May 12, 2020

TO: USTOA Members

FR: Terry Dale

Below is our COVID-19 Update for May 12, 2020:

**Congress**

* House Democrats unveiled their COVID-19 relief legislation, the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act. We believe that the House could still vote on the legislation as soon this Friday**.**Elevate believes it is highly unlikely that the Senate will take up the legislation before June at the earliest.
  + The full bill text can be found [here](https://docs.house.gov/billsthisweek/20200511/BILLS-116hr6800ih.pdf" \t "_blank), a section-by-section summary can be found [here](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/documents/Heroes%20Act%20Summary.pdf" \t "_blank), a one-page summary can be found [here](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/documents/Heroes%20Act%20One%20Pager.pdf" \t "_blank), and a summary on the state and local funding included in the bill can be found [here](https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/documents/Heroes%20Act%20State%20and%20Local%20Relief%20Funds.pdf" \t "_blank). Section by section summaries from certain committees of jurisdiction are still forthcoming, as noted in the section-by-section document.
* The Democratic-drafted legislation carries a $3T topline number. Some additional highlights of the legislation include:
  + Nearly $1T to replace revenue shortfalls for state and local governments.
    - $540B for states, territories and tribes.
    - $375B for cities, counties and local governments.
  + An additional distribution of $1,200 in direct payments to US citizens.
  + $10B in small business grants. Additional information on small business provisions can be found [here](https://smallbusiness.house.gov/uploadedfiles/heroes_act_fact_sheet_5.12.2020_introduced_bill_final_updated.pdf" \t "_blank) and [here](https://smallbusiness.house.gov/uploadedfiles/heroes_act_section_summary.pdf" \t "_blank).
    - An expansion of eligibility and the covered period for the Paycheck Protection Program (PPP):
      * All 501(c) organizations (nonprofits) would be eligible to receive PPP grants under the HEROES Act after some, including 501(c)(6) organizations, were excluded under the CARES Act.
      * The covered period would be extended from September 30 to December 31, 2020.
  + $175B would go to health care providers to reimburse them for coronavirus-related expenses and lost revenue, in addition to supporting testing efforts.
  + $100B in additional stimulus funding for education and also up to $10,000 of loan forgiveness for borrowers of federal and private student loans.
    - $90B would be for Governors to distribute among K-12 schools and public colleges to address the coronavirus pandemic.
    - $10B would be set aside to address coronavirus disruption in higher education, including $1.7B specifically for Historically Black Colleges and Universities and other minority-serving institutions.
  + $10B in additional funding for the Supplemental Nutrition Assistance Program (SNAP) and $3B for child nutrition programs.
  + $75B in assistance for homeowners.
  + $100B for emergency aid to help low-income renters avoid evictions.
  + $750M for people living in project-based rental assistance properties.
  + State departments of transportation and transit agencies would each receive about $15B per mode.
    - 137 bipartisan lawmakers, meanwhile, sent a letter to Speaker Pelosi (D-CA) and Minority Leader McCarthy (R-CA) on Monday supporting $50B in additional relief funding for state departments of transportation. More information and the full letter can be found [here](https://lamb.house.gov/media/press-releases/lamb-gibbs-lead-bipartisan-call-fund-transportation-infrastructure" \t "_blank).
  + $25B would go to the U.S. Postal Service and $400M would go to the Census Bureau.
* As expected, and as we have previously reported, the legislation did not contain a significant amount of infrastructure funding, although the bill does include increased funding for broadband. Highlights of the broadband funding include:
  + $5B aimed at closing the digital Homework Gap by funding Wi-Fi hotspots and other connected devices, set to be administered through the Federal Communications Commission’s (FCC) E-rate program.
  + $8.8B for a new FCC Emergency Broadband Connectivity Fund to provide $50 per month reimbursements to low-income families on their internet bills.
  + $2B to temporarily expand the FCC's Rural Health Care program, which helps subsidize digital connectivity for health care providers.
  + $24M for the FCC to implement the recent Broadband DATA Act.
* The bill contains additional provisions relevant to the transportation sector, including:
  + Expanding the covered time during which airlines cannot institute involuntary furloughs if they receive CARES Act grants to “the date on which such financial assistance is fully exhausted by the air carrier or contractor.” The covered period was previously through September 30.
  + Requiring the Treasury Department to publish the amount of payroll aid that airlines and contractors receive and other information about the agreements between the department and the companies online.
  + Requiring that passengers on airlines, large public transit systems, and Amtrak wear face coverings, and that passengers and crew on airplanes wear face coverings on board, though not necessarily in the flight deck.
    - Under the legislation, airlines, Amtrak and transit agencies would also be required to give face coverings, gloves, hand sanitizer and wipes to employees who interact with passengers.
  + Requiring airlines to ensure that planes are cleaned and sanitized in line with Centers for Disease Control (CDC) guidelines and that the airlines follow guidelines for notifying employees about a coworker being diagnosed with COVID-19.
  + Forbidding airlines from using CARES Act loan funds “toward a contract for heavy maintenance work at a facility located outside of the United States if such contract would increase the ratio of maintenance work performed outside of the United States to all maintenance work performed by or on behalf of such air carrier at all locations.”
  + Requiring the Department of Transportation (DOT) and other federal agencies to create a national aviation preparedness plan for disease outbreaks. The purpose of the plan would be to improve coordination, give airlines and airports a scalable framework to use, and protect workers.
  + $75M for the Federal Aviation Administration (FAA) to respond to the pandemic, including $1M for a study on pathogens in cabin air.
  + Allowing General Fund contributions to the Airport and Airway Trust Fund so it can meet its obligations in Fiscal Year 2020.
  + Requiring the FAA to give items like masks and gloves to air traffic controllers and technicians and make sure air traffic control buildings are cleaned frequently.
* Major labor and pension provisions in the HEROES Act include:
  + $3.1B for the Department of Labor to conduct additional worker training, provide additional funding for unemployment assistance, and to aid coronavirus-related enforcement of labor laws.
    - Of that, more than $925M would assist state and federal administration of unemployment insurance benefits; and
    - $100M would be allocated to the Occupational Safety and Health Administration (OSHA) to conduct workplace safety enforcement in response to the coronavirus.
  + Providing nine months of full healthcare premium subsidies to allow workers to maintain their employer-sponsored coverage if they are eligible for COBRA or if they have been furloughed.
  + Fixes for insolvent multiemployer pension plans, which were struggling even before the pandemic. The Pension Benefit Guaranty Corporation (PBGC), the agency that insures multiemployer pensions, was projected to be insolvent by 2025.
    - The HEROES Act allows the PBGC to "partition" these multiemployer pensions and take control of a part of the plan’s responsibilities for 30 years, if that prevents insolvency.
    - Pension plans would be able to apply for a partition through 2024 and would face no cuts to the benefit payments of participants and beneficiaries.
* Democrats also included $100B in additional funding for healthcare providers and new restrictions on uses of funds that have already been distributed by the Department of Health and Human Services (HHS). These provisions include:
  + Funds would be distributed each quarter, based on cost reports submitted by providers.
    - Providers would be eligible to receive 60 percent of lost revenues and full reimbursement for pandemic-related costs such as temporary construction, equipment, tests, training, and workforce retention.
  + Funds would be barred from being used for executive compensation, and providers receiving funds would be barred from balance billing or charging uninsured COVID-19 patients during the public health emergency.
  + Aid that providers already received would be subtracted from the quarterly amounts given under the new process.
* Senate Minority Leader Schumer (D-NY) issued a statement in support of the HEROES Act that asserted the “American people need their government to act strongly, boldly and wisely, and this new legislation is just what this crisis demands.”
* Senate Majority Leader McConnell (R-KY) discussed Senate Republicans proposal for business liability protections that he is spearheading with Sen. John Cornyn (R-TX) on the Senate Floor today. Specifically, Leader McConnell highlighted:
  + Liability protections for healthcare workers, by raising the liability threshold for COVID-related malpractice lawsuits.
  + New legal protections for businesses, nonprofits, and government agencies that have continued serving throughout the crisis, and for those that will lead the reopening.
  + Protections for K-12 schools, colleges, and universities.
  + A legal safe harbor for businesses, nonprofits, governments, workers, and schools who are following public health guidelines to the best of their ability.
  + Expanding existing protections for the manufacturers of therapeutics, diagnostics, and potential vaccines.
* Reps. Pramila Jayapal (D-WA) and Mark Pocan (D-WI), leading members of the Congressional Progressive Caucus, sent a letter to House Majority Leader Steny Hoyer (D-MD) Tuesday seeking to postpone a vote on the HEROES Act until next week. In the letter, the Members argue that this delay would allow lawmakers to fully digest the legislation before they vote on it.
* The Senate Health Education, Labor and Pensions Committee held a hearing today entitled “COVID-19: Safely Getting Back to Work and Back to School.”
  + Witnesses included Robert Redfield, MD, Director of the United States Centers for Disease Control; Admiral Brett Giroir, Assistant Secretary for Health and Human Services, Stephen Hahn, MD, Commissioner of Food and Drugs, United States Food and Drug Administration and Anthony Fauci, MD, Director of the National Institute of Allergy and Infectious Diseases, National Institutes of Health.
  + Dr. Fauci expressed concerns about the ramifications of reopening the country too soon if states do not have the capability to respond to an uptick in infections.
* As we reported, the Senate Armed Services Committee is aiming to mark-up its National Defense Authorization Act (NDAA) the week of June 8. The mark-up is scheduled for Wednesday, June 10, despite the Committee sorting through a myriad of logistical issues.
* Senate Commerce Committee Chairman Roger Wicker (R-MS) and Senate Banking Committee Chairman Mike Crapo (R-ID) sent a letter to the Treasury Department asking for a detailed report on the status of the bill’s payroll support program for airlines and an update on the CARES Act program generally that provides loans to airlines. The letter can be found [here](https://www.commerce.senate.gov/services/files/EE4E08D1-9CCA-469E-B47C-BAAB7022C1D6" \t "_blank).
  + Chairman Wicker, along with House Energy and Commerce Committee Ranking Member Greg Walden (R-OR), sent a letter to the Alliance for Automotive Innovation, Motor and Equipment Manufacturers Association, National Automobile Dealers Association, Consumer Technology Association, and Chamber Technology Engagement Center commending the automotive sector for using innovative technologies to meet new challenges posed by the COVID-19 pandemic. The full letter can be found [here](https://www.commerce.senate.gov/services/files/88403EAE-7AC7-48F0-9D0E-3CA2C91DFEAD" \t "_blank).
* A group of five Members of Congress from Michigan sent a letter to the US Department of Transportation requesting that Delta be exempt from the Department’s requirements that it continue servicing nine airports, including three in Michigan. The letter can be found [here](https://www.peters.senate.gov/imo/media/doc/2005011-Delegation%20letter%20to%20DOT%20re%20Delta%20service%20exemptions%20to%20Lansing-Flint-Kzoo%20FINAL.pdf" \t "_blank).
* Senate Commerce Committee Ranking Member Maria Cantwell (D-WA) sent a letter to Vice President Pence and others urging the federal government to develop guidelines for the airport and airline industries related to COVID-19, including temperature checks and other health screenings. The letter can be found [here](https://www.cantwell.senate.gov/imo/media/doc/Cantwell%20to%20Pence%20Fauci%20Redfield%20re%20National%20Standards%205.11.20%20_%20Final%20CLEAN1%202%20DM%20(1)%20with%20signature.pdf" \t "_blank).
* House Republicans are planning to introduce a legislative package this week to help bolster federal research into how to speed up the development of emerging technologies, including artificial intelligence and autonomous vehicles. The effort is being led by Representative Cathy McMorris Rodgers (R-WA).
  + The 14-bill package is an amalgamation of existing initiatives various members of Congress have been pushing.
  + The bill would require regulators across federal agencies to conduct studies on the benefits of blockchain, quantum computing, and facial recognition, among other technologies. It also tasks federal officials with ranking the US national strategy on emerging tech compared with the rest of the world, and charter a path on how to improve the global position of the United States.
* T[he Select Subcommittee on the Coronavirus Crisis](https://www.speaker.gov/newsroom/42920" \t "_blank) will hold its first briefing Wednesday at 3 p.m. Witnesses are set to include Former FDA Commissioners Scott Gottlieb and Mark McClellan, Ashish Jha, Tom Inglesby and George Benjamin.
* The Senate Judiciary Committee held a hearing today entitled “Examining Liability During the COVID-19 Pandemic”. The full live-stream, witnesses, and their prepared testimony can be found [here](https://www.judiciary.senate.gov/meetings/examining-liability-during-the-covid-19-pandemic" \t "_blank). Our coverage of the hearing is [here](https://ustoa.com/r/ustoa-filemanager/source/resources/senate-judiciary-committee-hearing-on-liability-protections-5-12-20.pdf).

**Administration**

* DOT [announced](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.transportation.gov%2fsites%2fdot.gov%2ffiles%2f2020-05%2fCARES%2520Airport%2520Reduction%2520Notice%2520FINAL.pdf&c=E,1,OTu3DsmHaqOP2dtgmqkjA3KDEQCemMuBR_J-LzQMYqG8LWtPguj46a1njFOOfld6zMvUtJuFtSyGoakHUSD-Mg9vOSC-Z0XTvVONKUPt9iyUNgi-Rd3TrA,,&typo=1" \t "_blank) plans today to ease the minimum service requirements for airlines receiving relief under the CARES Act. Specifically, the updated guidance will allow each carrier to cancel service to either five percent of the points they are required to cover, or five points, whichever is greater. Airlines have until Monday to submit prioritized lists of points they want to stop serving.
* DOT’s Bureau of Transportation Statistics released preliminary airline data today that suggests passenger volumes declined by 51% in March compared to last year. This decrease broke a 29-month streak of year-over-year increases in passenger volumes.
* The Administration indicated yesterday that it wants states to test two percent of their populations for COVID-19, which the Administration says would amount to at least 12.9M tests.
* The DOT and the White House are working to close out discussions on the Administration’s surface transportation reauthorization proposal. While it remains unclear if an infrastructure package will emerge as part of a COVID-19 recovery package, the need to reauthorize surface transportation before September 30th remains. Reportedly, the proposal will track with the President’s State of the Union request for anywhere between $800B and $1T.
* Multiple task forces also have been established within the Administration on reopening the country, including a number that the Federal Aviation Administration (FAA) is a part of, that are being led by the White House. FAA and DOT writ large remain actively involved in each though there is broad interagency involvement and action on a daily basis.
  + Discussions among the task forces continue regarding consumer confidence and protecting the health of passengers in aviation environments, harmonization of activities and guidance within the U.S. and internationally, safety of the aviation system given its current state, transmission reduction efforts, and more.
  + There is also an International Civil Aviation Organization (ICAO) task force that was [announced](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.icao.int%2fNewsroom%2fPages%2fICAO-Council-establishes-COVID19-Aviation-Recovery-Task-Force.aspx&c=E,1,O2IPsvmUH_G6eEOTUMOQyr3hD8Xvq4_4T9MeX9AVZ3cn5W5IzIGCzTyhkncrxvOeSoLLeRBBTpU6dW1S4lIccXZ7jQfX_ydssrOWtLGjMA,,&typo=1" \t "_blank) in late April.
  + In addition, there is significant coordination between the task forces and leading aviation industry trade groups, including Airlines Council International (ACI), American Association of Airport Executives (AAAE), Airlines for America (A4A), Regional Airline Association (RAA), National Air Carrier Association (NACA), National Business Aviation Association (NBAA), International Air Transport Association (IATA), Aerospace Industries Association (AIA), and others.
* The FAA is launching a national survey of drone users that will help develop national forecasts of drone activity. The data will them be used to implement an unmanned aircraft systems traffic management (UTM) service. More information can be found in a [federal register notice](https://s3.amazonaws.com/public-inspection.federalregister.gov/2020-10139.pdf?utm_campaign=pi+subscription+mailing+list&utm_source=federalregister.gov&utm_medium=email" \t "_blank) issued this morning.
* The FAA has updated its Safety Alert for Operators (SAFO), COVID-19: Updated Interim Occupational Health and Safety Guidance for Air Carriers and Crews. It can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.faa.gov%2fother_visit%2faviation_industry%2fairline_operators%2fairline_safety%2fsafo%2fall_safos%2fmedia%2f2020%2fSAFO20009.pdf&c=E,1,eGciRawmiU_NAv7_fVR-JbA4xh134A1tj_q7HwEj03zNQ8ZVjRSRKmaAoUF1NXgGfYU_ml1-nL4I4CdIR9DN0m9_GZ2D1esPApF-ntksqDnIJC8,&typo=1" \t "_blank). The SAFO contains minor updates, corrections and specifically, adds references to the CDC Coronavirus Symptoms webpage. There are also changes in the Carrier Health Monitoring and Notification sections.
* Federal Register Notices:
  + The Federal Emergency Management Agency/Department of Homeland Security issued a notice of availability of $100 million in supplemental funding for the Assistance to Firefighters Grant Program (AFG-S). More information can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f05%2f12%2f2020-10044%2fassistance-to-firefighters-grant-program-covid-19-supplemental-afg-s&c=E,1,qO8CanZNx0ckZtA-pLRtjL86zSm7ZqW-FJqvzhOKQkUfGddo2XATz2r7Wrl1lCkjlJuw-wUqq40CDNIeyqXK0nFzidHqiarLp7-wUxlGtmPcAGjHfVy84J-rS_zo&typo=1" \t "_blank).
  + The Food and Drug Administration (FDA) has announced the availability of various FDA guidance documents related to the COVID-19 public health emergency. More information can be found [here](https://linkprotect.cudasvc.com/url?a=https%3a%2f%2fwww.federalregister.gov%2fdocuments%2f2020%2f05%2f12%2f2020-10146%2fguidance-documents-related-to-coronavirus-disease-2019-covid-19-availability&c=E,1,i9Hb-CUm8OS57vwOcnN7eZygjPQeZ3FsI-jgLqBRsuvRLQYlbtF7wK7FUwbWwvvpdhhKDreUevwlOQhUqBCWrvaV4TvwzT0oVDf561Yj_i9RQryEAG-aIIHsjw,,&typo=1" \t "_blank).

**Other News**

* The Chinese Ministry of Finance today published 79 additional U.S. products that are eligible for tariff waivers including rare earth mineral ores, aircraft radar equipment, semiconductor parts, medical disinfectants, and a range of precious metals, chemical and petrochemical products.
  + Importers in China must apply to the General Administration of Customs within six months of the announcement to be considered for waivers.
  + The waivers are effective May 19.
* Miami Air, a Florida-based charter airline, reported that it is going out of business, costing hundreds of employees their jobs. Their employees have blamed the Administration and cited the fact that their application for assistance to the Treasury Department went unanswered for weeks as the Department was sending CARES Act relief to major airlines.
* As we have reported, the American Public Transportation Association (APTA) wrote a letter requesting $24B in additional relief funding. A group of transit labor unions has followed up on APTA’s $24B request with their own for at least $32B in relief.
* 800 motor coach drivers have organized a “drive-in” to Washington, DC this week to raise awareness that their industry is struggling.
* The American Hospital Association continues to push Congress to include liability protections in its next COVID-19 relief package.