



www.few.org



455 Massachusetts Ave. NW, P.O. Box 306
Washington, DC 20001
Phone: 202-898-0994
Fax: 202-898-1535

*This information may be provided to
FEW membership via government email*

FEW Washington Legislative Update May 1-15, 2022

FEW Celebrates Public Service Week, May 1-7, 2022

In Congress:

The House was in [recess](#) until Tuesday, May 10th, but the Senate will [reconvene](#) on May 2, at 3:00 P.M and will spend the day holding roll call votes in relation to the motions to instruct with respect to [H.R.4521](#), USICA/America COMPETES Act. No votes are scheduled yet, but there could be more than two dozen nonbinding motions voted on.

Of note, senators on both sides of the aisle are throwing support behind a [proposal](#) to tuck key marijuana banking legislation into the larger package aimed at boosting U.S. competitiveness, increasing the odds that a significant cannabis bill gets through the upper chamber this year. Senator Patty Murray (D-Washington), the number three Senate Democrat, is leading a push to pass the SAFE Banking Act, which would enable cannabis firms to use banking services, as part of a sweeping package lawmakers are hashing out in both chambers that is intended to bolster the country's supply chains and manufacturing.

While the cannabis measure was not included in the bipartisan U.S. Innovation and Competition Act that passed the Senate, the legislation was featured in the House's version of the bill, known as the Competes Act, which passed in February.

Conferees are expected to complete a compromise China competitiveness bill that could win the support of 60 senators before the August recess, when Congress shifts its focus to the November midterm elections.

As Congress continues to digest the [leaked draft majority opinion](#) overturning *Roe v. Wade*, Senate Majority Leader Chuck Schumer, (D-New York), vowed the Senate would vote on a bill to codify the original *Roe v. Wade* decision.

The test procedural vote is guaranteed to fall short because the bill needs 60 votes to advance. Leader Schumer will move to tee up the bill on Monday, setting up an initial vote for Wednesday. It will be the second vote Schumer has forced on the issue.

The Senate previously rejected a similar bill in a 46-48 vote earlier this year, with Senator Joe Manchin (D-West Virginia) voting with the Minority. A [Politico/Morning Consult poll](#) released Wednesday found that 50 percent of voters believe the landmark case that guarantees abortion access should not be overturned, while only 28 percent said that it should be overturned.

Over 100 members of Congress were slated to give brief [opening statements](#) at an hours-long meeting of the conference committee tasked with coming up with an agreement on a bill, [H.R. 4521](#), known in the House as the America COMPETES Act.

FEW Washington Legislative Update – May 1-15, 2022 Tier I

Equal Pay:

In case you missed it, on April 20, 2022, Mississippi became the last state in the nation to enact an equal pay law, when Governor Tate Reeves signed the Mississippi Equal Pay for Equal Work Act ("Mississippi Act" or "the Act").¹

The new law, which takes effect July 1, 2022, follows the liability standard of the federal Equal Pay Act, prohibiting employers from paying workers of one sex less than they pay those of the opposite sex for work that "requires equal skill, education, effort and responsibility, and which is performed under similar working conditions." The Mississippi Act further mirrors the federal Equal Pay Act in that it permits pay disparities that are based on:

- A seniority system;
- A merit system;
- A system that measures earnings by quantity or quality of production; or
- Any other factor other than sex.

While the passage of the equal pay law brings Mississippi into line with other states, the law lacks some provisions of more expansive state counterparts. By limiting its coverage to gender-based pay differences, for example, the Mississippi Act does not extend the protection against pay discrimination to race-based wage differentials or

disparities in pay based on other protected categories such as sexual orientation, age and disability.

Further, unlike some other state laws, the Mississippi Act does not narrow the defense based on "any factor other than sex." To the contrary, it may expand that defense by articulating what some of those "other factors" can be. The Act defines factors other than sex so as to include, but not be limited to: (a) "the salary history or continuity of employment history" as compared to an employee of the opposite sex; (b) "the extent to which there was competition with other employers for the employee's services as compared to employees of the opposite sex;" and (c) "the extent to which the employee attempted to negotiate for higher wages as compared to employees of the opposite sex in the same establishment." Several of these factors have been expressly ruled out as pay defenses by other states.

Neighboring Alabama, for example, has banned the use of salary history as a defense to pay disparities in its equal pay legislation. As discussed above, however, the Mississippi Act lists salary history as one of the factors other than sex that may justify a pay disparity. Thus, Mississippi employers will *not* be prohibited from inquiring about a job applicant's salary or wage history. Nor does the Mississippi Act include a wage transparency provision, an increasingly common feature of state-level equal pay laws that prohibits employers from banning discussion of wages with other employees or retaliating against employees for discussing their wages. The Act likewise does not require an employer to disclose wage ranges for a job position to applicants or current employees, another distinction from recent legislation in other jurisdictions.

Critics also have claimed that the new law provides fewer protections than the federal Equal Pay Act because the bill essentially gives state authorization to discriminate through pay differentials based upon length of service/job history, market conditions and negotiation skill. Additionally, the Mississippi Act provides for recovery of lower damages than available under federal law, with plaintiffs entitled only to back pay and attorney's fees. Further, the Act contains no prohibition against retaliation that would protect an employee who may bring a claim under the new law.

The Mississippi Act also contains an unusual provision requiring that employees must waive their right to a federal claim in order to be eligible to bring a claim under the state law. Whether this waiver requirement is consistent with federal law may become the subject of future litigation.

Employers are encouraged to review their pay practices for worksites in Mississippi. Sourced from ([Mondaq](#))

FEW Washington Legislative Update – May 1-15, 2022 Tier II

Federal Workforce, Retirement and Benefits Legislation:

House lawmakers are taking steps to try to resolve key pieces of workforce and benefits issues for specific groups of federal employees: interns and first responders. The House Committee on Oversight and Reform targeted two federal workforce issues by looking to expand retirement benefits for disabled federal first responders and create a comprehensive internship center at the Office of Personnel Management.

Expanding the early-career federal pipeline is a priority for some committee members out of several bills [reviewed on May 11](#), but lawmakers still held contentious conversations about the Building the Next Generation of Federal Employees Act.

The legislation, which Rep. Gerry Connolly (D-Va.) [introduced in December](#), attempts to overhaul the federal internship program by establishing a center within OPM. The center would oversee all federal internship and fellowship programs.

Among several key goals, the bill would require agencies to appoint internship coordinators, create an online “one-stop shop” for agencies to post and individuals to find internship opportunities, establish a pilot program to recruit individuals from underserved communities and give interns who have completed their service a boost in the federal hiring process, Connolly said. Along with the internship bill, lawmakers reviewed other key legislation that would expand retirement benefits for disabled federal first responders.

For the Building the Next Generation of Federal Employees Act, Connolly said the end goal is to recruit interns to full-time federal service. That comes as the federal workforce faces hiring challenges with a growing number of retirement-eligible employees. “It’s aimed at trying to facilitate the broadening of the internship program, systematizing it and using it as an effective recruitment tool, none of which exists today,” Connolly said at the hearing.

More than once, [Connolly has pointed](#) to data from the Office of Management and Budget, which shows that 15 percent of federal workers can retire today, and 30 percent will be eligible for retirement in the next five years.

He said the internship legislation would help address some challenges of hiring early-career workers. The contentious discussions centered on an amendment from Rep. James Comer (R-Ky.), the committee’s ranking member, as well as a separate amendment from Rep. Jody Hice (R-Ga.). Although neither amendment was added, the committee passed the bill 20 to 15 along party lines.

Comer urged colleagues to oppose the bill, saying that it did not factor in broader recruitment issues for federal agencies.

The bill “tries to put a fresh coat of paint on the front door of federal agencies, but ignores the mess inside,” Comer said.

Comer [proposed](#) to amend the bill by requiring pay for all federal interns. But his amendment additionally removed several key pieces of Connolly's bill and didn't pass the committee. Hice also offered a version of his bill, the [Accountable Feds Act](#), as an [amendment](#) to Connolly's internship legislation.

The act, [introduced](#) in March, would streamline removal procedures for poorly performing federal employees and revive a version of the now-canceled Schedule F executive order. The committee did not pass it as an amendment to Connolly's bill. Hice also said that 4,000 federal internships were paid in 2020, down from 60,000 paid internships in 2010. But he added that the problem to recruit the next generation of federal workers is bigger than just fixing the internship program.

In contrast, many federal organizations, such as the National Active and Retired Federal Employees Association (NARFE) [support](#) Connolly's legislation.

"Those who show an interest and aptitude for public service and have successfully completed all required aspects of a qualified federal internship deserve to have that experience work in their favor," NARFE National President Ken Thomas [wrote in a May 11 letter](#) to the committee.

Expanding benefits for federal first responders

Another bill on the table for the committee was the [Federal First Responder Fair RETIRE Act](#), which Connolly introduced. The legislation would let disabled federal first responders, such as firefighters and Customs and Border Protection officers, continue receiving the same retirement benefits that apply to all federal first responders. Currently, federal law requires federal first responders to retire by age 57, which pushes those workers to put larger portions of their salaries toward retirement.

But this creates a gap for federal first responders who sustain a work-related injury, making them ineligible for retirement under the same system.

The legislation would let disabled first responders stay in the same retirement system if they continue federal service in another department.

The bill provides additional benefits for first responders, similar to the [Federal Firefighters Fairness Act](#), which the full House [passed](#) that act on May 11. It expands workers' compensation for certain types of job-sustained illnesses. Federal organizations such as the Federal Law Enforcement Officers Association [support](#) the House legislation.

"It is unconscionable to think that because a first responder gets injured in the line of duty, their retirement system should penalize them for their service and sacrifice. The Fair RETIRE Act rectifies this error in the law and provides law enforcement the recognition they have earned after injury," FLEOA National President Larry Cosme said

in a press release on May 11. The committee unanimously advanced the Federal First Responder Fair RETIRE Act.

Other legislation that the committee [considered on May 11](#) includes adding [USPS environmental requirements for its future fleet](#) and adjusting the implementation process for [Government Accountability Office](#) recommendations.

The committee passed the Improving Government for America's Taxpayers Act, which would require GAO to consolidate all unmet recommendations into one report for congressional leaders.

Additionally, the Ensuring an Accurate Postal Fleet Electrification Act will now head to the full House for a floor vote after the committee passed the bill 20-15.

Sourced from ([Federal News Network](#))

FEW Washington Legislative Update – May 1-15, 2022 Tier III

The U.S. men's and women's soccer teams will be paid equally under a new deal

The U.S. Soccer Federation announced Wednesday that it has reached a deal to pay the U.S. Men's National Team and the U.S. Women's National Team equally, eliminating a contentious pay gap that saw female players [earning less](#). The new collective bargaining agreements will run through 2028 and include the "equalization" of World Cup prize money, [the organization announced](#).

In February, the governing body and the women's team [announced a settlement](#) to resolve the longstanding pay dispute, with the federation agreeing to pay the two teams equally in the next union contract and give the women's team \$22 million in back pay.

[The U.S. national women's soccer team wins \\$24 million in equal pay settlement](#)

Becky Sauerbrunn, a player on the women's team and president of the United States Women's National Team Players Association, said achieving equal pay was the result of gains players had made both on and off the field.

"We hope that this Agreement and its historic achievements in not only providing for equal pay but also in improving the training and playing environment for national team players will similarly serve as the foundation for continued growth of women's soccer both in the United States and abroad," [Sauerbrunn said](#).

The federation said the two collective bargaining agreements – one for each team – have "identical economic terms" that include equal pay for all competitions, including the

FIFA World Cup. The appearance fee for a friendly game and the bonus based on the team's performance and their opponent's rank will be the same for both squads.

[Soccer Star Megan Rapinoe On Equal Pay, And What the U.S. Flag Means to Her](#)

Additionally, the teams will pool the prize money from their respective World Cup appearances and split the total among the two teams and the federation. It is the first federation in the world to equalize World Cup prize money, the organization said. Both teams will also have the same framework for sharing in commercial and ticket revenue.

"This is a truly historic moment," U.S. Soccer President Cindy Parlow Cone [said in a statement](#). "These agreements have changed the game forever here in the United States and have the potential to change the game around the world."

Tim Ream, a defender on the U.S. men's national team, [said in a tweet](#) that it had "been a long process for all sides but proud of everyone involved for reaching and achieving this. It now truly is One Nation, One Team."

Sourced from ([NPR News](#))

FEW Washington Legislative Update General Interest – May 1-15, 2022

Biden Administration, Federal Workforce Organizations Celebrate Public Service

In embracing all things [#GovPossible](#), the federal community continues to celebrate Public Service Recognition Week (PSRW) 2022.

“America’s dedicated public servants are the lifeblood of our democracy. Every day, millions of public workers at all levels of government do extraordinary things to make our lives better and our country stronger,” President Biden [wrote](#) in a proclamation to mark the start of the week.

“My Administration is committed to protecting, empowering, and rebuilding the career Federal workforce so they can bring more resources to bear in service of the American people,” the proclamation continues.

President Biden personally [delivered](#) a virtual thank you to kick off Monday of PSRW by honoring the 230 recipients of the 2021 Presidential Rank Award (PRA), the government’s highest civilian honor for Senior Executives and Senior Professionals.

“It was my honor to re-establish these awards last year after the previous administration made the decision to cancel them. Because these awards are about more than individual recognition. They’re a reminder to all of us—to everyone—of the extraordinary capacity, creativity, diversity, and dedication of our federal workforce and a reminder of why you all the work you do matters so much,” the President [remarked](#).

Dozens of leaders across the President’s cabinet and agencies large and small have also [signed](#) onto a joint letter to the federal workforce, organized by the Partnership for Public Service.

In recognition of dedicated public service, the National Active and Retired Federal Employees Association (NARFE) [developed](#) a Letter-to-the-Editor campaign, encouraging individuals to thank and recognize local public employees for their dedicated service through letters to their local newspapers.

“Civil servants keep our public transportation systems and roadways safe; protect the nation’s water supply; alert the public about life-threatening storms; and are always ready to respond when lives are in danger. Yet their remarkable work sometimes goes unnoticed and taken for granted,” [stated](#) NARFE National President Ken Thomas.

Also, in honor of PSRW and the Federal Employee Education and Assistance Fund’s (FEEA) 36th Anniversary, federal employees and their families are [participating](#) in the

Feds in Motion Challenge between May 1 to June 5, 2022. FEW also participated by sending letters to Congress.

Start the journey to reach 36 miles (or more) in 36 days by moving however you choose this week. The Feds in Motion Challenge also features workshops on yoga, improving sleep, increasing movement, healthy cooking, and ergonomics at home and at work.

Proceeds from the challenge maintain FEEA's scholarship funds, disaster relief, and emergency hardship programs for federal employees in need.

Sourced from ([Fed Manager](#))

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