



FEW Washington Legislative Update September 16-30, 2023

In Congress:

On Saturday, September 30, 2023, Congress passed a [stopgap funding bill](#) that will keep agencies open for 45 days, averting at the 11th hour a shutdown that a day earlier seemed inevitable. The breakthrough came Saturday morning after House Republican leadership agreed to put a continuing resolution on the floor for a vote despite opposition within its own party. The bill, which will keep agencies funded at their current levels through November 17, passed with broad bipartisan support after Democrats threw their support behind the measure.

On Wednesday, September 20, 2023, House panel voted 30-14 to advance bipartisan legislation that would allow past marijuana users to qualify for security clearances and serve as federal employees. [The Cannabis Users Restoration of Eligibility Act \(H.R. 5040\)](#), introduced by Reps. Jamie Raskin, D-Md., and Nancy Mace, R-S.C., would end the practice by which a job applicant's past cannabis use causes them to be unable to apply for jobs in the federal government and can be the basis of denying them a security clearance. The bill also would allow those who have been previously denied a federal job or security clearance to see reconsideration of that decision, provided it occurred in 2008 or later.

On Wednesday, September 20, 2023, The White House detailed plans for a new workforce training initiative to develop a talent pipeline for jobs in the clean energy and conservation economy. Dubbed the [American Climate Corps](#), the initiative plans to offer skills-based training to more than 20,000 people in its first year through job training and service opportunities that will feed into careers centered on "conserving and restoring our lands and waters, bolstering community resilience, deploying clean energy, implementing energy efficient technologies and advancing environmental justice."

Diversity, Equity, and Inclusion:

Is the Census Taking Steps to Count the Millions of LGBTQ+ Americans Overlooked?

Millions of LGBTQ+ people who have so far been invisible in the American Community Survey (ACS), the largest household survey in the country, may soon be recognized.

The U.S. Census Bureau on Tuesday published its plan to test questions about sexual orientation and gender identity in the American Community Survey (ACS) next year. The ACS is a crucial resource to understand daily life for Americans, as it gathers data about social and economic needs not covered in the decennial census — information on internet access, transportation, employment, education, and more.

Within that snapshot of American life, LGBTQ+ people have not been counted as themselves.

In a report released this spring, the Brookings Institution estimates that up to 17.3 million adults who identify as LGBT are not identified in the ACS, with the largest gap among young adults, who are more likely to be openly LGBTQ+ than older generations.

The ACS has not collected any data on sexual orientation but has only been able to identify same-sex couples who live in the same household. This limitation on the survey's data has skewed results by overstating the economic well-being of LGBTQ+ people, Brookings found, since cohabitating couples tend to be older and more well off.

Having accurate data about LGBTQ+ Americans' economic situation matters because, as advocates have repeatedly said, without that data, it is harder to push for LGBTQ-inclusive policies and government funding to actually address those inequalities.

The Census Bureau's proposal to gather sexual orientation and gender identity within the ACS is the latest step in a years-long push to improve national data on LGBTQ+ people. In 2021, the Census' Household Pulse Survey — launched to measure effects of the pandemic — became the first time that the agency captured data on LGBTQ+ Americans beyond simply counting same-sex couples.

The Justice Department asked the Census Bureau last year to include questions on sexual orientation and gender identity in the ACS, NPR reports, citing a working paper from a bureau official. Within its proposal published Tuesday, the bureau notes that federal agencies are interested in data on Americans' LGBTQ+ status for "civil rights and equal employment enforcement."

The 2023 budget for the Census Bureau also included a request for \$10 million from Congress to study the best ways to format questions on sexual orientation and gender identity.

The test ACS will ask respondents to first identify their sex assigned at birth, then their current gender. The options for current gender — which will be asked for only those who are 15 and older — are male, female, transgender, nonbinary, and a fill-in-the-blank space. The bureau plans to compare results when respondents are allowed to choose only one option for their current gender, versus multiple options.

People 15 and up will also be asked if they think of themselves as gay or lesbian, straight, bisexual, or a fill-in-the-blank space.

The Census Bureau estimates that roughly 271,000 houses, part of a nationally representative sample, will respond to the ACS test. That sample will be taken from houses that are not taking the regular survey next year. Right now, the agency is taking public comments on its test plan until late November.

The Biden administration has tasked other federal agencies to plan how they can use enhanced data collection to advance equity for LGBTQ+ people, and in January, the White House released a detailed report on LGBTQ+ data needs and guidelines for collecting that data.

That White House report points out that although updating the ACS with LGBTQ+ information is important, large demographic surveys are not the only area that needs to be changed. LGBTQ+ people also need to be better counted in administrative data, like health registries, and the federal government needs to gather more information on what kinds of disparities the LGBTQ+ community faces.

Sourced From: [\(Government Executive\)](#)

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Federal Workers Will Pay 7.7 Percent More Towards Health Insurance Premiums in 2024

Federal employees and retirees will pay an average of 7.7 percent more on their health care premiums in 2024, a slight decrease from last year's biggest price hike in a decade.

The government's share of Federal Employees Health Benefits Program (FEHBP) premiums will increase by an average of 5 percent, bringing the overall increase to 5.8 percent, according to the Office of Personnel Management (OPM). In 2023, feds were estimated to pay an average of 8.7 percent more on premiums than the previous year, and the overall average premium increase of 7.2 percent was the highest for the nation's largest health insurance program since 2011.

On average, federal workers enrolled in "self-only" plans will pay an additional \$8.05 per biweekly pay period, while feds in "self plus one" insurance plans will pay \$16.73 more next year. Federal employees enrolled in family coverage will pay an average of \$21.16 per pay period in 2024.

Under the Federal Employees Dental and Vision Insurance Program, the average premium for dental plans will increase by 1.4 percent, while premiums for vision coverage will increase by an average of 1.1 percent.

The FEHBP's annual open season, in which federal employees can choose from a variety of national and regional insurance carriers and coverage plans, will run from November 13 to December 11. More federal workers will be required to select a new plan than usual this year, as the overall number of options will reduce from 271 plan choices to 159. That's because Humana is withdrawing both from the FEHBP and from employer-sponsored insurance as a whole over the next two years.

Beginning next year, OPM has secured additional benefits for FEHBP enrollees in the form of "comprehensive" coverage of FDA-approved anti-obesity medication and improved access to mental health and substance abuse disorder services, including telehealth, at low or no cost sharing. Additionally, the program will provide stronger coverage of treatments related to assisted reproductive technology like artificial insemination, as well as gender-affirming care for transgender and other gender diverse enrollees.

And insurers will expand coverage of prenatal and postpartum care, including childbirth education classes, group prenatal care, as well as home-based health care services both during pregnancies and postpartum.

Additionally, OPM announced that it is expanding eligibility for Dependent Care Flexible Spending Accounts to active-duty members of the military and active guard reserve members and their 400,000 dependent family members.

Sourced From: [\(Federal News Network\)](#)

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Tier II

Here's How Many Feds Would Stay on the Job - Both With and Without Pay - During an Upcoming Shutdown

If Congress fails to pass appropriations bills or a continuing resolution by the end of this week, hundreds of thousands of federal employees will be furloughed. But based on agencies' shutdown plans, they would actually be in the minority: roughly 65 percent of the overall federal civilian workforce would continue working through the shutdown, either with or without pay.

A Federal News Network analysis of agencies' publicly available plans for appropriations lapses shows that out of a total workforce of just over 2.3 million, more than 1.5 million would be either "exempt" or "excepted" from shutdown furloughs.

Those two categories are very different. "Exempt" employees work in positions that are financed through some funding source other than annual appropriations. Because of that, they would be unaffected by a lapse in appropriations — at least until those alternative funding sources run out. There are just over 860,000 employees in that group, making up 37 percent of the total federal workforce. Assuming a shutdown is relatively short, they would generally work and be paid as usual.

"Excepted" employees, on the other hand, are paid through annual appropriations, but their agency has determined they must stay on the job even with no funds available to pay them. There can be many reasons for that determination: in some cases, for example, they're needed to protect life and property; in others, there are specific federal laws applying to those positions that dictate their work must go on even without appropriations. There are nearly 659,000 positions in the "excepted" category.

The numbers, of course, vary widely by agency. The General Services Administration (GSA), for example, is funded largely by fee revenue — so out of a total workforce of 12,362, GSA has determined 11,616 positions are exempt. An even bigger example is the Veterans Health Administration (VHA). VHA is funded through advance

appropriations, and its workforce of 367,741 makes up a massive share of the total government's "exempt" workforce all by itself.

But agencies like the Department of Education that rely mostly on appropriations face a far different picture: Education would end up furloughing 3,683 of its 4,091 employees, according to the department's latest shutdown contingency plan.

One major caveat: these governmentwide totals are somewhat inexact, mostly because many agencies haven't updated their shutdown plans recently. We'll continue to update [this table](#) more agencies release revised figures.

Where's the table?

Sourced From: [\(Federal News Network\)](#)

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Department of Defense Adjusts Childcare Fees, Gives Military Families Financial Boost

Agencies will soon have new artificial intelligence (AI) requirements. The Office of Management and Budget (OMB) is in the process of putting some much-needed direction and guidance in place for how agencies should use and manage AI. OMB is laying out about 10 requirements ranging from naming a new chief AI officer to developing a publicly released AI strategy to convening an AI governance board to putting some much needed guardrails around the use of generative AI in a new draft guidance, parts of which Federal News Network obtained. OMB is expected to release the draft memo for public comment in the coming weeks.

IRS employees will keep working, and get paid on-time, if Congress allows a government shutdown. The IRS said it will remain fully operational, even if lawmakers cannot come up with a government spending plan by the end of the month. The agency plans to dip into nearly \$60 billion it received in the Inflation Reduction Act if a government shutdown happens. The IRS said the National Finance Center will also have enough staff working during a shutdown to ensure IRS employees get paid on time. Congress has until September 30 to either pass a spending bill for fiscal 2024 or a continuing resolution that keeps the government temporarily funded at current spending levels.

Agencies have a new deadline to ask for higher salaries for hard-to-fill positions. The Office of Personnel Management has opened its annual call for agencies to request special salary rates. The call comes ahead of a pending, but not yet final, federal pay raise for 2024. OPM can authorize higher-than-standard pay rates for certain positions. But some workforce experts say budget uncertainty could cause agencies to hesitate. For example, OPM most recently approved a higher pay rate this year for some cyber and IT positions. But so far, only one agency, the Department of Veterans Affairs, is actually planning to implement it. Any new special salary rate requests have to go to OPM by October 13.

The National Security Agency (NSA) will soon kick off a new innovation effort. The NSA is launching an innovation pipeline called “Red Ventures,” that will be focused on the China challenge. David Frederick, the NSA’s assistant deputy director for China, said Red Ventures should be up and running within the coming months. “That’s meant to reach out to industry and also internally to our workforce, to look for a whole range of solutions to our hardest problems,” Frederick said at an Intelligence and National Security Alliance event this week. Frederick said the NSA is concerned about the technology competition with China, as well as cyber-attacks on the U.S. defense industry and critical infrastructure.

The Department of Veterans Affairs (VA) is looking at next summer to resume its rollout of a new Electronic Health Record (EHR). The VA put an indefinite pause on the project in April in order to address persistent outages and low ratings from employees. Lawmakers are frustrated with the delays and said the VA has little to show for the project, after five years and billions of dollars going into it. Neil Evans, the acting program executive director of VA’s EHR Modernization Integration Office, said there is currently no timeline of when or where the VA would resume its EHR rollout. “There’s still more work to be done before we will be ready to publish a new schedule,” Evans said.

Some employees at the Labor Department are being called back to the office. Political appointees, Senior Executive Service members and other senior-level feds will have to report in person at least five days per two-week pay period. That change will take effect October 22. Acting Labor Secretary Julie Su is also asking agency managers and supervisors to be more “intentional” about in-office work for employees. Su said, for example, that team leads should start scheduling more in-person training and meetings.

The Energy Department (DOE) is putting funding behind efforts to shore up cybersecurity in renewable energy systems. DOE’s Office of Cybersecurity, Energy Security, and Emergency Response this week announced \$39 million for nine new cyber projects at the department’s national labs. The goal is to advance the

cybersecurity of distributed energy resources. The technologies include utility-scale solar and wind energy, energy storage systems, and electric-vehicle chargers.

The Defense Department (DoD) has adjusted childcare fees to give military families a financial boost. Servicemembers can expect reduced childcare costs and expanded eligibility for flexible spending accounts in 2024. The White House directed DoD to improve childcare affordability on military installations in a June executive order. Under new calculations, the monthly childcare fee assistance provider rate cap increases \$100 per child, and servicemembers can contribute up to \$5,000 dollars per household for eligible dependent care. Enrollment in the flexible spending accounts begins in mid-November and takes effect on January 1.

The Veteran's Affairs Department is ready to spruce up its delivery of digital services. The agency released the draft solicitation for its Secure, Performant, Reliable and User-Centered Experiences (SPRUCE) multiple-award contract for service-disabled veteran-owned small businesses. VA is seeking contractors to provide services across five functional areas, including software development, user research and data analytics. Market research experts estimate the ceiling on the contract could be as much as \$2.7 billion. Comments on the draft Request for Proposal are due by September 21.

Applications are now open for the 2024 class of Presidential Management Fellows. The PMF program brings in graduate-level students on a two-year fellowship to work in specific areas over a four-to-six-month timeframe. They are also given developmental training. Fellows generally are at the GS-9 to GS-12 levels and have an opportunity to take on rotational assignments. The 2023 class received 10,000 applications and 243 fellows earned appointments. Applications for the 2024 class will be open through September 25 and the new class of fellows will be announced in February 2024.

Sourced From: [\(Federal News Network\)](#)

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