

TO: NAW Direct Members

FROM: NAW Government Relations Team

RE: NAW Critical Update Number 93 – September 2 at 1:30 PM

We do not anticipate sending another update until next Tuesday when the Senate returns to Washington.

Hope everyone has a good Labor Day weekend.

1. Latest on the Paycheck Protection Program

In late April, the House of Representatives passed a resolution establishing a bipartisan “Select Subcommittee on the Coronavirus Crisis” to provide oversight of the Trump Administration’s response to the COVID-19 pandemic. Treasury Secretary Mnuchin testified before the subcommittee yesterday, with much of the back-and-forth focused on the stalled negotiations on a new stimulus package. (See our separate coverage of the legislative situation.)

In advance of the Secretary’s testimony, both the Majority Democrats and Minority Republicans released separate reports on the Paycheck Protection Program.

The Democratic majority “Preliminary Staff Report” is highly critical of the PPP, noting that there was extensive misuse and abuse of the program, and that thousands of borrowers received loans who should not have and billions of dollars of loan proceeds went to ineligible or inappropriate borrowers. The report also criticizes the Administration for inadequate review/audit of the PPP loans, and calls for more oversight:

Yet the Administration appears to lack the appropriate oversight mechanisms to identify and root out these problems. Treasury and SBA have only committed to auditing PPP loans that exceed \$2 million—leaving the other 99.4% of loans with little or no oversight ...

The Administration should exercise additional oversight to ensure PPP funds have only gone to eligible businesses. SBA’s and Treasury’s current audit plan—which includes audits of loans over \$2 million and “other loans as appropriate,” to be conducted only after the lender has submitted a loan forgiveness application—is plainly insufficient.

You can read their report [HERE](#).

The Republican minority report defends the PPP, providing extensive detail on how the program worked and how the SBA, Treasury and the lending banks implemented the program. The GOP report rejects the Democrat allegations of extensive fraud and abuse in the program and their demand for intensive oversight and review of the loans/borrowers:

SBA and Treasury worked together to quickly get funds to more than 84 percent of the country's small businesses, with minimal fraud ...

SBA accepted applications within six days of the passage of the CARES Act. While there were some challenges implementing the program, as would be expected in implementing a program of this size on an expedited timeline, SBA processed applications quickly and avoided fraud to the extent that is typical of disaster relief and other large government programs ...

The GOP Report can be accessed [HERE](#).

Also of interest to PPP borrowers: The Government Accountability Office (GAO) just released a new oversight report on the U.S. government response to the pandemic. In the report, the GAO said that the Trump Administration plans to use independent outside contractors to review PPP loans:

Specifically, SBA is currently working with Treasury to finalize plans for reviewing PPP loans. For example, SBA officials told us that a contractor would use an automated review tool to flag potentially questionable loans over \$2 million and that the contractor would conduct manual reviews of flagged loans. According to SBA officials, SBA would then complete the reviews with a combination of contract and federal staff, and another contractor would perform a quality assurance review on a sample of loans. However, as of August 14, 2020, SBA was still working with Treasury to finalize the specific review procedures its contractors and staff would follow.

In his Congressional testimony yesterday, Secretary Mnuchin confirmed that outside contractors would be used to review loans. The full 44-page GAO report is [HERE](#).

2. Latest on the Next Congressional Pandemic Relief Package

Senate Republicans are pulling together a narrow \$500 billion COVID-19 relief package and are aiming for a vote as early as next week. However, they still face likely resistance from some Republican Senators who oppose any additional economic stimulus. In addition, any move to actually consider the bill would need 60 votes in the Senate, and Democrats are expected to block it in the absence of a deal between Speaker Nancy Pelosi and the White House. Speaker Pelosi briefly spoke to Treasury Secretary Steven Mnuchin yesterday about another coronavirus stimulus bill, but they still have serious differences. NAW and our allies continue to push Congress for action on PPP expansion, liability protection and an end to the \$600 pandemic UI benefit.

The news for a potential vote in the Senate next week came yesterday just before Secretary Mnuchin testified before the House Coronavirus Select Subcommittee. During the hearing, Secretary Mnuchin called for lawmakers to go “piece by piece” passing virus aid on areas where there is agreement between Democrats and the White House. According to a draft of the Senate legislation obtained by *ABC News*, Republicans intend to offer:

- A \$300 weekly federal boost to unemployment benefits through the year's end, down from the \$600 per-week check distributed under previous stimulus legislation which ended in July; loosens requirements for small business loans to be forgiven;
- An additional \$258 billion for small business Paycheck Protection Program loans designed to allow those who have already borrowed to do so again;
- \$29 billion for Health and Human Services to assist in the development and distribution of vaccines, therapeutics and diagnostics, and demands a plan for “how the vaccine distribution plan will focus efforts on high-risk, underserved and minority populations;” and
- \$16 billion for testing and contact tracing; \$105 billion for schools – with substantially more going to those schools that have in-person classes.

The Senate returns from recess next Tuesday, and there is very little time to address the increasing coronavirus crisis, as well as to avert a government shutdown by September 30th. The House is not expected to return until September 14th. Members are also expected to be out the entire month of October to focus on the campaign. To read the in-depth *ABC News* story regarding the Senate’s COVID-19 relief package, click [HERE](#).

3. Latest on President's Unemployment Insurance Executive Order

More than three weeks after President Trump signed an executive action partially restoring boosted unemployment aid, 41 states have signed up to pay out the \$300-a-week federal portion of the sweetened aid. Many employers – including many NAW members – report that the bonus payment has made it difficult for them to hire or re-hire workers.

According to a story in *Fox Business*, Montana, West Virginia, Kentucky and Kansas are the only states that have committed to paying an additional \$100 to laid-off workers on top of the \$300 supplement. Kansas has yet to apply for the aid, but said it intends to do so. Only 7 states – Delaware, Illinois, Nebraska, New Jersey, Nevada, Wisconsin and South Carolina – have either not applied or not been approved for the money yet. Just 6 states – Arizona, Louisiana, Missouri, Montana, Tennessee, Texas – are paying laid-off workers the supplemental jobless aid. South Dakota has said it does not intend to apply for the money.

To read the full story in *Fox Business*, click [HERE](#).

4. Latest on Economic Recovery and Re-Opening the Workplace

As the Coronavirus Pandemic continues to impact the United States economy and businesses across the nation, it can be hard to decipher how new regulations and laws may impact your business. To help you manage these issues NAW is providing information about reports, webinars and seminars that you may find useful:

From *Little Law Firm*:

[Bouncing Back: A List of Statewide Return to Work Protocols](#)

Government officials across the country are easing up on stringent business closures. The chart provides links to re-opening plans and orders that have been issued thus far, at the statewide level.

From *Little Law Firm*:

[Facing Your Face Mask Duties – A List of Statewide Orders](#)

As businesses re-open, face coverings are likely to remain popular as a preventative measure. This post identifies the jurisdictions where face coverings are recommended or required.

Stateside Associates publishes a daily report about State and Local Government responses to the evolving situation. To read their latest report, click [HERE](#).

We are also providing a link to a spreadsheet that includes state and local COVID-19 response information provided by **MultiState Associates**. To view their spreadsheet, click [HERE](#).

5. Issues Unrelated to COVID-19

House and Senate Members now anticipate delaying infrastructure legislation for a year:

The last surface transportation bill, aptly named the Fixing America's Surface Transportation (FAST) Act, will expire at the end of this month. However, lawmakers in both the House of Representatives and the Senate are finally admitting that Congress will miss the deadline to pass a replacement surface transportation bill, something NAW has anticipated for months.

However, this process isn't surprising, in fact, Congress passed 13 funding extensions before they were able to come together to pass the FAST Act. The extension could pass both chambers as a standalone bill, or potentially, be included into a fourth coronavirus relief package, if Congress is able to get past the partisan gridlock that is currently delaying that legislation.

[Click here](#) for links to *Critical Updates sent previously*.

Many thanks—

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