News from Washington

‘U.S. Mail: Not for Sale’ rallies planned around the country on Oct. 8

On Columbus Day (Monday, Oct. 8), NALC, the American Postal Workers Union (APWU), the National Rural Letter Carriers’ Association (NRLCA) and the National Postal Mail Handlers Union (NPMHU) are collectively planning to hold rallies in each congressional district to demonstrate against any effort to privatize the U.S. Postal Service. The “U.S. Mail: Not for Sale” rallies result from increased grassroots interest from communities around the country that oppose privatizing the Postal Service.

This past spring, the White House announced the formation of a postal task force to make recommendations for potential legislative and administrative actions by Aug. 10. While the report had not been released at the time this article was written, the administration tipped its hand with actions taken by the Office of Management and Budget (OMB).

In June, OMB released a government-wide reorganization plan that called for major changes at federal agencies. Most notably, the plan called for restructuring the Postal Service before eventual privatization. This move prompted Congress to act, with the introduction of H. Res. 993, a bipartisan sense of the House of Representatives resolution that calls for the Postal Service not to be privatized.

With that resolution climbing toward the goal of 218 co-sponsors—a majority of the House—our focus has shifted to states where privatization of the Postal Service is highly unpopular. In response, NALC is working with the other postal unions, members of Congress and community allies to rally in every congressional district to highlight not only opposition to postal privatization, but to support lawmakers who stand for a public Postal Service.

“NALC is proud to join our brothers and sisters from APWU, NPMHU and NRLCA in a show of solidarity on Oct. 8 against this administration’s efforts to privatize the Postal Service,” NALC President Fredric Rolando said. “These rallies, to be held at congressional district offices in all 50 states, will be opportunities for us to thank our members of Congress who have signed onto House Resolution 993 already, to encourage members who have not yet signed on to do so ahead of the midterm elections, and to show the country that letter carriers and other postal employees will not tolerate the gutting of our nation’s most treasured government institution.”

NALC encourages letter carriers and their friends and families to participate in these rallies. For more information or to find an event near you, visit nalc.org.

Midterm elections outlook

Midterm elections are quickly approaching, and lawmakers and much of the country are counting down the days until Nov. 6. All 435 House seats and 35 Senate seats are up for election this fall, putting control of Congress up for grabs.

“NALC’s priorities will remain the same, regardless of which party holds more seats,” President Rolando said. “We will continue to engage both Democrats and Republicans, educating lawmakers of all stripes on all issues of importance to us.”

Midterm elections are historically tough for the party of the president in power. They tend to be viewed as voters’ first opportunity to provide a substantive rebuke or endorsement of the president’s first two years. While incumbents tend to have an advantage over newcomers, and committee chairmen and chairwomen enjoy even more recognition, there are no guarantees in Washington.

Currently, Republicans control both chambers, with 237 members in the House and 51 in the Senate. To see a change in leadership, House Democrats would need to pick up at least 25 seats. According to the independent, non-partisan Cook Political Report, here’s how the House breaks down ahead of the election:

	Democratic-held seats	Republican-held seats
Solid Democrat	182	0
Likely Democrat	8	3
Lean Democrat	2	7
Toss Up	2	28
Lean Republican	0	27
Likely Republican	1	25
Solid Republican	0	150

Democrats may benefit in November from a sense of momentum coming off high-turnout primaries across the country. It’s unclear whether it will be enough to retake the House.

Although Senate Democrats would need to secure just two more seats to overcome a tie-breaker vote by Vice President Mike Pence, this outcome is likely to be far more difficult than a House takeover. With 35 total seats up for re-election in 2018, only nine are held by Republicans, while Democrats (and two independents who caucus with them) are defending 26 seats. Fewer than a dozen of the contests are expected to be competitive. Seven of those are held by Democrats, while Republicans only have Sens. Dean Heller's (R-NV), Jeff Flake's (R-AZ) and Bob Corker's (R-TN) seats to worry about, though Sen. Ted Cruz's (R-TX) opponent, Rep. Beto O'Rourke (D-TX), is gaining ground and could make it a contest.

Here's how the Senate ratings break down, according to the Cook Political Report:

	Democratic-held seats	Republican-held seats
Solid Democrat	14	0
Likely Democrat	5	0
Lean Democrat	2	0
Toss Up	5	3
Lean Republican	0	1
Likely Republican	0	2
Solid Republican	0	3

As the 115th Congress comes closer to adjourning, letter carriers may see a drastically different Congress in January 2019. Congressional leadership is likely to change, as will leadership in NALC-priority committees. As noted above, however, new players won't change the game for how NALC pursues its goals or its bipartisan approach.

The remainder of the 115th Congress

Throughout the 115th Congress, letter carriers have rallied lawmakers to sign on as co-sponsors to several House resolutions, including:

- **H. Res. 15**—which calls for the Postal Service to preserve six-day mail delivery, stands at 256 co-sponsors (184 Democrat, 72 Republican);
- **H. Res. 28**—which calls for the Postal Service to preserve door delivery, has 247 co-sponsors (186 Democrat, 61 Republican);
- **H. Res. 31**—which calls for the Postal Service to maintain service standards, has 227 co-sponsors (177 Democrat, 50 Republican); and
- **H. Res. 993**—which calls for the Postal Service to remain independent and to not be subject to privatization, has 147 co-sponsors (117 Democrat, 30 Republican).

The first three all have more than 218 co-sponsors, meaning they enjoy a majority of support in the House of Representatives, but H. Res. 993, which was introduced only in July, continues to gain support. Reaching 218 co-sponsors for H. Res. 993 is critical as we await the White House Postal Task Force report.

What does all this mean for postal reform? With the upcoming midterm elections taking up all the oxygen, don't expect any action on the imperfect Postal Reform Act of 2018 (H.R. 6076, which replaced H.R. 756), and the same goes for the Postal Service Reform Act (S. 2629). Both bills aim to solve the underlying financial issues, but both still require work, which has stalled. This work could resume in the lame-duck session of Congress (after the elections), depending on the outcome of the elections. NALC will closely monitor Capitol Hill for any activity on postal reform.

Two confirmed for Board of Governors, two more nominated

On Aug. 28, the Senate confirmed the nominations of David Williams (D) and Robert Duncan (R) to serve as members of the U.S. Postal Service's Board of Governors, each for one term.

David C. Williams was confirmed to serve the remainder of a seven-year term that ends Dec. 8, 2019. Williams has a long history of government service. He joined the Secret Service after a tour of military duty in Vietnam, and then served as part of the Department of Justice's Organized Crime Strike Force. Following his work on President Ronald Reagan's Commission on Organized Crime, he led the Office of Special Investigations at the General Accounting Office (since renamed the Government Accountability Office). He was then confirmed as the inspector general (IG) for several federal agencies, including the Nuclear Regulatory Commission, Social Security Administration, Department of the Treasury, Internal Revenue Service and Department of Housing and Urban Development. His longest stint as an IG, at the Postal Service (from 2003 until his retirement in 2016), led to his nomination to the Board of Governors.

Robert M. "Mike" Duncan was confirmed to serve for the remainder of a seven-year term that ends in Dec. 8, 2018. He is a banker and currently serves as chairman and CEO of Inez Deposit Bank, as well as chairman of the President's Commission on White House Fellows. Previously, Duncan served on the board of the Tennessee Valley Authority and was chairman of the Republican National Committee from 2007 to 2009.

Duncan was later elected chairman of the Board of Governors during an open meeting of the Temporary Emergency Committee (TEC) of the Board, with Williams elected vice chairman. Additionally, Williams was elected chairman of the TEC, with Duncan serving as vice chairman.

On Sept. 6, the White House formally sent the nominations of Ron Bloom (D) and Roman Martinez IV (R) to the Senate for consideration.

Bloom, who will be nominated for the remainder of a seven-year term expiring Dec. 8, 2020, began his career as an investment banker and union consultant before serving as the special assistant to the president of the United Steelworkers for many years. President Barack Obama appointed Bloom to serve as the assistant to the president on manufacturing policy in 2009, when he helped rescue the auto industry during the Great Recession. In 2011, he returned to investment banking at Lazard, where he served as vice chairman, U.S. investment banking. During his time at Lazard, he advised NALC on postal issues and appeared at both a national rap session and a national convention. Bloom is currently managing partner and vice chairman at Brookfield Asset Management, where he helps manage the firm's private equity investments.

Martinez will be nominated for the remainder of a seven-year term expiring Dec. 8, 2024. He began his career as an investment banker in 1971 at Kuhn Loeb & Co., until it was acquired by the now-defunct global financial services firm Lehman Brothers. Martinez worked there as managing director of investment banking until his retirement in 2003. Since 2003, he has served on the board of directors for several different companies and has been involved in various Republican presidential and Senate campaigns.

To be confirmed, nominees must appear for confirmation hearings before the Senate Committee on Homeland Security and Government Affairs (HSGAC). If they are approved by the committee, their appointments will be subject to a confirmation vote by the entire Senate.

The USPS Board of Governors consists of 11 members: nine governors and two ex officio members, the postmaster general and the deputy postmaster general. While the board functions similarly to a board of directors of a publicly held corporation, it has not been fully staffed since 2010 and lost its final appointed governor in December 2016, leaving all nine positions vacant. If Bloom and Martinez are confirmed, four of the nine seats on the Board would be filled, enough to achieve a quorum if the postmaster general and deputy postmaster general are present.

"NALC is pleased to see action taken by the Senate to fill the first two vacancies," NALC President Fredric Rolando said. "We encourage the Senate to begin consideration of these additional nominations, and we urge the administration to fill the remaining vacancies with qualified nominees."

NALC will continue to work with the Senate and the administration to ensure that letter carriers' interests are represented.

Judge overturns administration's anti-federal union orders

On Aug. 25, a federal judge invalidated key provisions in three executive orders the White House issued in May, which had made it easier for agencies to fire federal workers and also placed strict limits on union activities. (The orders did not apply to the Postal Service and its unions.)

In her ruling, Judge Ketanji Brown Jackson of the U.S. District Court for the District of Columbia said the executive orders were a clear violation of the Federal Service Labor-Management Relations Statute of 1978. Under that statute, Congress gave federal employees the right to unionize and negotiate job contracts as a matter "of public interest."

"The Court has concluded that many of the challenged provisions of the Orders at issue here effectively reduce the scope of the right to bargain collectively as Congress has crafted it, or impair the ability of agency officials to bargain in good faith as Congress has directed, and therefore cannot be sustained," the ruling stated.

The district court's ruling resolved four lawsuits filed against the administration by several federal employee unions, led by the American Federation of Government Employees (AFGE). The unions challenged the three orders that rolled back labor protections for federal workers.

One order made it easier to fire and discipline federal employees. Depending on the agency, firing an employee for poor performance could take six months to a year, not including the appeals process. This order gave employees only 30 days to improve their job performance, instead of the current limit of up to 120 days. It also instructed agencies to ignore contracts that prioritized seniority during layoffs.

Another executive order directed federal agencies to spend less time negotiating contracts with labor unions and set a goal of no more than six months to reach an agreement, after which the agencies would be free to unilaterally implement contracts containing their "last best offers." This would have destroyed the agencies' incentives to bargain in good faith.

A third order placed limits on how much time employees in union leadership roles can spend on union activities during work hours. This is known as "official time," and it can include helping other employees file grievances or resolve other workplace problems. The administration sought to limit official time to 25 percent of an employee's yearly work hours.

The administration said it has the legal authority to give such guidance to executive agencies that answer to the president. But the orders prompted immediate litigation from unions representing government employees.

AFGE, which is the largest union involved in the lawsuits, said the efforts were a "direct assault on the legal rights and protections that Congress specifically guaranteed to the public-sector employees across this country who keep our federal government running every single day."

Judge Jackson's ruling described the administration's defense of the orders as an attempt to do "verbal jujitsu" with the law. She rejected the argument that the administration had the power to interfere with union negotiations that are protected under federal law.

"There is no rational explanation for Defendants' suggestion that Congress would have intended for the President to have the power to act in this fashion at all in regard to the matters that the FSLMRS specifically characterizes as negotiable. Quite frankly, it is hard to even imagine a rational statutory exception that is intentionally designed to swallow the rule," she wrote.

Jackson effectively revoked most of the measures in the executive orders, although federal unions may need to take further judicial action to reverse actions already taken under the improper executive orders.

"This is a huge win for all federal employees, including postal employees whose rights could have been targeted next," President Rolando said. "We thank our brothers and sisters at AFGE—and the other federal unions—for defending our rights under the law."

President sets goals on international pricing/customs at UPU Congress

On Aug. 23, President Trump issued a policy memorandum providing directions to the State Department for negotiations over international postage pricing at an upcoming meeting of the Universal Postal Union (UPU), the United Nations organization that sets international postage rates and regulates the flow of international shipping between 192 nations. UPU was set to hold a special Congress in September in Ethiopia, just after the memo was released.

The memorandum calls on the State Department to improve UPU's system of "terminal dues," the fees postal operators such as the U.S. Postal Service charge for delivering mail from other operators (e.g., the Royal Mail of the United Kingdom or China Post), and to negotiate changes in customs procedures for postal shipments to match those that apply to private shippers under different treaties. These fee arrangements and procedures are set by a treaty between the 192 member-nations of the UPU.

The terminal dues system has become controversial in the age of international e-commerce, because it provides developing countries lower final delivery rates than it does for industrialized countries. As a result, e-commerce merchants in the United States complain that vendors in foreign countries are being unfairly subsidized with below-cost delivery services. This problem is especially acute with regard to e-commerce merchants based in China. Before changes were adapted in July, USPS lost tens of millions of dollars providing such deliveries in the United States because China Post receives the lower rates charged to developing countries under the UPU treaty. The July expiration of a bilateral agreement between USPS and China led to significant rate increases for Chinese shippers.

The UPU recognized the problems with the existing terminal dues system at the last regular UPU Congress in 2016 and called for a special Congress in Ethiopia on Sept. 12 to address the problems. (The UPU normally meets every four years.)

On customs procedures, for example, the White House memorandum calls on UPU to require postal operators to provide customs officials advanced electronic data (AED) on shipments from foreign post offices to help combat the flow of illicit opioids.

Industry reaction

Response to the policy memorandum has been positive—both USPS and the Postal Regulatory Commission issued statements in support.

The Postal Service and other postal operators in industrialized countries have been urging the State Department to improve the terminal dues system for years, but they have lacked the votes in UPU to make the necessary changes. Private shippers (UPS and FedEx) have also called for higher rates, believing that they lose possible business to postal operators charging below-cost rates.

Meanwhile, most industry stakeholders would welcome a UPU solution to the opioid trafficking issue. Systemic solutions are much more preferable than the flawed approach offered by bills such as the Synthetics Trafficking and Overdose Prevention (STOP) Act, which would place unreasonable burdens on the Postal Service.

NALC generally supports the policy goals outlined in the memo. However, we have two concerns:

- First, any mandate to provide AED on international shipments should provide a sufficient transition period to postal operators in developing countries, as well as the funding required to acquire the needed technology.
- Second, the memorandum includes a threat by the administration to unilaterally impose "self-declared" terminal dues rates if UPU does not reach an agreement that embodies U.S. policy goals. In a complicated diplomatic situation like UPU, such threats are rarely effective. The U.S. government is just one of 192 member countries. Implementing unilateral rates should be a last resort, since other countries might respond with retaliatory fees or tariffs on shipments from the United States. This would leave all postal operators worse off by causing volume and revenue to fall.

"We welcome UPU's attention to this matter," President Rolando said. "UPU is the right forum for dealing with terminal dues, opioids in the mail and other customs procedures, but great care should be taken to preserve the free flow on international mail—which is beneficial to the international economy and essential for international freedom and democracy."

See the White House's memorandum here: www.whitehouse.gov/presidential-actions/presidential-memorandum-secretary-state-secretary-treasury-secretary-homeland-security-postmaster-general-chairman-postal-regulatory-commission.

President orders federal employee pay freeze

In a letter released Aug. 30, the White House announced that it would rescind a scheduled pay increase for federal employees in 2019. This announcement, made just days before Labor Day, goes against the planned 1.9 percent pay raise in the Senate's fiscal year 2019 Financial Services and General Government spending bill (S. 3107), released weeks previously. (This federal employee pay freeze does not affect letter carriers.)

The announcement that the country "cannot sustain such increases" follows the December 2017 passage of the Tax Cuts and Jobs Act (H.R. 1), which overwhelmingly benefit those who make more than $200,000 per year and which is projected to increase the national debt by $1.9 trillion between 2018 and 2028, according to the Congressional Budget Office (CBO).

"We must maintain efforts to put our Nation on a fiscally sustainable course, and Federal agency budgets cannot sustain such increases," the White House stated in the letter to congressional leaders. "I have determined that for 2019, both across-the-board pay increases and locality pay increases will be set at zero."

The move sparked a wave of criticism from congressional Democrats and from an Ohio Republican.

"Zero. This seems to be how much respect President Trump has for federal workers," Sen. Ben Cardin (D-MD) said. "It is outrageous and hypocritical that after spending billions of taxpayer dollars on unnecessary tax cuts for the wealthy and big corporations...that suddenly the White House finds that there is zero money left to pay a minimal cost-of-living adjustment."

"President Trump is feeling cornered and lashing out by canceling a modest, planned pay increase for our dedicated federal workforce," Rep. Gerry Connolly (D-VA) said. "His tax bill exploded the deficit, and now he is trying to balance the budget on the backs of federal workers."

"Congress must act to reinstate the increases for our civilian federal workers before the end of this fiscal year," Rep. Michael Turner (R-OH) said. "We must work together to balance the budget but not on the backs of federal civilian employees."

"It's insulting to blame these unfair pay cuts on 'economic conditions' as President Trump's policies have lined his own pockets and blown up the debt projections by trillions of dollars," Sen. Tim Kaine (D-VA) said. "Virginia is home to more than 170,000 civilian federal employees, one of the highest concentrations in the country. Trump's pay cut would disproportionately hurt veterans, who make up one third of the federal workforce."

As this issue was being prepared, the House and Senate were expected to begin deliberating over whether to accept the Senate's proposed 1.9 percent pay increase or adopt the pay freeze. Should Congress choose to adopt the pay increase, that move would effectively override the White House's freeze announcement.

To add insult to injury, hours after proposing the pay freeze on the basis of the unsustainable fiscal standing of the country, the president announced in an interview that he is considering issuing a regulation that would index capital gains to inflation, a move that would result in about $100 billion in tax cuts for the wealthiest Americans. **PR**