NATIONAL INDEPENDENT VENUE ASSOCIATION (NIVA)
EXPLAINS PROPOSED LEGISLATION
SAVE OUR STAGES ACT* AND *RESTART ACT
WILL ASSIST INDEPENDENT VENUES DURING THE PANDEMIC
WHILE OTHER PPP BILLS WILL NOT

August 5, 2020 – With just days left for Congress to act, National Independent Venue Association (NIVA) provides a technical explanation of which legislation will save the industry, which will not, and why. Without the passage of the **Save Our Stages Act** and/or **RESTART Act**, 90% of NIVA members say they will be forced to close forever. More than 1.5 million emails have gone to Congress through saveourstages.com asking legislators to help independent venues while we're forced to remain closed. More than 2,500 venues across America, from New York's Bitter End to Tulsa's Cain's Ballroom to LA's Troubadour - and everywhere in between - are at risk of shuttering forever. Neither the House-passed HEROES Act, nor the HEALS Act nor the Prioritized Paycheck Protection Program Act (P4 Act) address the needs of long-shuttered businesses like independent venues.

"We have repeatedly heard there is an interest in helping the 'hardest hit industries' survive the pandemic," said Adam Hartke, co-chair of NIVA's Advocacy Committee and president of Hartke Presents in Wichita, KS. "Our industry has zero revenue and because our businesses are based on large gatherings, we'll be shut well into 2021."

But as arguably the hardest hit industry by the pandemic, with no revenue, high overhead and no timeline for reopening, the Payroll Protection Program (PPP) and the proposed updates to the program found in the House-passed HEROES Act, Senate Democrats' P4 and Senate Republicans' HEALS Act are not viable solutions for this industry. Here's why:

- **PPP penalizes companies with many part-time employees**: Per the SBA 7(a) program, eligibility is based on every single employee. Therefore, original PPP funding was available to those with fewer than 500 employees using a full headcount. This disadvantages many NIVA members and other small businesses like ours who depend on part-time employees. For example, Merriweather Post Pavilion, just outside of DC, provides seasonal, part-time work to more than 1,000 part time employees like schoolteachers and students. These are small businesses that are ineligible due to the fact that they rely on part-time workers. **Using a Full Time Equivalent (FTE) count is more practical. NIVA members across-the-board have fewer than 150 FTEs.**

- **Forgiveness is crucial for shuttered industries with negative cash flow**: Forgiveness restrictions in PPP, P4 and HEALS Act **make forgiveness unattainable** for many NIVA members (more detail below). The Recovery Sector Business Loan Program in the HEALS Act provides no forgiveness at all. Due to the nature of our business – large public gatherings – our industry is experiencing essentially 100%+ revenue loss for an indefinite period of time. We cannot take on more debt with negative cash flow. For many small business owners, this could mean potentially losing their homes in a quest to ensure their livelihood.

- **Flexibility to use funds to keep the lights on is necessary**: Due to high overhead (large spaces often in high-rent districts), lower payroll costs as a percentage of expenses, and having no work to offer employees for the foreseeable future, **the 60/40 requirement necessary to obtain forgiveness under PPP does not work for this specific industry**. We need help to cover fixed overhead to pay rent, mortgages, utilities, taxes and insurance until we can all fully reopen safely.

- **Payroll is not our only, nor our biggest expense**: For PPP and the extension of the program in the HEROES Act, PPP Second Draw in the HEALS Act, and P4 the loan amount is 2.5 times average payroll costs. We are in high-rent districts in large buildings with enormous overhead, so the ratio of 2.5 times payroll costs is not enough to cover our fixed costs or sustain our businesses – particularly we have no revenue well into 2021. **Basing the loan amount on multiple expenses/gross revenue/operating costs, and not just payroll is crucial.**

- **Long-term support is needed with reopening not expected until a vaccine**: The Heroes Act includes no long-term program to provide assistance for shuttered industries. P4 and the HEALS Act extend through the end of the year. Large gatherings will likely not happen until there is a vaccine, and **we will not be able to fully recover until large gatherings are permitted again at full capacity** – which may be until well into 2021. By all predictions, our industry will come back stronger than ever – we just need federal assistance to help us stay afloat until we can reopen our doors.

- **Opportunity Zone Requirement penalizes industries that foster economic growth:** The HEALS Act Recovery Sector Loan Program is only available to those in an opportunity zone. Not all of our venues fall into opportunity zones, but we are all experiencing essentially 100% revenue loss with no idea of when we will be able to reopen. **Our members have historically helped developing neighborhoods all over the country.** For example, when the 9:30 Club opened in DC, it was in an economically distressed area, but it led the charge in fostering local economic growth, paving the way for other businesses like bars, restaurants, and retail shops that knew events would generate income for their businesses.

While the HEROES Act, P4 and the HEALS Act will not save our mom and pop venues all over the country, **there are two proposals that *will* save our industry:**

- **Save Our Stages Act (S. 4258/H.R. 7806)** led by Senators John Cornyn (R-TX) and Amy Klobuchar (D-MN) and Representatives Peter Welch (D-VT) and Roger Williams (R-TX)
  - **Ensures forgiveness and increases access:** This bill establishes a $10 billion grant program for live venue operators, promoters, producers and talent representatives. By offering grants, forgiveness is ensured. In addition, grants increase access for business owners that may not have a relationship with banks. Finally, the bill extends eligibility to state and locally owned venues (like Red Rocks in Denver, CO) and non-profits that otherwise meet the eligibility requirements.
  - **Doesn't penalize industries that rely on part-time employees:** Counts FTEs as 1 employee and part-time employees as ½ an employee. Based on this definition, NIVA members have fewer than 250 FTEs.
  - **Ensures sufficient funding to survive until reopening:** Rather than basing loan amount on payroll, grants are made to eligible recipients in an amount equal to 45% of gross revenue from 2019, with a cap of $12 million.
  - **Provides long-term support:** Provides supplemental grants at the end of 2020 to businesses that demonstrate continued need based on continued revenue loss. This is the only bill that recognizes venues will be closed well into 2021 and seeks to provide truly long-term support.
  - **Ensures the ability to keep the lights on:** With no restrictions on percentage used for payroll versus other costs, the bill permits recipients to use grants for costs incurred during the COVID pandemic for rent, utilities, mortgage obligations, PPE procurement, payments to contractors, regular maintenance, administrative costs, taxes, operating leases, and capital expenditures related to meeting state, local, or federal social distancing guidelines.

- **RESTART Act (S. 3814/H.R. 7481)** led by Senators Todd Young (R-IN) and Michael Bennet (D-CO) and Representatives Jared Golden (D-ME) and Mike Kelly (R-PA)

  - **Includes forgiveness for the hardest hit industries**: Offers up to 90% forgiveness for loans to companies that have high revenue loss.
  - **Doesn't penalize industries that rely on part-time employees:** Counts FTEs as 1 employee and part-time employees as ½ an employee. Based on this definition, NIVA members have fewer than 250 FTEs.
  - **Ensures sufficient funding to survive until reopening:** Rather than basing loan amount on payroll, grants are made to eligible recipients in an amount equal to 45% of gross revenue from 2019, with a cap of $12 million.
  - **Ensures the ability to keep the lights on:** With no restrictions on percentage used for payroll versus other costs, the bill permits recipients to use grants for costs incurred during the COVID pandemic for rent, utilities, mortgage obligations, PPE procurement, payments to contractors, regular maintenance, administrative costs, taxes, operating leases, and capital expenditures related to meeting state, local, or federal social distancing guidelines.

About NIVA: Formed at the onset of the COVID-19 shutdown, National Independent Venue Association (NIVA), now represents more than 2,500 members in all 50 states and Washington, D.C. These independent venues and promoters were the first to close and will be the last to fully reopen. NIVA's mission is to preserve and nurture the ecosystem of independent live music venues, promoters and festivals throughout the United States.

NIVA Media Contact: Audrey Fix Schaefer, audrey@930.com