www.few.org

1629 K Street NW, Suite 300
Washington, DC 20006
Phone: 202/898-0994
Fax: 202/898-1535

FEW Washington Legislative Update
January 1-15, 2024

In Congress:

On Tuesday, January 9, lawmakers reached a breakthrough when House Speaker Mike Johnson, R-La., and Senate Majority Leader Chuck Schumer, D-N.Y., announced a deal on top-line funding levels of $1.66 trillion for the fiscal year that began more than three months ago. The agreement preserved the funding levels President Biden negotiated last year as part of a deal to raise the debt ceiling, though it created new offsets to fund a small chunk of the spending. Overall, defense spending will jump 3 percent to $886 billion and non-defense spending will stay essentially flat relative to fiscal 2023 at nearly $773 billion.

On Wednesday, January 10, Reps. Maria Salazar, R-Fla., and Madeleine Dean, D-Pa. introduced the No AI Fake Replicas and Unauthorized Duplications Act of 2024 — shortened to the No AI FRAUD Act, which looks to protect U.S. citizens from predatory deep fakes and falsified images and content. The bill's text cites examples of generative AI technology defrauding individuals by mimicking or emulating their voices or likeness.

On Wednesday, January 10, Congress appeared to be on track to pass a third deadline extension for at least some of the government funding bills that were supposed to become law more than three months ago — putting off a potential government shutdown. The move, while not final, would give Congress and the Biden administration a few more weeks to reach a bipartisan compromise on the dozen annual appropriations bills.

Diversity, Equity, and Inclusion:

10 Key Programs on DEI for Business Leaders at the Work Economic Forum

The U.S. Securities and Exchange Commission (SEC) released its first Diversity, Equity, Inclusion, and Accessibility Strategic Plan in September. The brief plan, that encompasses the 2023 – 2026 fiscal years, is focused primarily on internal policies, but includes two goals that promote using the regulatory authority of the Commission to promote inclusion of underrepresented groups. This could signal new regulations relating to diversity, equity, and inclusion (DEI) in the financial sector.

DEI generally refers to the internal policies of a company or government entity relating to ethnicity, gender, and sexual preferences (EGS) of the employees. The rise of DEI is directly correlated with the global rise of environmental, social, and governance. ESG is a type of investing where non-financial factors are considered in the decision-making process. ESG is primarily focused on environmental policy and the Paris' Accords goal of net-zero by 2050. However, the social category has brought the most controversy, mostly in the United States, as some fund managers and businesses have included DEI policies within that category.

DEI has been a focus of the Biden Administration, including an executive order (EO) issued in June 2021 directing federal agencies to create DEIA plans and establish Chief Diversity Officers. It is focused exclusively on the makeup of the internal workforce of the Federal government.

The EO stated "The initiative will advance opportunity for communities that have historically faced employment discrimination and professional barriers, including: people of color; women; first-generation professionals and immigrants; individuals with disabilities; LGBTQ+ individuals; Americans who live in rural areas; older Americans who face age discrimination when seeking employment; parents and caregivers who face employment barriers; people of faith who require religious accommodations at work; individuals who were formerly incarcerated; and veterans and military spouses."

The SEC's DEIA plan is a direct result of that order. The overall plan is divided into three primary goals - People: Build our future through our people; Culture: Foster a culture of inclusivity, connectedness, and belonging; Mission: Leverage DEIA for mission effectiveness. Each goal is subdivided into priorities and actions relating to each of the elements of diversity, equity, inclusion, and accessibility.

While the majority of the priorities and actions are related to the handling of hiring and personnel matters within the agency, there are two notable actions that are outward facing under the Mission goal.

Equity: “Develop processes to ensure that the analysis for all regulatory matters includes consideration of underrecognized groups and analysis of potential unintended consequences of proposed regulatory action.”

Inclusion: “Educate and promote the benefits and importance of DEIA efforts with regulated entities in the financial services industry as well as sharing of best practices through the Diversity Assessment Report process and external outreach and engagement.”

If there is a question as to intent, in the introductory letter, SEC Chair Gary Gensler states “In promoting fairness and efficiency, it is important that access to our more than $100 trillion capital markets is inclusive.”

This indicates that the SEC is intending on utilizing its regulatory authority to push the financial markets towards the implementation of DEI policies. The exact method is yet to be seen.

The SEC is anticipated to release ESG reporting standards for publicly traded entities by the end of 2023. However, all indicators are that the new ESG rule is primarily focused on greenhouse gas emissions and other environmental policies. The SEC announced a new rule for ESG investment funds that regulates how they are marketed, but that is also focused on environmental issues, specifically greenwashing.

The most likely pathway is a new rule making the Diversity Assessment Report, created as a voluntary assessment in 2018, a mandatory part of the ESG report. Once reporting becomes mandatory, they can attempt to enforce regulatory requirements in the DEI metrics. California attempted a similar regulation in 2018, by requiring board composition to include at least one woman, and at least one minority or LGBTQ director. That law was held to be unconstitutional by a Federal court earlier this year.

The pathway to new regulation is often found in the tea leaves of internal policy statements. While purely speculative, it appears the SEC is moving towards a regulatory scheme relating to DEI.

Sourced From: [(Forbes)]

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Tier I

<u>Joint Statement by Acting Secretary of Labor Su, U.S. Equal Employment Opportunity Commission Chair Burrows on Anniversary of PWFA, PUMP Act</u>

Acting Secretary of Labor Julie Su and U.S. Equal Employment Opportunity Commission (EEOC) Chair Charlotte A. Burrows today issued a joint statement to mark the first anniversary of the Pregnant Workers Fairness Act (PWFA) and the Providing Urgent Maternal Protections for Nursing Mothers Act (PUMP Act):

“On Dec. 29, 2022, President Biden signed into law much-needed and long overdue workplace protections for pregnant and nursing workers. We celebrate the first anniversary of legislation that so many long fought for to create more equitable workplaces.

“Failures to accommodate limitations related to pregnancy and nursing have long acted as barriers to equitable workforce participation by women. It’s more apparent than ever that limiting pregnant and nursing workers’ opportunities hurts them and their families and limits the size of our labor force and the strength of our economy. Since these laws have been in effect, we have already seen that the PWFA and the PUMP Act are helping support the health and economic security of pregnant, postpartum, and nursing workers and their families nationwide.

“The PWFA is a tremendous step forward for families because it gives pregnant workers access to reasonable accommodations, allowing them to keep doing their jobs free from discrimination and retaliation. This law enables workers with limitations related to pregnancy, childbirth or related medical conditions to obtain changes at work that could help them stay employed and healthy during pregnancy and while they recover from childbirth, when doing so would not pose an undue hardship for the employer. These accommodations can be as simple as more frequent bathroom breaks or modifications to no-food policies. The law protects part-time, temporary and seasonal workers as well as full-time employees in all industries.

“The PUMP Act extends the right to break time and a private place to pump at work to millions more nursing workers and provides remedies for nursing workers whose rights have been violated. Before the PUMP Act, millions of workers had to choose either not to pump or to continue pumping and face possible discrimination, harassment or job loss as a result. The protections the PUMP Act enshrined into law will continue to empower new parents to express milk at work, providing greater peace of mind and reducing potential economic, mental health and physical consequences for nursing workers.

“Our agencies have been busy working together to make referrals, coordinate investigations, cross train federal personnel and educate workers about their new rights and employers about their responsibilities under the new laws. Together, we have developed a series on maternal health to share information about the protections provided by both laws and a new “Know Your Rights” resource outlining key federal workplace protections for pregnant, postpartum and pumping workers. The Department of Labor has launched an industry-specific webinar series on the PUMP Act, and the EEOC provides a host of resources related to the PWFA.

“We look forward to continuing to educate workers, employers, and our partners throughout the country on these laws and the protections they provide.”

Sourced From: **(U.S. Equal Employment Opportunity Commission)**

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New Year, New Benefit Changes

It’s a new year and there are new benefit amounts that take effect at the beginning of each year as well as basic pay adjustments for federal workers under the General Schedule and cost of living adjustments for retirees. For most feds, there are changes in the premiums paid for Federal Employees Health Benefits. For retirees who are working after retirement, there are also new earnings limits applied to their FERS Special Retirement Supplement and Social Security benefits.

Here are the changes to watch for this month.

Cost of Living Adjustments

Retired federal employees and entitled surviving family members of deceased federal employees and retirees get a cost-of-living adjustment effective on December 1, 2023, which should have been reflected in their benefit payable on January. 2, 2024. If you just retired on December 31, 2023, you need to wait until next January as your first COLA will be paid on January 2, 2025. Annuitants who retired earlier in 2023 will receive a prorated COLA during their first year on the annuity rolls. The proration is based on the number of months between the start date of the annuity and the effective date of the COLA. For example, if a CSRS employee had retired on December 31, 2022, they would have received 11/12 of the 3.2 percent COLA, or a 2.93 percent increase, on January 2, 2024.

Civil Service Retirement System

CSRS COLAs apply to all annuities, regardless of the age of the annuitant. CSRS annuitants who have been receiving retirement benefits for at least one year received the full 3.2 percent COLA.

Federal Employees Retirement System

In general, FERS employees who retire before age 62 do not see a COLA in their retirement benefit until the year they turn 62. There is an exception for disability retirees, survivor annuitants and those who retire under special provisions, such as law enforcement officers and firefighters. COLA increases for FERS annuitants eligible before age 62 only apply to the retiree’s basic annuity (not the annuity supplement). For spousal survivor annuitants, the COLA applies to both the basic survivor annuity and the FERS annuity supplement (payable to survivors of retirees who are under age 60). By the way, the FERS COLA for 2023 is only 2.2 percent due to the FERS rules that provide a "diet" COLA if the rate of inflation is higher than 2 percent.

Social Security COLA

The 3.2 percent COLA will begin with benefits payable to more than 66 million Social Security beneficiaries this month.

FERS Special Retirement Supplement Earnings Limit

FERS retirees receiving an annuity supplement are subject to an earnings test. In the spring, around May, OPM sends an annual survey to annuitants who receive the SRS, so they can report their earnings from the previous year. The annuity supplement will be reduced effective with the July 2024 FERS annuity payment (payable on Aug. 1) if the earnings were more than the limit established for the prior year by the Social Security Administration. The reduction is $1 for every $2 earned over the minimum level.

The Social Security earnings limit for 2023 was $21,240, up from $19,560 for 2022. The survey mailed around May 2024 will be for reporting earnings from 2023 earned after retirement and before age 62 above the 2023 earnings limit. For 2024 earnings, the limit is $22,320.

Social Security Earnings Limit

The earnings limit for workers who are younger than their full retirement age increased to $22,320 for 2024 as well. For every $2 earned over this limit, Social Security will deduct $1 from benefits. If you have earnings over the limit, notify Social Security immediately to avoid a large overpayment of your Social Security benefits. If you receive too much in benefits, Social Security will send you information regarding the options for repaying the amount owed.

For Social Security beneficiaries who reach the full retirement age in 2024, you are considered retired in any month that your earnings are $4,960 or less and you did not perform substantial services in self-employment. If you earn over this limit, Social Security will deduct $1 for every $3 earned over this limit. There is no limit on earnings for workers who are full retirement age or older for the entire year. That means if you are employed in federal service and have reached your full retirement age, you can start receiving Social Security retirement benefits even though you haven't retired. In addition, CSRS employees are not affected by the Windfall Elimination Provision or the Government Pension Offset until they begin receiving their CSRS retirement benefits.

Maximum Taxable Wage for FICA

For employees, there is an increase to the amount of income subject to the FICA tax. Based on the increase in average wages, the maximum amount of earnings subject to the Social Security tax (taxable maximum) will increase to $168,600 in 2024 from $160,200.

Medicare

If you plan to enroll in Medicare Part B and you missed your Initial Enrollment Period at age 65, there is a General Enrollment Period every year between January 1 and March 31. Part B coverage will start the month after you sign up. You might have to pay a permanent late enrollment penalty if you don't qualify for a Special Enrollment Period. Medicare premium for Part B is increased 10 percent for each full 12 months during which you could have been, but was not, enrolled.

The standard monthly premium for Medicare Part B enrollees will be $174.70 for 2024, an increase of $9.80 from 2023. You'll pay a higher premium for Part B if your modified adjusted gross income, as reported on your IRS tax return from two years ago, is more than $103,000 if you file an individual tax return or more than $206,000 if you are married and file a joint tax return. Most people pay the standard rate; however, the Income Related Monthly Adjustment Amount is an extra charge added to the premium for higher earners.

Postal Service Health Benefits Program

The PSHB will not begin until January 1, 2025. However, most Postal Service annuitants and their eligible family members who are entitled to Medicare Part A will be eligible to enroll in Medicare Part B during a six-month special enrollment period. Individuals who qualify for the SEP will receive a separate notification before April 1, 2024, according to the Postal Service Reform Act.

Federal Employees Health Benefits

The new rates for your FEHB plan take effect on January 14, 2024 for most federal employees, however, the rates for retirees took effect on Jan. 1 and will be adjusted in the CSRS or FERS benefit that you receive on February 1 (which is your January annuity payment).

Thrift Savings Plan

The annual elective deferral limit (i.e. limit on employee contributions) for 2024 is $23,000 (increased $500 from 2023) and the catch-up contribution limit for employees turning 50 in 2024 or older remains unchanged at $7,500. These limits apply to your contributions and do not include matching or automatic government contributions. If you're turning 50 or older and exceed the IRS elective deferral limit, then your contributions will automatically start counting toward the IRS catch-up limit.

In mid-January, the TSP will mail IRS Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., to participants who received a withdrawal between January 1 and December 27, 2023, and/or a taxed or foreclosed loan between January 1 and December 31, 2023. Withdrawals processed on December 28 and 29 are taxable income for 2024. A copy of your 2023 Form 1099-R will also be available in your My Account secure participant mailbox by mid-February. If needed, corrected forms will be issued within three weeks of verifying the correction. If you're expecting a corrected Form 1099-R, you may wish to wait to file your taxes until you receive the form. The content on the back of your 2023 Form 1099-R will look different from previous 1099-R forms you may have received from the TSP. For some reason, the content will include standard IRS information that may not be relevant to the TSP. It is a good idea to consult a qualified tax advisor or the IRS for questions about filing your taxes.

TSP life expectancy installments will be recalculated according to required updates to the assumptions used to determine those amounts. In early January, the TSP will send notices with more information, including recalculated amounts, to participants receiving life expectancy installments. Notices will go out based on participants' delivery preferences on file (by mail or online through the secure participant mailbox in My Account).

Required minimum distribution notices will be mailed in early January to separated participants who will be 73 and older in 2024 and to spousal beneficiaries with RMDs due for the 2024 calendar year. If you haven't done so already, the TSP encourages you to add direct deposit information in My Account to receive your money quickly and easily.

Sourced From: [(Government Executive)]

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Childcare Gaps in Rural America Threaten to Undercut Small Communities

Data collected prior to the pandemic shows that more than half of Americans lived in neighborhoods classified as childcare deserts – areas that have no childcare providers or where there are more than three children in the community for every available licensed care slot.

Other research shows parents and childcare providers in rural areas face unique barriers. Access to quality childcare programs and early education is linked to better educational and behavioral outcomes for kids and can also help link families and children to immunizations, health screenings, and greater food security by providing meals and snacks.

Policymakers and researchers now fear that inequitable childcare access threatens the sustainability and longevity of rural communities.

“If we want to keep rural parts of this country alive and thriving, we need to address this,” said Linda Smith, director of the Early Childhood Initiative at the Bipartisan Policy Center, a Washington, D.C.-based think tank.

According to an October report that Smith co-authored, there is a 35 percent gap between the need for and availability of childcare programs in rural areas, compared with 29 percent in urban areas, based on data from 35 states.

The report echoed concerns local, state, and national experts have raised for a number of years.

A report published last year by the National Advisory Committee on Rural Health and Human Services found that, per capita, more parents rely on family members or friends for childcare in rural areas than in urban areas. This isn’t sustainable for parents, said Cara James, CEO and president of Grantmakers in Health, a nonprofit that helps guide health philanthropy.

“Right now, we have a system that’s very expensive for people who can afford it and for people who can access it, not necessarily available to all those who need it,” James said. “That’s leading us to rely on other workarounds that are not ideal or ones that are giving the children the best support that they need to grow into healthy adults.”

For example, according to a state report, Montana’s total childcare capacity met 44 percent of estimated demand in 2021 and infant care capacity met only 34 percent of estimated demand. Garfield County had only 23 percent of potential demand for children under six. Nationally, the rural health advisory committee has found, childcare deserts are most likely to be located in “low-income rural census tracts.”

The dearth of childcare in many rural communities exacerbates workforce shortages by forcing parents, including those who work in health care locally, to stay home as full-time caregivers, and by preventing younger workers and families from putting down roots there.

Eighty-six percent of parents in rural areas who are not working or whose partner is not working said in a 2021 Bipartisan Policy Center survey that childcare responsibilities were a reason why, while 45 percent said they or their spouse cared for at least their youngest child. Staying home to care for children is a responsibility that disproportionately falls on women, affecting their ability to participate in the workforce and make an independent living.

A report from the rural health advisory committee shows that when center-based care is readily available in a community, the percentage of mothers who use that type of care and are employed doubles from 11 percent to 22 percent.

According to the Biden administration, pandemic emergency funding increased maternal labor workforce participation, stabilized employment and increased wages for childcare workers, tempered costs for families, and helped providers afford their facilities. That funding included $52 billion in emergency aid allocated by Congress for childcare program owners and low-income families.

The Biden administration requested congressional approval of $16 billion to extend the pandemic-era childcare stabilization program but doesn't have enough support to continue the funding, despite nearly 80 percent of voters supporting increasing federal funding for states to expand their childcare programs.

According to the administration, the funding would support more than 220,000 childcare providers in the U.S. that collectively serve more than 10 million kids. Montana would receive an estimated additional $46 million if Congress approved the request.

The pandemic provided some meaningful lessons, said Smith of the Bipartisan Policy Center. "Those stabilization grants were, I think, a key to what we actually need to do with childcare down the road."

The number of childcare programs has grown since before the pandemic in most states, but the employee count per facility has decreased. The federal cash infusion helped childcare employment rebound after a 35 percent dip at the beginning of the pandemic. By November 2022, the number of workers in childcare jobs had climbed to 92 percent of the pre-pandemic level.

In the best circumstances, Smith said, parents would pay more for childcare, and the corresponding supply or availability of programs would increase. But because parents are struggling to keep up with the rising costs, which in some places can be more than in-state college tuition, supply is stagnant.

Smith said the end of federal aid programs kicked the issue back to state and local governments. "I think most people would agree that what we need is some type of funding that goes to the programs to keep it so that they can do what they need to do and not charge the parents for it," she said.

Some state and local governments are doing so. In Alabama, lawmakers approved $42 million last year in the state budget for childcare. The Missouri state legislature approved $160 million for childcare. Voters in rural Warren, Minnesota, narrowly approved a half-percent sales tax to support a childcare center that was struggling to stay open.

During last year's legislative session, Montana lawmakers and Republican Gov. Greg Gianforte approved new laws to improve childcare access, including removing state licensing requirements for small in-home day cares and expanding a program that helps lower-income families pay for childcare.

"You can't sit here in Washington, D.C., and figure out how you're going to get childcare out in eastern Montana," Smith said. "It just doesn't work."

Sourced From: **(Route Fifty)**