May 8, 2020

TO: USTOA Members

FR: Terry Dale

Below is our COVID-19 Update for May 8, 2020:

**Congress**

COVID-19 Package Intelligence

* Speaker Pelosi continues to finalize the next package that she hopes to unveil as early as Monday, with a vote possible on Thursday. The proposal is expected to be far more than $2T, focusing on many of the programs that were included in the CARES Act. The timing could change if the Republicans start to negotiate.
* Leader Schumer continues to push for funds for state and local governments, the Heroes Fund, Paycheck Protection Program (PPP) funding with reforms, funds for the US Postal Service and unemployment benefits, among other programs.
* As we have flagged in our updates this week, the Senate Judiciary Committee will be holding a hearing next week on Tuesday, 5/12, to examine liability during the COVID-19 pandemic. All public information on the hearing can be found [here](https://www.judiciary.senate.gov/meetings/examining-liability-during-the-covid-19-pandemic" \t "_blank). We are hearing that the maximum capacity with social distancing for the witnesses is four; therefore, some witnesses will be testifying virtually. The likely witnesses include:
  + Kevin Smart – QuickChek Convenience Stores
  + Rebecca Dixon – Executive Director, National Employment Law Project
  + Leroy Tyner, Jr. – General Counsel, Texas Christian University
  + Marc Perrone – International President, The United Food & Commercial Workers International Union
  + Helen Hill – Chief Executive Officer, Charleston (SC) Area Convention and Visitors Bureau
  + David Vladeck – A.B. Chettle Chair in Civil Procedure, Georgetown University
* Sen. Kamala Harris (D-CA), Sen. Bernie Sanders (I-VT), and Sen. Ed Markey (D-MA) released their Monthly Economic Crisis Support Act today. The legislation would send a monthly $2,000 check to people who make less than $120,000. It would expand to $4,000 to married couples who file taxes jointly and also provide $2,000 for each child up to three.
* House Democrats, led by House Transportation and Infrastructure Chairman Peter DeFazio (D-OR) and Water Resources Subcommittee Chairwoman Grace Napolitano (D-CA), introduced a bill that would block the recently finalized Navigable Waters Protection rule from being implemented and direct would direct the Environmental Protection Agency (EPA) and the Army Corps of Engineers to craft a new, more protective rule.
* Senator Josh Hawley (R-MO) continues to argue against US membership in the World Trade Organization (WTO). The Senator has filed a [resolution](https://www.hawley.senate.gov/sites/default/files/2020-05/Hawley-WTO-Resolution.pdf" \t "_blank) to withdraw from the organization. Senator Hawley has blamed the WTO for “empowering China’s economic model that critics blame for the downfall of American manufacturing and diminution of American sovereignty in the area of economic policy.” Senate Finance Committee Chairman Chuck Grassley (R-IA) agrees that the WTO needs reform but opposes Senator Hawley’s current effort.
* A group of Republican lawmakers urged President Trump in a letter today to prevent the nation’s biggest banks and investors from withholding financial support for fossil fuel projects. The letter is in response to announcements from financial institutions that they will no longer fund coal developments or oil drilling operations in places like the Arctic. A copy of the letter is [here](https://ustoa.com/r/ustoa-filemanager/source/resources/05-08-20-gop-letter-to-president-trump.pdf) to tonight’s update.
* 24 Members of the House Armed Services Committee sent a letter to the Federal Communications Commission (FCC) asking whether the Ligado airwaves approval decision complied with language in the 2017 National Defense Authorization Act requiring safeguarding GPS signals. The lawmakers asked the FCC to provide copies of legal analysis of the approval and its compliance with the 2017 language and inquired whether commissioners received Pentagon briefings within seven days. A copy of the letter is [here](https://ustoa.com/r/ustoa-filemanager/source/resources/05-08-20-hasc-letter-to-the-fcc.pdf) to tonight’s update.
* The Congressional Budget Office released a [report](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.cbo.gov%2fsystem%2ffiles%2f2020-05%2f56350-CBO-MBR.pdf&c=E,1,fDiACsu9VGseXJvr8wr9dOAbl71EHimaajERN_zQTXJDgca0wdL7QKkwa-INz4I2ptXdcrJmKhxKPt_G1hJXSXEgYED12LblrU5W6SZhHQ,,&typo=1" \t "_blank) Friday that the federal government incurred a deficit of $737B last month due to pandemic-related costs. As a comparison, the government posted a $160B surplus last April. The report also showed a decrease of 55% in tax collections in April.
* A bipartisan group of House lawmakers, including Stephanie Murphy (D-FL), John Katko (R-NY), Suzan DelBene (D-WA), Brian Fitzpatrick (R-PA) and Chris Pappas (D-NH), introduced legislation today that would increase the employee retention credit to 80% of qualified wages from 50% and raise the limit on each employee to $15,000 per calendar quarter, for up to three quarters, from $10,000 for all calendar quarters.
* The music industry sent a letter to House and Senate leadership outlining a series of asks, including changes to the Pandemic Unemployment Insurance Program, specifically as it relates to those who have mixed incomes.
* An E-Dear Colleague letter was circulated on Capitol Hill today urging members to join a letter to leadership expressing support for the inclusion of full and permanent funding for the Land and Water Conservation Fund (LWCF) and strong funding for the maintenance of public lands in the next COVID-19 package. Both initiatives are included in the [Great American Outdoors Act](https://www.congress.gov/bill/116th-congress/senate-bill/3422" \t "_blank).
* The House COVID-19 oversight panel, chaired by Majority Whip Jim Clyburn (D-SC) has identified five large public companies who applied for, and accepted loans under the PPP and are asking them to return the funds by next week or face a long list of document demands. The companies identified are EVO Transportation & Energy Services, Gulf Island Fabrication, MiMedx Group, Quantum Corporation, and Universal Stainless & Alloy Products.

**Administration**

* Secretary of Transportation Elaine Chao stated support for both mask requirements for air travel on a company-by-company basis and liability protections for airlines and trucking companies. Secretary Chao did not offer policy prescriptions for these issues.
* President Trump is still considering walking away from the phase one trade deal with China. The Administration has been sending mixed signals all week regarding purchasing requirements contained in the trade deal and China’s ability to meet those requirements.
  + In a phone call with Chinese Vice Premier Liu He, United States Trade Representative (USTR) Lighthizer and Treasury Secretary Steven Mnuchin agreed that obligations under the U.S.-China trade deal will be met in a "timely manner" despite the global health crisis. Reports of decreased US exports to China brought China’s commitment into question earlier this week.
* The National Highway Traffic Safety Administration (NHTSA) announced a grant program that will give states funding to help drivers learn about and repair safety recalls on their vehicles. Up to six states will receive part of a total of $1.5M, after what the Department of Transportation (DOT) says was a successful pilot in Maryland.
* President Trump signed an Executive Order yesterday that created the Seafood Trade Task Force that will work with the United States Trade Representative to develop a comprehensive strategy to boost exports and tear down foreign barriers.
* The Office of the Special Counsel, a permanent independent federal investigative and prosecutorial agency, recommended on Friday that Richard Bright be temporarily reinstated as Director of the Biomedical Advanced Research and Development Authority for 45 days. The reinstatement would occur while the Office of Special Counsel investigates whether the Administration retaliated against his whistleblower complaints when it removed him from a key post overseeing the coronavirus response.
* The Internal Revenue Services (IRS) has reversed an eligibility limitation for the Employee Retention Credit established by the CARES Act. Previously, employers had to be paying wages in order to be eligible for the tax break, but the reversal expands the eligibility to include employers who are only paying health benefits. This comes on the heels of a [Congressional reques](https://www.finance.senate.gov/chairmans-news/following-bipartisan-request-treasury-modifies-employee-retention-tax-credit-eligibility-for-employers-providing-health-benefits-for-furloughed-employees" \t "_blank)t to do so made by Senate Finance Committee Chairman Chuck Grassley (R-IA) and Ranking Member Ron Wyden (D-OR), in addition to House Ways and Means Committee Chairman Richard Neal (D-MA).
* The IRS has added [a new Frequently Asked Question](https://www.irs.gov/newsroom/covid-19-related-employee-retention-credits-interaction-with-other-credit-and-relief-provisions-faqs" \t "_blank) to its website regarding businesses that repay PPP loans by May 14, 2020. The IRS also issued state-by-state figures related to Economic Impact Payments and the full press release outlining the figures can be found [here](https://www.irs.gov/newsroom/treasury-irs-release-latest-state-by-state-economic-impact-payment-figures" \t "_blank).
* The Small Business Administration (SBA) Inspector General released a new report Friday arguing that the SBA requirement that businesses spend at least 75% of PPP loans on payroll to get full loan forgiveness and that borrowers pay back any remaining proceeds within two years (rather than the ten-year period in the CARES Act) went against the intent of the language creating the PPP in the CARES Act.
* Federal Register Notices
  + The FAA posted a notice and requested comment on the renewal of an information collection regarding information from commercial air tour operators on the numbers and types of air tours over national park units. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f05%2f08%2f2020-09898%2fagency-information-collection-activities-requests-for-comments-clearance-of-a-renewed-approval-of&c=E,1,9jIKuO7KbPVVv7v437qPuwNxHBK3gisthF2zY-Oj3e-bL6ye2noU5s31ywkrbOXFIEpt_bkI-dR3dIqSfD-zBTnbPJvQQrSiWqdN0JbdB7tZ&typo=1" \t "_blank).
  + The FAA posted a notice and requested comment on the renewal of an information collection regarding information used to authorize public agencies to impose Passenger Facility Charges (PFCs) and use PFC revenue on airport-related projects and to ensure compliance with PFC program requirements. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f05%2f08%2f2020-09833%2fagency-information-collection-activities-requests-for-comments-clearance-of-a-renewed-approval-of&c=E,1,cpgmDv8CAdk8jVNBo-ImgM0Ln5-qc8L5UX5TyxwKuIHoRC1s56N8rIgBRjpfFeF6P1iAFw-ybLguVlC8McN1eJyM9dj4gnGpOvGI2BTCxLBkaGc,&typo=1" \t "_blank).
  + The Center for Medicare and Medicaid Services posted an interim final rule amending several Medicare policies on an interim basis to cover FDA-authorized COVID-19 serology tests, to allow any healthcare professional authorized to do so under State law to order COVID-19 diagnostic laboratory tests (including serological and antibody tests), and to provide for new specimen collection fees for COVID-19 testing under the Physician Fee Schedule and Outpatient Prospective Payment System, during the public health emergency (PHE) for the COVID-19 pandemic. The notice can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f05%2f08%2f2020-09608%2fmedicare-and-medicaid-programs-basic-health-program-and-exchanges-additional-policy-and-regulatory&c=E,1,AXYCv1fmU26xHjP4V4swg_KNRwRQA_aYjFJhcopqjA5qJ66i1Vvit7d6c9gA4FXpNxeC447-q9OONeV90h1dbJU9FQYAtQhmktBVvqhJJ0lBc-7rWfwYA9IjIgSY&typo=1" \t "_blank).
  + SBA posted an interim final rule related to the PPP. The interim final rule can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f05%2f08%2f2020-09963%2fbusiness-loan-program-temporary-changes-paycheck-protection-program-nondiscrimination-and-additional&c=E,1,8GA33zgLV834AHbB7mZy3bMod9MN0JIlrhm1xzuMSPvaEAnZeQcA0FPuQ4y2ZZxI-3c75G-M5ylBnk-uvmy9yDkNjmDJVGZxaME9uSSUPWwiAFB8_DsSP9m9xg,,&typo=1" \t "_blank).

**Other News**

* The European Commission today [asked](https://ec.europa.eu/commission/presscorner/detail/en/ip_20_823" \t "_blank) Schengen countries to extend a restriction on non-essential travel to the EU for another 30 days, until June 15. More information can be found [here](https://ec.europa.eu/info/sites/info/files/assessment-application-temporary-restriction-travel_en.pdf" \t "_blank).
* The unemployment rate was 14.7% in April, with 20.5 million jobs lost over the month due to the COVID-19 response.
* The American Public Transportation Association (APTA) sent a letter to Congressional leadership and the Administration advocating for $23.8 billion in additional relief. Transit agencies received $25B from the CARES Act, but projections from EBP US indicates a $23.8B shortfall in revenue through 2021 due to reduced ridership. The request calls for $19B from the Emergency Relief Program; and $4.75B provided through Urbanized Area Formula Grants, Seniors and Individuals with Disabilities Formula Grants; and Rural Area Formula Grants. The letter is [here](https://ustoa.com/r/ustoa-filemanager/source/resources/05-07-20-apta-letter.pdf).
* The CEOs of 15 of the largest transit agencies that serve the populations responsible for 35% of the national gross domestic product sent a separate letter highlighting the essential nature of transit and requesting revenue replenishment and substantial investment in transportation infrastructure to provide for economic and community recovery. The letter is [here](https://ustoa.com/r/ustoa-filemanager/source/resources/05-07-20-transit-agency-letter.pdf).
* Frontier Airlines announced that it will check the temperatures of passengers and employees before they board starting on June 1st using touch-free thermometers and denying boarding to a person with a temperature 100.4 degrees or higher. The airline said it would prefer that the Transportation Security Administration (TSA) screen passengers before arriving at the gate in lieu of the airline having to do so.
* The Amtrak Acela service is scheduled to reopen with a modified schedule on June 1.  Amtrak announced all passengers must wear masks as of this coming Monday, May 11.
* Michigan Governor Gretchen Whitmer has taken steps to allow automotive suppliers to ramp up manufacturing in the state. The Governor announced the steps on May 7 that will allow factories to reopen on May 11. At the same time, she extended the stay-at-home executive order to May 28.
* Approximately 24,500 pickup trucks were sold last week, reflecting a pre-COVID-19 sales level. Sales had dropped by a quarter in the last days of March and trade groups are encouraged by the positive news.