

- March 27-29: North Dakota Republican state convention
- March 29: Puerto Rico Democratic primary

April 2020

- April 3-5: North Dakota Republican caucuses
- April 4: Alaska Democratic caucuses, Hawaii Democratic caucuses, Louisiana primary, Wyoming Democratic caucuses
- April 7: Wisconsin primary
- April 28: Connecticut primary, Delaware primary, Maryland primary, New York primary, Pennsylvania primary, Rhode Island primary

May 2020

- May 2: Guam Democratic caucuses, Kansas Democratic primary
- May 5: Indiana primary
- May 12: Nebraska primary, West Virginia primary
- May 19: Kentucky primary, Oregon primary

June 2020

- June 2: District of Columbia Democratic primary, Montana primary, New Jersey primary, New Mexico primary, South Dakota primary
- June 6: Virgin Islands Democratic caucuses

July 2020

- July 13-16: Democratic National Convention in Milwaukee, Wisconsin

August 2020

- August 24-27: Republican National Convention in Charlotte, North Carolina

September 2020

- September 29: First general election presidential debate at the University of Notre Dame in Notre Dame, Indiana

October 2020

- October 7: Vice presidential debate at University of Utah in Salt Lake City, Utah
- October 15: Second general election presidential debate at the University of Michigan in Ann Arbor, Michigan
- October 22: Third general election presidential debate at Belmont University in Nashville, Tennessee

November 2020

- November 3: General election

FEW receives information from the following sources and contacts: Roll Call, NBC News, ERA Coalition, CNN and Newsweek.