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FEW Washington Legislative Update January 16-31, 2022

In Congress

House Democrats unveiled a resolution on Thursday, January 27, that would formally recognize as part of the Constitution the Equal Rights Amendment (ERA) banning discrimination on the basis of sex.

The resolution states, it is the sense of the House that the ERA "has met the requirements of the Constitution and become valid to all intents and purposes as a part of the Constitution."

A group of Senate Democrats is urging President Biden to get a beefed-up child tax credit included as part of any agreement on a sweeping climate and social spending bill.

Democratic Sens. Michael Bennet (Colo.), Sherrod Brown (Ohio), Cory Booker (N.J.), Raphael Warnock (Ga.) and Ron Wyden (Ore.) sent Biden and Vice President Harris a letter on Wednesday, January 26, pushing for the inclusion of an expanded child tax credit in a deal on Biden's Build Back Better agenda.

Momentum is growing for making changes to an archaic election law after former President Trump and his allies tried to overturn the Electoral College results.

Multiple groups on Capitol Hill are working on reforms to the Electoral Count Act, which lays out how the Electoral College results are counted. And in a rare area of overlap, GOP leaders in both chambers and President Biden are opening the door to changes to the 1887 law.

Senate Republicans on Wednesday, January 19, blocked a sweeping election bill, setting up a doomed push by Senate Democrats to try to change the chamber's legislative filibuster.

Senators voted 49-51, falling short of 60 votes needed to advance the legislation that combines the Freedom to Vote Act, which would overhaul elections and campaign finance laws, with the John Lewis Voting Rights Act, which strengthens the 1965 Voting Rights Act.

President Biden released a statement saying he was "profoundly disappointed" that the U.S. Senate "failed to stand up for democracy" shortly after Democrats failed in their pass voting rights legislation on the night of Wednesday, January 19.

Biden said that while he was disappointed, he was "not deterred" by Democrats' failure to overcome Republican opposition to a voting rights bill aimed at stopping election changes being debated and enacted in some GOP-led states.

FEW Washington Legislative Update – January 16-31, 2022

Tier I

Child Tax Credit:

A group of Senate Democrats is urging President Biden to get a beefed-up child tax credit included as part of any agreement on a sweeping climate and social spending bill.

Democratic Sens. Michael Bennet (Colo.), Sherrod Brown (Ohio), Cory Booker (N.J.), Raphael Warnock (Ga.) and Ron Wyden (Ore.) sent Biden and Vice President Harris a letter on Wednesday, January 26th pushing for the inclusion of an expanded child tax credit in a deal on Biden's Build Back Better agenda.

The Democratic senators added that they are ready to work with the administration "to extend this critical investment in American families and children as part of the Build Back Better package."

Democrats temporarily expanded the child tax credit in early 2021 as part of a sweeping coronavirus relief package enacted to provide \$3,600, or \$300 per month, for children under 6 and \$3,000, or \$250 per month, for children 6 through 17 and to broaden the number of families who were eligible.

But millions of families stopped receiving child tax credit payments this month after Congress failed to pass an extension of the expanded credit.

The Democratic senators said in their letter the expanded child tax credit "represents the biggest investment in American families and children in a generation" and is "a

signature domestic policy achievement of this administration, and has been an overwhelming success."

Democrats are hoping to revive a scaled-down version of the legislation, though they've been careful not to set a hard deadline for passing the revised bill.

Biden also opened the door last week to trying to pass a scaled-down version of the legislation. But it's not clear that an extension of the expanded child tax credit could make it into the bill. Manchin has pushed for including a work requirement if it gets included in the Build Back Better legislation.

Because Democrats are trying to pass the spending bill under budget reconciliation rules, they need total unity from all 50 members of the Senate Democratic caucus to pass the bill without any GOP support.

As of right now, the Child Tax Credit will return to the typical amount (\$2,000 per dependent up to age 16) for the 2022 tax year and there will be no advance payments offered to families. Of course, this is a massive blow to working parents who have come to rely on it—in many cases, it's the single difference that's allowed families to make ends meet. (In turn, that's led to a reduction in poverty, reduced hunger and preserved the mental and financial health of parents during a remarkably challenging time.) The decision to preserve it for 2022—and beyond—is of course still up for debate, but it's not looking good.

Sourced from [The Hill](#) and [Yahoo](#)

Equal Rights Amendment:

House Democrats unveiled a resolution on Thursday, January 27, that would formally recognize as part of the Constitution the Equal Rights Amendment (ERA) banning discrimination on the basis of sex.

The resolution states it is the sense of the House that the ERA "has met the requirements of the Constitution and become valid to all intents and purposes as a part of the Constitution."

"Until the ERA is recognized, we will not be able to address the gender wage gap, pregnancy discrimination, persistent and disturbing violations of the rights of survivors, and more," said Rep. Jackie Speier (D-Calif.), the Democratic Women's Caucus co-chair who authored the resolution with House Oversight Committee Chairwoman Carolyn Maloney (D-N.Y.).

The Department of Justice (DOJ), under former President Trump, issued an opinion through its Office of Legal Counsel in January 2020 that the ERA is no longer pending before the states and couldn't be ratified because its deadline expired.

In a new opinion issued Wednesday, January 26, the Justice Department's Office of Legal Counsel clarified that its previous decision "does not preclude the House or the Senate from taking further action regarding ratification of the ERA."

President Biden, in a statement issued by the White House, urged Congress to "act immediately" to pass the resolution recognizing ratification of the ERA.

"We must recognize the clear will of the American people and definitively enshrine the principle of gender equality in the Constitution. It is long past time that we put all doubt to rest," Biden said.

But Democratic lawmakers argued the DOJ should rescind its original memo from 2020 altogether to clear the path for the ERA's addition to the Constitution. They maintained that the ERA makes clear it's meant to take effect two years after the final state's ratification.

House Democrats previously passed resolutions in 2020 and 2021 to remove the ERA's ratification deadline. But neither measure passed in the Senate due to GOP opposition.

Four House Republicans joined Democrats in support of removing the ERA's ratification deadline last year. But most Republicans voted against it, citing concerns about the amendment potentially paving the way for laxer abortion laws.

Sourced from [The Hill](#)

FEW Washington Legislative Update – January 16-31, 2022 Tier II

Vaccine Mandates for Federal Employees:

Federal agencies have been told that in light of a court injunction against the Coronavirus vaccination mandate, they are to suspend the processing of employees' requests for exceptions as well as any disciplinary actions they have begun for non-compliance by those who do not have an approved or pending request for an exception.

A question and answer document from the Safer Federal Government Workforce Task Force says that so long as the injunction — which is being appealed — is in effect, agencies "should hold in abeyance all disciplinary actions related to enforcement" of the mandate, including "temporarily halting active suspensions as of January 21, 2022" and restoring those employees to paid status.

They further should “inform all employees who are subject to proposed or active disciplinary action” that enforcement has been halted and “should not continue to undertake preparatory work, such as drafting enforcement templates concerning disciplinary or adverse actions” toward possible future discipline.

However, any actions already taken—such as letters of education and counseling, letters of reprimand, or proposals of suspensions—need not be revoked and can remain in the employee’s personnel files. Further, agencies “do not need to reinstate employees who have been terminated because of non-compliance.”

Also, agencies with vaccination requirements separate from those under the enjoined executive order “can continue to implement and enforce those requirements. This includes proceeding with receiving, reviewing, and processing requests for exception to those requirements and enforcing the requirements through disciplinary actions consistent with agency policies.”

That caveat would appear to apply to the VA, which prior to the executive order had announced its own vaccination mandate for its Veterans Health Administration—whose 370,000 employees make up the large majority of that department. It also could apply to some 25,000 at HHS, which also previously had mandated vaccination for certain employees of the Indian Health Service, National Institutes of Health and Public Health Service Commissioned Corps. Those departments also allowed for exceptions on terms similar to those in the later government-wide order.

Agencies are to inform employees with pending requests that an exception “is not necessary so long as the nationwide injunction is in place.” If an employee submits a new request, an agency is to “hold it in abeyance” and similarly inform that employee.

Sourced From [FEDweek](#)

Federal Raise Proposed:

A proposal newly introduced in Congress (HR-6398) by several Democrats—and backed by federal employee organizations—for an average 5.1 percent raise for 2023 marks the beginning of the long annual process of determining the following year’s raise.

Under federal pay law, the Employment Cost Index measure of growth in wages—not living costs—for the 12 months through each September is supposed to be used in setting the across the board portion in the White House’s subsequent budget proposal for the next fiscal year. A half percentage point is to be shaved off the indicated amount and locality pay is supposed to be paid in addition, varying by locality. The unreduced figure for the measuring period toward January 2023 was 4.6 percent.

That formula has not been followed in practice, though, due to the potential cost of the indicated locality raises and disagreements over the calculations underlying those figures. In some years the ECI number has played little to no role in a determination of a

raise while in others the full or reduced ECI number alone has become the total raise, with locality pay sometimes carved out of it.

For 2022, the comparable figure was 2.7 percent, which is the amount that President Biden recommended and ultimately was paid by default when Congress effectively accepted that figure by remaining silent on the issue last year. Amounts varied somewhat by locality.

That number was well below the 2022 increase for retirees, which was 5.9 percent for those retired under the CSRS program and 4.9 percent for those retired under the FERS program who are eligible for COLAs (generally meaning not until after reaching age 62). The two are set in separate ways, though, with the retiree COLA paid automatically based on an inflation index.

Sourced From [FEDweek](#)

\$15 Per Hour Federal Employee Pay Minimum Taking Effect:

The Biden administration's requirement for federal employees to make a minimum of \$15 per hour is to take effect as of the start of the pay period beginning January 30, benefitting about 67,000 employees at two dozen agencies.

An OPM memo to agencies carries out a policy announced soon after Biden took office. The Defense Department will account for about 50,000, the large majority of them "non-appropriated fund" employees who work at operations at defense bases such as officers' clubs and recreational facilities.

Other categories include about 9,700 custodial, food service and housekeeping workers at VA and about 2,000 at Agriculture including positions such as plant protection technicians and wildland firefighters.

The Defense Department, which oversees salary rates for wage-grade employees, is to carry out comparable changes in those rates. Where changes can't be made by January 30 employees will be eligible for retroactive increases.

Sourced From [FEDweek](#)

FEW Washington Legislative Update – January 16-31, 2022 Tier III

Roe v. Wade:

President Biden and Vice President Harris released a statement Saturday, January 22nd commemorating the 49th anniversary of the landmark Supreme Court decision Roe v. Wade, which gave women the constitutional right to abortion.

The Biden-Harris administration said that the decision is under attack like "never before" amid several states' attempts to pass restrictions on the practice.

“The constitutional right established in Roe v. Wade nearly 50 years ago today is under assault as never before. It is a right we believe should be codified into law, and we pledge to defend it with every tool we possess,” Biden and Harris said in a statement.

“All people deserve access to reproductive health care regardless of their gender, income, race, zip code, health insurance status, immigration status, disability, or sexual orientation. And the continued defense of this constitutional right is essential to our health, safety, and progress as a nation,” they added.

The statement comes a day after thousands of anti-abortion activists rallied in Washington, D.C., against abortion, pushing for Roe v. Wade to be overturned.

The battle over abortion is expected to take center stage in Washington this year as the Supreme Court is poised to hear a case on a Mississippi law that would ban abortion at 15 weeks. The law is a direct challenge to Roe v. Wade.

The statement from the president and his No. 2 also comes after the Supreme Court rebuffed an effort by abortion providers in their challenge to Texas's abortion law, S.B. 8. The law, which is one of the strictest in the country, bans abortion after 6 weeks of pregnancy, often before a person knows that they're pregnant.

There is a procedural fight over which of the lower courts will take up the case after the Supreme Court ruled last month that abortion providers could contest the ban in federal court. The providers have asked the Supreme Court to send the case back to a federal district that has previously blocked the law. However, justices sent the case back to the 5th Circuit Court of Appeals, which has allowed S.B. 8 to remain in effect.

A recent poll conducted by CNN found that a large majority of Americans — almost 70 percent — said that they oppose overturning Roe v. Wade. Thirty percent of respondents said that they supported the move.

Sourced from [The Hill](#)

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