



Monthly Legislative Report – August 2020

August Advocacy Meetings

Congressman Harley Rouda (D-CA) – During this August recess, we have been following-up with Congressman Rouda's senior staff on several occasions to discuss OCTA requests and amendment proposals for the next Surface Transportation Reauthorization and the Infrastructure Bill that could be considered again in the House early next year. We also discussed any potential for progress with the Senate EPW and Senate Banking before the end of the year. We discussed the timeline for negotiations with the Senate and the White House for an extension of the FAST Act and what else that may entail, including whether there would be opportunities for policy inclusions regarding the TIFIA program.

Congressman Alan Lowenthal (D-CA) – We have been in contact numerous times with Congressman Lowenthal's office to discuss next steps on Surface Transportation Reauthorization and OCTA's key requests. We followed-up on the need for new transit formula funding (i.e. 5307 and 5337) to support operations and opportunities in the upcoming stimulus package. We also discussed the outlook for an extension of the FAST Act authorizations and the CR.

Congressman Lou Correa (D-CA) – We have been in contact with Congressman Correa and his staff this month to follow-up on OCTA's requests for the Surface Transportation reauthorization and the need for additional formula funding. We also followed-up on support for transit funding to be included in any final stimulus spending bill(s).

Congressman Mike Levin (D-CA) – We continue to touch base with Congressman Levin and his senior staff to discuss the Alternative Fuel Tax Credit issue, the effects of COVID-19 on daily operations, as well as Measure M project funding. We also discussed the need to strongly support additional transit formula funds in the upcoming stimulus bill(s).

Congressman Gil Cisneros (D-CA) – We followed-up with senior staff in Congressman Cisneros' office to provide an update on OCTA transit services, and the need for additional funding to support COVID-19 activities. We also discussed the timeline for stimulus negotiations and support for OCTA priorities in any final legislation.

Congressman Pete Aguilar (D-CA) – We have been in close contact with Congressman Aguilar's senior staff this month to discuss FY21 appropriations and the timeline for negotiations with the Senate and the White House. We discussed the timeline for a possible CR and any opportunities for policy inclusions. We also discussed support for increased transit formula funding in the potential stimulus legislation.

Senator Dianne Feinstein (D-CA) – We have been in contact with staff in Senator Feinstein’s office this month to discuss FY21 appropriations and ongoing Senate negotiations for the THUD bill. We followed-up on our prior discussions regarding Measure M impacts from COVID-19, and the need for additional resources to include an increase in formula funding. We also discussed negotiations in the Senate, and with the House, for a new stimulus bill. We discussed opportunities for new transit funding, and the timeline for a bill in September along with the CR.

House Transportation and Infrastructure Committee – We have been in close contact with both Majority and Minority staff to provide ongoing updates on OCTA’s projects, discuss progress on the Surface Transportation Reauthorization, and highlight the need for additional spending flexibility authorizations. We specifically highlighted policy requests that would benefit OCTA and the region for that legislation and followed-up on the Alternative Fuel Tax Credit.

Senate Environment and Public Works Committee – This month we continued to touch base with various EPW staff (minority and majority) on OCTA’s Surface Transportation Reauthorization policy asks. We discussed the timeline for negotiations with the House and the outlook for a deal in September. We also specifically followed-up on our discussions regarding the need for TIFIA reforms and changes that would benefit OCTA.

Senate Banking Committee – We followed-up with senior staff this month to discuss progress on a Senate Surface Transportation reauthorization and the likelihood of progress on negotiations in September or the release of a transit title that may mirror what the House has already released.

New Stimulus Legislation Negotiations Update

With negotiations between the White House and Congressional Democratic leadership at a standstill, Senate Republicans unveiled a draft “skinny” coronavirus relief and economic stimulus bill. The *Delivering Immediate Relief to America’s Families, Schools, and Small Businesses Act* is a streamlined version of the HEALS Act proposal previously introduced by Senate Republicans. A side-by-side comparison of transit/transportation sections of the House and Senate stimulus proposals is included at the end of this report.

The bill eliminates several provisions from the HEALS Act proposal that had been criticized by Senate Republicans, including funding for a new Federal Bureau of Investigations (FBI) building, defense procurement spending, and another round of direct \$1,200 stimulus payments to citizens, while modifying and/or expanding several programs that were more popular within the caucus. Of particular note, the scaled-down bill does not include additional relief funding to state and local governments (the House-passed HEROES Act provides nearly \$1 trillion and the White House has indicated they could accept an additional \$150 billion), which will continue to be a point of contention in negotiations.

Congressional Democrats rejected the idea of a “skinny” coronavirus relief and economic stimulus package last month. Democratic leadership has, however, agreed to come down at least \$1 trillion from the HEROES Act’s \$3.5 trillion price tag, while Senate Republicans and the White House want to keep the total cost of any future stimulus package as close to \$1 trillion as possible. The final package is may include a Continuing Resolution (CR) to fund the federal government beyond the end of the current fiscal year on September 30th. Although many do expect that CR to be introduced separately if there is no deal on another stimulus package.

Other provisions in the draft bill (which may change) include the following:

- **Unemployment Insurance (UI):** Extends the Federal Pandemic Unemployment Compensation Program established by the CARES Act that expired July 31, 2020 through December 27, 2020.
- Would decrease the weekly assistance amount from \$600 (as included in the CARES Act) to \$300. President Trump issued an Executive Order (*text available [here](#)*) on August 8th authorizing \$44 billion from the Federal Emergency Management Agency (FEMA) Disaster Relief Fund (DRF) to provide laid-off workers with unemployment insurance benefits. According to guidance published by FEMA and the Department of Labor (DOL) last week (*guidance available [here](#); fact sheet available [here](#)*), these funds will provide eligible claimants with up to \$400 per week for those qualifying weeks of unemployment between August 1, 2020 - December 27, 2020. These benefits will be administered by states that enter into a cooperative grant agreement with FEMA. Because the source of funding for this effort is the FEMA-administered Disaster Relief Fund (DRF), there will be a 75 percent federal cost share and a 25 percent state match.
- For comparison, the House-passed HEROES Act provides for a full extension of the \$600/week CARES Act unemployment insurance (UI) benefit through December 31, 2020. This week, over 115 House Democrats sent a letter pressuring House leadership to include a vote on stand-alone legislation (H.R. 7821) to extend the \$600 per week UI benefit through the duration of the COVID-19 public health crisis as well as to establish a tiered system of benefits that are tied to certain national and state unemployment rates.
- **Paycheck Protection Program:** The package would authorize \$257.7 billion for an additional round of forgivable Small Business Administration (SBA) loans, and would authorize “PPP Second Draw Loans,” that will be limited to firms with 300 or less employees (instead of the 500-employee threshold in CARES), and to businesses that can demonstrate at least a 35-percent reduction in revenue compared to before the pandemic (the HEALS Act proposal required a 50-percent reduction).

- The bill does not include the various set-asides for businesses with 10 or fewer employees and community lenders, as included in the Senate HEALS Act proposal.
- ***Liability Protections:*** As included in the HEALS Act, the bill would limit liability for personal injuries arising from alleged COVID-19 exposure at schools, colleges, nonprofits, churches, or businesses, and would establish detailed procedural requirements to prevent frivolous litigation. To be covered by this protection, entities must have made a reasonable effort to conform to public health guidelines and have not engaged in willful misconduct or gross negligence.
 - Additionally, healthcare providers (including hospitals, doctors, nurses, and nursing homes) would be protected from liability related to the provision of care for the coronavirus or services provided as a result of the coronavirus and sets a willful misconduct or gross negligence standard for coronavirus-related malpractice suits, including suits related to diagnosis, treatment, and general medical care related to COVID-19. This liability protection would be applied to claims occurring from December 1, 2019 to October 1, 2024.
 - Employers would be protected from liability under federal labor and employment laws for complying with COVID-19 related guidance, including stay-at-home orders, and for injuries related from workplace coronavirus testing.
- ***Supplemental Appropriations:***
 - \$105 billion for the Education Stabilization Fund:
 - \$70 billion for the Elementary and Secondary School Emergency Relief Fund.
 - \$29 billion would be for the Higher Education Emergency Relief (HEER) Fund.
 - \$5 billion would be for the Governors Emergency Education Relief Fund, a flexible fund for Governors to use at their discretion for K-12 or higher education needs.
 - \$29 billion for COVID-19 vaccine and drug development and distribution; and
 - \$16 billion for COVID-19 testing and contact tracing.

As a resource, the House and Senate stimulus packages being used as starting points in the negotiations are included below. A side-by-side comparison is also included at the end of this report.

House Democrat stimulus package (HEROS Act):

- H.R. 6800 – The Heroes Act [Text](#) | [Summary](#)

Senate Republican stimulus package (HEALS Act):

- Appropriations: [Text](#) | [Summary](#)
- Finance tax and health provisions: [Text](#) | [Summary](#)
- Health, Education, Labor and Pensions Committee provisions: [Summary](#)
- Small-business provisions: [Text](#) | [Summary](#) | [One Pager](#)

In the absence of a deal in Congress, President Trump signed four Executive Orders to extend and expand COVID-19 relief, included below:

1. [Student Loan Relief](#)
 - a. Directs the Education Secretary to “take action pursuant to applicable law” to effectuate waivers and modifications to economic hardship deferments of student loan payments until December 31, 2020.
2. [Assistance to Renters and Homeowners](#)
 - a. Directs HHS Secretary and CDC Director to “consider” whether temporarily halting evictions of renters for failure to pay rent is necessary to prevent spread of COVID19. Directs Treasury Secretary and HUD Secretary to identify any available funds to assist renters and homeowners struggling to pay rent or mortgages due to COVID19. Directs HUD Secretary to “take action, as appropriate and consistent with applicable law” to promote ability of renters and homeowners to avoid eviction or foreclosure. Directs FHFA Director in consultation with Treasury Secretary to review existing authorities and resources that may be used to prevent such evictions and foreclosures.
3. [Payroll Tax Deferral](#)
 - a. Directs Treasury Secretary to defer withholding and payment of employee portion of Social Security and Railroad Retirement taxes on wages paid from September 1 thru December 31, 2020. Applies only to employees earning \$4,000 biweekly (\$104,000 annual rate). The payroll tax deferral is optional for companies and organizations, but the process for opting out has not been released by the Department of Treasury as of the time of this report.
4. [Authorizing Needs Assistance Programs](#)
 - a. “Calls on” states to use funds from the \$150 billion in the CARES Act for state and local governments to partially continue the Unemployment Insurance \$600/week supplement under a complex formula of up to \$400/week with the state providing \$100 of that amount, until December 27, 2020. Directs DHS/FEMA to make available natural disaster funds for such purpose. Requires buy-in by governors.

Congress may likely take action to supersede these E.O.s in September, especially in the Democrat-controlled House or Representatives. There are still very few details on how these orders will be carried out by the Administration and the requirements set forth for local governments.

FY21 Appropriations Update

House Speaker Nancy Pelosi (D-CA) and Treasury Secretary Stephen Mnuchin have reportedly been communicating during the month of August to negotiate a deal on path forward for the FY21 Appropriations bills. Before the recess, the House passed all but two spending bills in a minibus totaling \$1.3 trillion. The Senate has not passed any of the 12 appropriations bills. It is likely Congress will need to pass a Continuing Resolution that will extend past the Presidential election.

Treasury Secretary to Attend House Hearing on Coronavirus Response

On Tuesday, September 1st, the House Select Subcommittee on the Coronavirus Crisis, will hold a hybrid in-person/remote hearing with Treasury Secretary Steven T. Mnuchin on the Administration's response to the country's economic crisis. The hearing will examine "the urgent need for additional economic relief for children, workers, and families and the Administration's implementation of key stimulus programs passed by Congress earlier this year." The topic of additional funding for transportation, infrastructure, and transit revenue losses may be discussed during the hearing. This will be the first time Secretary Mnuchin will testify before Congress since the onset of the Coronavirus. Secretary Mnuchin has been one of the lead negotiators for the White House regarding COVID-19 stimulus and FY21 appropriations discussions with the House. The hearing can be viewed [HERE](#).

US Railcar Legislation

During the Month of August, Congressman Darin LaHood (R-IL) and Brad Schneider (D-IL) introduced legislation to incentivize private investment into the freight railcar manufacturing industry.

The Freight Rail Assistance and Investment to Launch Coronavirus-era Activity and Recovery (Freight RAILCAR) Act would provide tax credits for railcar leasing and manufacturing companies for the cost of replacing existing railcars with new more fuel-efficient railcars or refurbishing existing railcars. The bill would also offer additional tax credits for capital expenditures to modernize equipment and technology to meet environmental standards. The bill is not expected to move to the House floor before the election. However, this rail investment remains an important discussion point that could be included in future Highway bill negotiations and be expanded to include other aspects of the transit industry to include bus manufacturing.

House and Senate Stimulus Proposals Comparison

	House (HR 6800)	Senate (S 4317, S 4318, S 4319, S 4320, S 4321, S 4322, S 4323, S 4324)
Unemployment benefits	<p>Renew \$600/week payment through Jan. 31, 2021, with transition rule for individuals receiving regular state benefits to continue receiving federal add-on through March 31, 2021</p> <p>Special benefits for independent contractors, freelance/"gig" workers etc. and extended 13-week duration for those exhausting regular benefits would run through those dates as well</p> <p>Funding to help states process benefits (\$925 million)</p> <p><i>Cost: \$433 billion</i></p>	<p>S 4318: Renew federal add-on at \$200/week through Sept. 30, 2020, while states transition to 70% wage replacement, capped at \$500/week, by Oct. 5</p> <p>States that need more time can receive two-month waiver to continue flat \$200/week benefit. Program ends Dec. 31, 2020. Within 30 days, states would be required to notify recipients of return-to-work requirements</p> <p>Funding to help states upgrade systems and process benefits (\$3.15 billion)</p> <p>Increase from 50% to 75% reimbursements to nonprofits, tribes and government agencies for benefit costs</p> <p><i>Cost: ~\$113 billion</i></p>
State and local government aid	<p>Provide direct aid to state governments (\$500 billion), counties/municipalities (\$375 billion), tribal and territorial governments (\$20 billion each) and additional \$755 million payment to the District of Columbia (\$916 billion)</p> <p>Provide flexibility in use of prior aid funds to help make up revenue losses</p> <p>Enable U.S. territories and additional cities and counties (those with at least 50,000 residents) to issue debt backed by the Federal Reserve's Municipal Liquidity Facility; extend authorization period for municipal debt facility for a year, through Dec. 31, 2021; extend maximum maturity of debt purchased by facility from three to 10 years; and require interest rates on municipal debt purchased by facility to equal the Fed's discount window primary credit interest rate (\$30 billion)</p> <p><i>Cost: \$946 billion</i></p>	<p>S 4318: Would provide flexibility by allowing prior round of \$150 billion (PL 116-136) to be used for additional expenses, including to backfill revenue losses</p> <p>Provides that employees working remotely for 30 days or less in a different taxing jurisdiction -- other than professional athletes, entertainers or other highly-compensated public figures -- will only be subject to state and local taxes where their permanent residence is located; 30-day limit is increased to 90 days for public health workers responding to the COVID-19 emergency</p> <p>Funds could not be used for pension/retirement expenses or replenishing "rainy day" funds</p> <p><i>Cost: not applicable</i></p>
Hazard pay/essential workers	Pandemic premium pay for "essential" workers (health care, grocery, transportation, first responders, etc.) of	None

	<p>\$13/hour up to \$10,000 (\$5,000 for those earning \$200,000+ annually) for work performed through 60 days after the end of declared public health emergency (\$190 billion, including \$10 billion for federal workers)</p> <p>Provide funds for care of family members of essential workers (\$850 million)</p> <p>Permanent \$500 above-the-line deduction for first responder expenses including uniforms, tuition and training fees (\$1.8 billion)</p> <p>Special \$500 above-the-line deduction for 2020 expenses incurred by COVID-19 frontline workers providing at least 1,000 hours of essential work (\$1.3 billion)</p> <p>Expand Defense Production Act authorities to purchase medical supplies</p> <p><i>Cost: \$194 billion</i></p>	
Liability shield	None	<p>S 4317: Limit liability for COVID-19 exposure at school, church, nonprofit or business if entity has made reasonable effort to comply with public health guidelines and hasn't exhibited willful misconduct or gross negligence, for claims from Dec. 1, 2019, to Oct. 1, 2024</p> <p>Protect health care providers and nursing homes from liability arising out of provision of care or services related to COVID-19, except in cases of willful misconduct or gross negligence, for claims from Dec. 1, 2019, to Oct. 1, 2024</p> <p>Shield makers of ventilators and personal protective equipment from liability if products meet certain Food and Drug Administration standards</p> <p>Ensure employers are not liable under federal labor and employment laws for complying with public health requirements, including stay-at-home orders and protect employers from liability from injuries arising from workplace coronavirus testing</p> <p><i>Cost: unknown</i></p>
Workplace safety	Require Occupational Safety and Health Administration to develop temporary standards within seven days to protect workers at risk of COVID-19 exposure,	None

	<p>require employers to develop comprehensive infectious disease exposure control plans</p> <p>State agencies would have to develop their own temporary standards within 14 days</p> <p>Protections would cover public employees in 24 states not currently subject to OSHA standards</p> <p>Require employers to abide by OSHA recordkeeping regulations</p> <p>Employers could not retaliate against workers for publicizing lax standards or for using more protective equipment than the firm provides</p> <p>Require OSHA to develop permanent infectious disease standard within 24 months</p> <p>OSHA funding for workplace protection and enforcement activities</p> <p><i>Cost: \$100 million</i></p>	
Pensions/ retirement changes	<p>Relief for multiemployer pension plans (\$58 billion)</p> <p>Extend amortization for single employer pension plans (-\$17 billion)</p> <p>Other retirement provisions (\$7 billion)</p> <p><i>Cost: \$48 billion</i></p>	<p>S 4318: Special rules for "money purchase" pension plans that only employers contribute to</p> <p><i>Cost unknown</i></p>
Transportation	<p>Emergency relief for transit systems (\$15.8 billion)</p> <p>Grants to state, territorial and tribal highway departments (\$15 billion)</p> <p>Funds for FAA operations (\$75 million)</p> <p>Increase unemployment and illness benefits for railroad workers (\$1 billion)</p> <p>Require Amtrak to enforce mask-wearing for passengers and crew and provide masks, gloves, wipes etc. to employees</p> <p>All Amtrak trains and stations must be cleaned and disinfected</p>	<p>S 4320: Funding for Airport Improvement Program (\$10 billion)</p> <p>Funding for FAA operations, DOT administrative expenses essential air service program (\$151 million)</p> <p>Transportation Security Administration expenses for enhanced cleaning and technology to help avoid physical contact with travelers (\$208 million)</p> <p><i>Cost: \$10.4 billion</i></p>

	<p>Require airlines or contractors receiving financial assistance to avoid layoffs or furloughs until assistance is exhausted</p> <p>Prevent airlines receiving loans from increasing heavy maintenance work done overseas</p> <p>Require flight attendants, passengers and pilots when outside the flight deck to wear masks</p> <p>Require airlines to provide PPE and cleaning supplies to employees and clean/disinfect aircraft</p> <p>Require FAA to equip workers with masks, wipes and other protective gear</p> <p>Waive minimum operating days requirement so all 60 Maritime Security Program vessels can receive full stipends during pandemic</p> <p><i>Cost: \$31 billion</i></p>	
Cybersecurity	None	<p>S 4320: Funding for Cybersecurity and Infrastructure Security Agency to defend against attacks on agencies involved in coronavirus response</p> <p><i>Cost: \$53 million</i></p>
EPA	<p>Funding for environmental justice grants</p> <p><i>Cost: \$50 million</i></p>	None