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Congressional Overview

Both the House and Senate were still officially in recess this past week as part of the annual August district/state work period. This recess, formalized by the Legislative Reorganization Act of 1970, allows lawmakers to return to their home districts to engage with constituents through town halls, community visits, and local events.

Speaking of local, the redistricting map wars are here. A new Congressional map designed to add as many as 5 GOP seats advanced in the Texas legislature and Democrats in California hope to take their first step on a new map. "I don't think it's going to stop with Texas," said California Gov. Gavin Newsom.

The Infrastructure Expansion Act Reforms NY Scaffold Law

Rep. Nick Langworthy (R-NY) has introduced the Infrastructure Expansion Act, a federal bill that would reform New York's 139-year-old Scaffold Law by preempting it on federally funded construction projects. The proposal aims to eliminate the state's absolute liability standard in favor of a comparative negligence approach, aligning New York with every other U.S. state.

Currently, New York law holds property owners and contractors 100% liable for elevation-related construction injuries—regardless of whether the injured worker was at fault. Known as the Scaffold Law, the statute is the last of its kind in the country. Under Langworthy's legislation, projects using federal funds would no longer be subject to this absolute liability rule. Instead, courts would consider the proportional fault of each party in accidents.

"This bill is urgently needed to preempt this broken liability standard on federally funded projects and get New York building again," said Langworthy.

According to industry estimates, the Scaffold Law increases construction costs by 5% to 10% across New York State. Langworthy's office projects that the Infrastructure Expansion Act could save taxpayers over \$2 billion in federal spending over the next decade.

The bill is now under committee review in the House. If passed, it would affect all federally funded construction in New York, likely prompting insurance carriers to re-enter the market and lowering premiums for builders. Industry leaders say it could also pressure state lawmakers to consider broader reforms.

FCA International lobbied for this reform at its legislative fly-in to Washington D.C. this past July.

FY26 National Defense Authorization Bill's Procurement Issues

Before the August recess, the Senate set up votes on its \$925.8 billion defense authorization bill for fiscal year 2026, which will be addressed when Congress returns in the first week of September. The measure (S. 2296) would authorize \$32 billion more than the Trump administration requested, including additional funds for shipbuilding and F-35 Joint Strike Fighters.

In contrast, the House draft measure (H.R. 3838) aligns more closely with the administration's request, authorizing \$892.6 billion. When combined with the resources provided under the reconciliation bill – the One Big Beautiful Bill – defense spending could surpass \$1 trillion, a historic first for the nation.

OSHA Releases Rulemaking Docket on Heat Injury and Illness Prevention Rule

The Occupational Safety and Health Administration (OSHA) has released, in the rulemaking docket, its Compilation of Public Hearing Questions, following its informal rulemaking hearing for the proposed heat injury and illness prevention rule. The document lists all the questions that OSHA asked participants at the hearing. FCA will use this information as we prepare our post-hearing comments. Finally, full transcripts for each day of the hearing are now available on OSHA's website.

President Trump's Plan to Expand Apprenticeship Programs

The Trump Administration has unveiled a comprehensive plan to expand the Department of Labor (DOL)'s apprenticeship program and simplify licensing rules, aiming to place one million workers into new apprenticeships. This plan is expected to take years to implement, with each of its pillars likely requiring at least a decade to fully realize. The plan allows federal agencies to cut underperforming programs while rewarding successful ones.

In an April executive order, President Trump directed the Departments of Labor, Education, and Commerce to develop a "Comprehensive Worker Investment and Development Strategy," initiating a full-scale review of federal workforce development programs. Released last week, the strategy outlines five key pillars designed to "fuel the golden age of the American economy." These include scaling the DOL's registered apprenticeship system, targeting unemployed populations for training, consolidating training programs under the DOL, and expanding regulatory waivers to foster the development of new programs, particularly in artificial intelligence (AI). Additionally, the plan permits agencies to terminate grants that fail to meet "first-year benchmarks" and reallocate funds to providers that demonstrate success in connecting individuals to high-wage jobs.

The 29-page document offers the most detailed roadmap from the DOL on achieving the president's objectives of expanding the workforce and enrolling a record number of apprentices. The DOL has already canceled several job training grant funds deemed poor-performing, wasteful, or overly focused on "Diversity, Equity, and Inclusion."

Update on OSHA's Walkaround Rule

The Worker Walkaround Representative Rule, finalized by OSHA and effective since May 31, 2024, allows employees to designate a third-party representative—such as a union official or safety expert—to accompany OSHA inspectors during workplace inspections. This applies regardless of union status or whether the representative is employed by the company. The rule remains in effect and is being applied during inspections throughout 2025.

Employers are advised to update inspection protocols to accommodate third-party representatives and ensure site leads are trained on how to handle these situations.

The rule is facing ongoing legal challenges, primarily questioning OSHA's authority to expand who may participate in inspections. Critics argue that allowing non-employees into workplaces could pose security, confidentiality, and operational risks, especially for large businesses. Despite these challenges, no court has yet blocked the rule, and it continues to be enforced.

Employers are advised to:

- Review and revise visitor policies to reflect the possibility of third-party walkaround representatives,
- Train supervisors and safety personnel on how to manage inspections under the new rule and
- Document all inspection activities thoroughly to ensure compliance and protect against potential disputes.