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FEW Washington Legislative Update
April 1-15, 2021

In Congress

The Biden administration's roughly $2 trillion proposal focused on infrastructure and the climate crisis enters a critical week on Capitol Hill as some members in Congress wrestle with what a scaled-down counter offer might look like.

The White House has continued its overtures to host lawmakers on both sides of the aisle in the Oval Office in an effort to forge meaningful, unified progress -- even as some members remain skeptical.

Biden's infrastructure plan is big, and addresses a lot more than just roads and bridges. A few of the toplines:

Transportation: $621 billion. Unsurprisingly, funding improvements to roads, bridges, railways and other infrastructure has been a central piece of Biden's recovery plans. He has said that it will create "really good-paying jobs" and help the nation compete better.

Home care services and workforce: $400 billion. The plan would expand access to long-term care services under Medicaid, eliminating the wait list for hundreds of thousands of people.

Manufacturing: $300 billion. Some of the funds would be carved out for manufacturers that focus on clean energy, rural communities, and programs that give small businesses access to credit.

Housing: $213 billion. Biden is calling on Congress to build, renovate and retrofit more than a million affordable and energy efficient housing units. The plan would also build and rehabilitate more than 500,000 homes for low- and middle-income homebuyers.

"It's the largest American jobs investment since World War II. It'll create millions of jobs, good paying jobs, it'll grow the economy, make us more competitive around the world, promote our national security interests and put us in a position to win the global competition with China in the upcoming years," the President said as he unveiled the proposal last month.

"It's big, yes. It's bold, yes. And we can get it done."

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Paid Leave:

Congress returns April 12 from a three-week break with the Biden administration's proposal for spending on infrastructure among its top priorities, a measure that could be used as a vehicle for expanding paid leave for federal employees among other workers.

As the proposal is turned into specific language, Congress should "remove hidden barriers to workforce participation caused by the inadequacy of our caring infrastructure," according to Rep. Richard Neal, D-Mass., chair of the Ways and Means Committee. Among provisions he favors, he said in a letter to committee members, are giving "every worker the right to paid family and medical leave, whether it's because they've just welcomed a new child into their family, they have a loved one in need of care, or they are dealing with their own medical issue."

Under a law that took effect last October, federal employees outside the Postal Service can take up to 12 weeks of paid leave within 12 months after the birth, adoption or foster placement of a child. That is done by converting into paid leave some or all of the 12 weeks within a 12-month period of unpaid leave allowed under the Family and Medical Leave Act.

However, leave available under that law for other than parental purposes—such as for personal or family medical needs—remains unpaid. Democratic leaders of the House Oversight and Reform Committee have proposed allowing a similar conversion of FMLA leave for the other purposes, a plan that the infrastructure bill in effect could incorporate.

Also, to be on the congressional agenda ahead will be the budget for the fiscal year that starts in October and along with-it decisions on agency spending levels, employment levels, potential changes in benefits policies, and a proposal for a 2022 federal employee raise. The figure indicated by the underlying federal pay law is 2.7 percent, but that law is followed only in some years; federal employee organizations and some congressional Democrats have been pushing for 3.2 percent.

The Biden administration has not released even a preliminary version of the annual White House budget proposal, the so-called "skinny" budget that will not necessarily address pay and other federal employment issues. The comprehensive budget proposal would come still later, starting a round of hearings and other action that normally is well underway by this point in the year.

Other topics likely ahead for Congress's attention include possible changes to federal workplace policies as pandemic-related conditions ease, and the release of full results of last year's Federal Employee Viewpoint Survey, which included questions about telework and workplace safety issues.

Sourced from FEDWeek.

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Agency Spending:

A preliminary budget plan from the White House calls for increased spending for federal agencies virtually across the board, with a potential—but unspecified—increase in employment in areas including cybersecurity, research and other programs where additional funding would be targeted.

The document proposes $769 billion in non-defense discretionary funding in the fiscal year starting in October, a 16 percent increase, compared with $753 billion for defense programs, a 1.7 percent increase. It does not address mandatory spending nor tax policies, leaving them to the traditional detailed budget document that is yet to come and that will be considered in the congressional budget process.

Among other things, the document seeks to: provide substantial funding boosts for agencies including the EPA and the CDC; create an Advanced Research Projects Agency for Health within the National Institutes of Health to focus initially on cancer and other diseases such as diabetes and Alzheimer's Disease; increase funding for gun violence and gender-based violence programs; increase the scientific research budgets at NASA and several other agencies; increase funding for civil rights offices across agencies; and more.

However, it contains no proposals regarding pay, benefits and workplace policies for federal employees — leaving them to the later document, as well — although it does seek to build on additional funding approved in the recent economic stimulus law affecting the federal workplace.

It would provide $364 million for GSA's federal buildings fund above the estimated receipt level "to support additional repair and alteration projects that have been delayed due to chronic underfunding over the last decade" and $2 billion for "repairs and alterations projects that would provide more efficient office space for agencies to execute their mission, help for federal buildings to withstand the impacts of climate change; and efforts to reduce the federal government's carbon footprint."

GSA also would receive $300 million and a similar amount would be dedicated for other agencies to transition the federal vehicle fleet to electric vehicles.

On cybersecurity, it seeks $2.1 billion, a $110 million increase, for the DHS and Cybersecurity and Infrastructure Security Agency — which received $650 million under that stimulus law — to “enhance its cybersecurity tools, hire highly qualified experts, and obtain support services to protect and defend federal information technology systems.”

It also would add $500 million for the Technology Modernization Fund, on top of the $1 billion added to the fund under the stimulus law, “to strengthen federal cybersecurity and retire antiquated legacy technology systems.”

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Unpaid Leave Effects:

There are many reasons a federal employee may go on leave without pay, including for military service, personal or family medical reasons, inability to work while waiting for a decision on either worker’s compensation or disability retirement, and others. And of course, there have been instances of partial shutdowns putting employees on unpaid leave status involuntarily.

In any of those situations, questions commonly arise regarding the impact on creditable service for various purposes.

If you are a career employee, the first 30 calendar days of each non-pay period is considered creditable service. If you are a probationary employee, you get credit only for 22 workdays.

Time spent in a non-pay status is considered to be creditable service for meeting time-in-grade requirements for promotion; however, the crediting rules are different for within-grade increases. For GS employees, only two work weeks in a non-pay status is creditable toward the waiting period for steps 2, 3 and 4; four work weeks for advancement to steps 5, 6 and 7; and six work weeks to steps 8, 9 and 10. For wage system employees, it’s one work week for advancement to step 2, 3 work weeks to step 3, and four work weeks to steps 4 and 5.

As a rule, if you take no more than six months of LWOP in any calendar year, you’ll get credit for that time for both retirement and reduction-in-force retention purposes. And you won’t have to make a deposit to the retirement fund to get that credit. On the other hand, any period of LWOP that exceeds six months in a calendar year isn’t creditable, and you can’t make a deposit to get credit for it.

The rules are different if you are called to active duty. As a result, all the time you are away from your job would be creditable service but only if you make a deposit to the retirement fund for that time. The deposit equals a percentage of your basic military pay, not including allowances or differentials.

Health and life insurance–If you are enrolled in the Federal Employees Health Benefits (FEHB) program, your enrollment will continue for a maximum of 365 days. The government will not only pay its part of your premiums but it will also advance money from your future earnings to pay your part of the costs, unless you prefer to pay them on a pay-as-you-go basis. With one exception, any coverage you have under the Federal Employees' Group Life Insurance (FEGLI) program will be treated the same way. The difference is that you won't be required to pay anything for that coverage.

Annual and sick leave–You won't earn any annual or sick leave for a pay period in which you reach a total of 80 hours of LWOP. However, you will earn annual and sick leave during the following pay periods until you once more accumulate 80 hours of LWOP. Then your ability to earn sick or annual leave will end. If you are a part-time employee, the amount of leave you earn will be proportionately less.

Severance pay–Any time spent on LWOP is fully creditable for the 12-month continuous employment period needed to qualify for severance pay. However, when computing your actual severance payment, any time in a non-pay status that isn't creditable for leave accrual will be excluded.

Thrift Savings Plan–Since investments in the Thrift Saving Plan can only be made from your salary, if you are on LWOP, you won't be able to make your investments into your TSP account during that time. If you have an existing loan, payments can be suspended for up to one year or, if you were called to active duty, until you are back on the job. In either case, interest on your loan will continue to accumulate. FYI: While on LWOP you won't be able to take out a new loan.

Sourced from FEDWeek.

FEW receives information from the following sources and contacts: Federal News Network, GovernmentExecutive, CNN, FedWeek, and CBS News.