WASHINGTON REPORT

- **The HEROES Act (H.R.6800)**
- **The Moving Forward Act (H.R.2)**
- **The Fiscal Year 2021 THUD bill**

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There has been quite a bit going on within the Beltway over the last quarter. The most important bills passed out of the House of Representatives that could potentially affect you are the HEROES Act (H.R.6800), the Moving Forward Act (H.R.2), and the Fiscal Year 2021 (FY2021) Transportation-Housing & Urban Development (THUD) Bill. Of course, all of the provisions in these bills, many of which are very favorable for us, are subject to change during negotiations in the Senate. These bills need to pass through the Senate and be enacted into law without many, if any, changes, to secure our health, safety, income security, and work for years to come.
Below you will find a summary on how each bill could possibly affect our work.

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On May 15, 2020, the House of Representatives passed the $3 trillion Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act. The bill provides more than $30 billion in transportation funding and includes a number of hard-fought provisions important to rail labor.

DIVISION S — Other Matters Title VI of the HEROES Act covers Amtrak and rail workers:

Sec. 190601 — *Amtrak COVID-19 Requirements.* This provision provides that, for the duration of the COVID-19 pandemic, Amtrak must require passengers and employees to wear masks or protective face coverings while onboard an Amtrak train. Amtrak must also provide masks or protective face coverings, gloves, hand sanitizer, and wipes to all employees whose job responsibilities include passenger interaction. It also ensures that Amtrak trains, stations, and 82 enclosed facilities are frequently cleaned and disinfected, and that employees who do this work are provided masks or protective face coverings and gloves.

Sec. 190602 — *Additional Enhanced Benefits Under the Railroad Unemployment Insurance Act.* For railroad workers receiving unemployment benefits under the Railroad Unemployment Insurance Act, this provision would extend the temporary recovery benefit that provides $1,200 every two weeks (per registration period) in addition to regular benefits, creating parity for railroad workers.

Sec. 190603 — *Treatment of Payments from the Railroad Unemployment Insurance Account.* This provision would eliminate the Balanced Budget and Emergency Deficit Control Act sequester that automatically cuts unemployment and sickness benefits provided to railroad workers under the Railroad Unemployment Insurance Act. This change would allow railroad workers to receive the full benefit amounts to which they are entitled and would create parity with the treatment of other unemployment insurance benefit programs.

Sec. 190604 — *Technical Correction for Extended Unemployment Benefits under the Railroad Unemployment Insurance Act.* Provides a technical correction to a provision in the CARES Act that extended railroad unemployment benefits to allow for easier implementation of the extended benefits.

Sec. 190605 — *Technical Correction.* Provides a technical correction to a provision in the CARES Act by fixing an incorrect title reference to the Railroad Retirement Act.

Sec. 190606 — *Clarification of Oversight and Implementation of Relief for Workers Affected by Coronavirus Act.* Provides a technical correction to ensure that the Railroad Retirement Board (RRB) and its Inspector General have implementation and oversight authority over the RUIA-related provisions of the CARES Act.

DIVISION Q — COVID-19 Title I Provisions Relating to State, Local, Tribal, And Private Sector Workers:

Sec. 170101 — *Definitions.* This section defines key terms under Title I, including "essential work employers" and "essential work." "Essential work" (1) is performed during the COVID-19 Public Health Emergency, (2) is not performed while teleworking, (3) involves regular interaction with others or items handled by others, and (4) is work in any of the 33 enumerated areas of work (e.g., health care, first responders, grocery stores, transportation, etc.).

Sec. 170102 — *Pandemic premium pay for essential workers.* This section provides that employers that apply for and receive grants will pay essential workers $13 per hour premium pay on top of regular wages. Essential workers are eligible for up to $10,000 ("highly compensated" essential workers earning above $200,000, up to $5,000) for work performed from January 27, 2020, until 60 days after the last day of the COVID-19 Public Health Emergency. If an essential worker develops symptoms of COVID-19 and dies, the worker's next of kin receives the remainder of the premium pay as a lump sum.

Sec. 170103 — *COVID-19 Heroes Fund.* This section establishes the COVID-19 Heroes Fund in the Treasury of the United States and to be administered by the Secretary of Treasury.

Sec. 170104 — *COVID-19 Heroes Fund grants.* This section directs the Secretary of the Treasury to award grants to essential work employers who choose to apply for grants for the purpose of providing premium pay to essential workers. Essential work employers are eligible for grants of $10,000 per essential worker ($5,000 for highly compensated essential workers) to cover the entire cost of premium pay, including employer payroll taxes for premium pay. Employer payroll taxes include the employer portion of Medicare Hospital Insurance tax (and the corresponding part of the Railroad Retirement Board (RRB) Tier 1 tax), federal unemployment tax, and state and local employment taxes. Unused funds must be returned to the Treasury.

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Sec. 170105 — *Enforcement and outreach.* This section grants the Secretary of Labor authority to enforce payment requirements and to conduct outreach to employers. Failure to adhere to payment requirements are treated as violations of overtime requirements under the Fair Labor Standards Act.

Sec. 170106 — *Funding for the Department of the Treasury Office of Inspector General.* This section appropriates $1 million to the Inspector General of the Department of the Treasury to conduct oversight.

Sec. 170107 — *Authorization and appropriations.* This section appropriates $190 billion to carry out Title I. As frontline workers in the battle against COVID-19, Signalmen are certainly heroes to millions of Americans in need of the vital goods we help carry throughout the Nation. Most of all, we are heroes to our loved ones, our spouses, our children and grandchildren, brothers and sisters, etc., who support us as we go to work every day. This legislation is a step in the right direction for our health, our economy, and our country. The HEROES Act is by no means a done deal, and we will be keeping an eye on this bill as it moves through the Senate.

The Moving Forward Act (H.R.2) is a bill that can be the catalyst for bringing the economy back while ensuring the future of America's infrastructure is as strong and resilient as ever. Part of H.R.2 is the Investing in a New Vision for the Environment and Surface Transportation in America Act (INVEST Act). Among the many other items included in this Bill are the way forward on repairing and construction and other provisions related to federal-aid highway, transit, highway safety, motor carrier, research, hazardous materials, and rail programs of the Department of Transportation (DOT). Many of the 27 amendments to the bill were sponsored by Republicans, including one bipartisan amendment from Representatives Brownley (D-CA-26) and Pence (R-IN-06) that expands eligibility for the grade crossing program [23 USC 130]. It also includes $29 billion for Amtrak, as well as much needed expansion for broadband internet access, and a way forward on affordable housing and building schools.

Some amendments that can positively affect us are:

Sec. 9303 — Directs FRA to actually promulgate employee protection provisions for passenger rail grants Under Section 22905.

Sec. 9203 — Reforms Amtrak Board of Directors, one member is to be representative of labor organization representing Amtrak employees.

Sec. 9103 — Section 22907(j) is amended so CRISI grants can go to commuter railroads and are subject to Section 22905 employee protections and they apply to successors, assigns and contractors.

Sec. 1301(k), 1302(k), 1304(j), and 1396(l) — For community transportation investment grants, passenger rail freight and passenger project grants, community climate investment grants, and gridlock reduction grants rail employees are covered by Section 22905 protections; for multi-modal grants, passenger rail and freight rail components, Section 22905 employee protections apply via new Section 22907(j).

Sec. 9502 — GAO is directed to study impact of new railroad operating models (PSR and related) for rail safety and quality and cost of service.

Sec. 9505 — Public notice and comment is required for all FRA waivers of safety regulations, this expands on existing requirement by mandating that the applicant produce the application and supporting document and that FRA provide the public with an explanation of its reasoning.

Among other provisions, the bill:

- Extends FY2020 enacted levels through FY2021 for federal-aid highway, transit, and safety programs;
- Reauthorizes for FY2022–FY2025 several surface transportation programs, including the federal-aid highway program, transit programs, highway safety, motor carrier safety, and rail programs;
- Addresses climate change, including strategies to

reduce the climate change impacts of the surface transportation system and conduct a vulnerability assessment to identify opportunities to enhance the resilience of the surface transportation system and ensure the efficient use of federal resources;

- Revises Buy America procurement requirements for highways, mass transit, and rail;
- Establishes a rebuild rural grant program to improve the safety, state of good repair, and connectivity of transportation infrastructure in rural communities;
- Implements new safety requirements across all transportation modes; and
- Directs DOT to establish a pilot program to demonstrate a national motor vehicle per-mile user fee to restore and maintain the long-term solvency of the Highway Trust Fund and achieve and maintain a state of good repair in the surface transportation system.

On July 31, 2020, the House passed the FY2021 THUD bill. The legislation provides 158.3 billion in base budgetary resources. The Bill includes 75.9 billion in discretionary funding, an increase of $1.7 billion above the FY2020 enacted level and $16.8 billion above the President's 2021 budget request.

Among other provisions, the bill includes:

- A total of $107.2 billion in total budgetary resources for DOT – an increase of $21.1 billion above the FY2020 enacted level and $19.4 billion above the President's 2021 budget request. Included in that is $1 billion for National Infrastructure Investments (TIGER/BUILD).
- $3 billion for the Federal Railroad Administration (FRA). This is an increase of $201.8 million above the FY2020 enacted level and $1 billion above the President's budget request;
- $500 million for Consolidated Rail Infrastructure and Safety Improvements (CRISI), an increase of $175 million above the FY2020 level and $170 million above the President's budget request;
- $200 million for Federal-State Partnership for State of Good Repair, equal to the FY2020 level. The President's budget request proposed eliminating the program;
- $2.05 billion for Amtrak. An increase of $50 million above the FY2020 level and $1.1 billion above the President's budget request; $750 million for Northeast Corridor (NEC) Grants; $1.3 billion for National Network Grants.

The bill also provides $26 billion in additional funding to some DOT programs using emergency funding to further support the recovery of the transportation sector from the pandemic.

The additional infrastructure investment includes, among other things:

- Amtrak: $8 billion: NEC – $5 billion; National Network-$3 billion;
- CRISI: $5 billion;
- BUILD/TIGER: $3 billion;
- CIG: $5 billion.

These bills could impact Signalmen in many ways by keeping the membership working safely with better wages and working conditions. Carriers are touting the safety of the railroads with the backing of technology; however, the American Association of Railroads does not consider the work of Signalmen as being the driving force behind safety in our industry and would prefer to blame every incident and accident as the result of human error. We need bills like those mentioned above to show that, in conjunction with our skilled expertise, technology helps to enhance safety. As constituents, we must compel our elected leaders to vote for bills that are beneficial for Signalmen and the safety of the traveling public. If we do not speak out, Congress, the Carriers, and their lobbyist will take our silence as agreement with policies that are meant only to improve their bottom line. A second Coronavirus stimulus package is being discussed in both chambers of Congress. On Monday, July 14, 2020, Senate Majority Leader Mitch McConnell (R-KY) reiterated that no bill will pass the Senate without liability protection, *"for everyone related to the coronavirus."* It is imperative that Signalmen watch this carefully, it could have far-reaching implications to our work, including FELA. ■