Metro Houston Employment

Metro Houston added 55,000 jobs in June. That's on top of the 78,200 jobs added in May. Despite the surge, local employment remains 217,700 jobs below its February pre-COVID level. The largest job gains occurred in restaurants and bars, retail and arts, entertainment and recreation. Government, manufacturing and transportation, warehousing and utilities and energy continued to lose jobs. Of the major sectors, only finance and insurance has returned to its pre-COVID employment level.

How Much of Houston's Economy is Tied to Energy

"How much of Houston's economy is tied to energy?" That question gets asked every time the price of crude drops by more than a few dollars. "Is Houston less dependent on energy than it was 10, 20 or 30 years ago?" That gets asked by residents who lived through previous downturns and worry that Houston remains as vulnerable today as it was back then. Oil and gas has three sectors: upstream, midstream, and downstream. Upstream includes exploration, production, and oilfield services. Midstream focuses on the processing, transportation, and storage of crude and natural gas. Downstream involves the refining and processing of oil and natural gas into fuels, chemicals, and plastics. All three sectors are well-represented in Houston. Each sector responds differently to changes in price. Exploration companies ramp up drilling as crude prices rise and ratchet it down as prices fall. Pipeline profits are tied to the volume of products moving through their systems. Prices are a secondary concern. Refiners prefer low oil prices because they translate into cheaper feedstocks and wider profit margins. Domestic chemical producers prefer low natural gas prices. Their primary feedstocks are natural gas liquids (NGLs), like ethane and propane. Overseas, the primary feedstock is naphtha, which is derived from crude. As oil prices rise and natural gas prices stay flat, U.S. chemical producers have a cost advantage over their foreign competitors. All three sectors are currently dealing with low commodity prices, excess inventories, declines in drilling, government permitting hurdles, and weak overall demand due to the pandemic.

Every December, the Bureau of Economic Analysis (BEA) publishes its estimates of gross domestic product (GDP) for all 384 U.S. metro areas. BEA estimates that oil and gas extraction accounted for $20.5 billion (4.3 percent) of Houston's GDP in '18. That's down from $33.1 billion or 7.7 percent in '14. BEA no longer publishes estimates for chemicals, refining, and pipelines contribution to Houston GDP. The last year for which the data was available ('14), upstream, midstream and downstream accounted for 26.8 percent of local GDP. Once oilfield equipment and fabricated metal product manufacturing were factored in, energy's share of Houston GDP jumped to 30 percent. Much has happened since then, however. Oil prices have collapsed, upstream employment has tumbled, operators have added 30,000 miles of pipelines to their systems, and chemical

companies have invested over $60 billion in new plants and facilities. As a result, previous estimates of energy's contribution to GDP are no longer valid.

There's a saying among economists: "If you torture the data long enough, eventually it will tell you anything." That applies to GDP estimates as well. Between '14 and '18, upstream's contribution to Houston GDP fell by $12.5 billion. Over the same period, nondurables manufacturing rose by $15 billion. Chemicals and refined products are nondurables. When BEA last published data on chemicals and refining, the two accounted for 92 percent of the nondurables total. Assuming that chemicals and refined products account for over 90 percent of nondurables manufacturing, downstream energy contributed about $52.0 billion, or 10.8 percent, to metro GDP in '18. That's two and half times upstream's share, which BEA estimates at $20.5 billion, or 4.3 percent of GDP. Add together upstream and downstream, assume that pipelines, equipment manufacturing, engineering and a handful of other sectors contributed another $15 to $20 billion, and energy likely accounted for 20 to 25 percent of GDP in '18. That's down from 30 percent in '14.

Each month, the Texas Workforce Commission (TWC) releases its estimates of payroll employment for all metro areas in the state. The series, referred to as the Current Employment Statistics (CES), is based on employer surveys and includes data on most industries that comprise upstream, midstream and downstream energy in Houston. The CES also provides data that allows oil field equipment manufacturing, fabricated metal products, and engineering services to be factored into the analysis. The CES data show that upstream employment peaked at 300,000 jobs, or 10.0 percent of the metro total, in December '14. 1 The sector lost jobs through December '16, enjoyed a brief recovery starting in '17, and began trending down again this year. The trend has accelerated with the collapse in demand brought on by the pandemic. The sector employed 215,000 as of June '20, down nearly 25,000 since December. The 215,000 mark is significant because it formed the floor of the last two downturns in Houston. If the sector falls below that threshold this time, upstream employment will be at its lowest level since '06. As a subset of upstream employment, exploration, production and oilfield services accounted for 59,600 jobs in June, or 2.1 percent of total employment. That's well below the 3.9 percent 104,000 peak of mid-'13, the height of the fracking boom. Midstream employment peaked at 13,600 in April '02, then fell below 8,000 the middle of the decade. The steep drop reflects the collapse of Enron, which once employed more than 5,000 in Houston. Pipeline employment has inched up over the last 15 years but remains well below its previous peak. The sector employed 12,100 as of June '20, accounting for 0.4 percent of all jobs in the region. Downstream employment peaked at 59,900 in August '91, accounting for 3.3 percent of total employment. As of June '20, the industry employed 51,400, and accounted for 1.7 percent of all jobs. The drop in employment seems odd considering that the industry has invested billions on new plants along the Gulf Coast. Two factors likely account for this—the increased efficiencies of the plants coming online and a greater reliance on subcontractors to maintain those plants.

TWC's Quarterly Census of Employment & Wages (QCEW) provides another option for measuring the degree to which local employment is tied to energy. The QCEW is based on the number of workers covered by unemployment insurance, which is mandatory in Texas. The QCEW covers over 800 industries in Houston compared to fewer than 80 for

the CES. The QCEW also provides data on compensation by industry, something not available elsewhere. The QCEW's major limitation: there's an eight- to nine-month lag from when the data is collected to when it's released. As of early August, the most current data available was for Q4/19. Houston's economy, especially the energy industry, has contracted significantly since then. QCEW data from Q1/90 to Q4/19 found that

- As a share of total employment, energy peaked at 10.8 percent in Q3/91. Energy's share was 7.8 percent in Q4/19.
- As a share of total businesses, energy-related firms peaked at 4.0 percent in the early '90s. They represented only 3.2 percent of all firms in Q4/19.
- As a share of total wages, energy peaked at 21.5 percent in '12. Energy paid $34.7 billion in wages last year, or 15.7 percent of total earnings in the region. That's was near the all-time low of 15.6 percent in '18.

Tallying up CES or QCEW jobs does not account for the indirect or induced impacts of the energy industry on the economy. The "indirect" impact occurs when the energy industry purchases goods and services in the community. The "induced" impact occurs when the employees at those energy companies and the firms supplying them spend their paychecks in the community. But those impacts can be estimated using IMPLAN. Refining and chemicals have a greater impact, (or in economic parlance, "a higher multiplier"), because the plants require ongoing repair, maintenance and upgrades. A $1 billion plant may employ only a few hundred operators but it requires an army of pipefitters, welders, and electricians to repair and maintain. Most of this work is sourced from local engineering and construction firms. Pipelines have slightly lower multiplier than the downstream sector because while engineering, design and management are concentrated in Houston, construction and maintenance occurs along the rights-of-way. Upstream's multiplier falls below middle and downstream because most of what takes place here are management functions. Decisions about where to drill are made here, the services to do so are acquired here, and some of the equipment used to find oil is manufactured here, but the actual drilling takes place hundreds of miles away. Although it's tempting, one can't run the model for multiple industries and then aggregate the results to determine energy's overall impact on Houston. That's because one sector's output is often another sector's input. Aggregating the results would lead to significant over-counting. The model does indicate that energy has some of the highest multipliers of any industry in Houston. Nor can historic data be input into IMPLAN to determine how energy's importance has shifted over time. Technologies, purchasing patterns, and consumer preferences are ever-evolving. The model is updated regularly to reflect this. Regarding the energy timeline, consider: fracking first swept the industry 10 years ago; Congress only lifted the ban on crude exports five years ago; initial production per well in the Permian Basin is 50 percent higher than three years ago; and U.S. oil production has grown by 3.2 million barrels per day over the past five years. During this time, exploration and oil field service firms cut more than 125,000 jobs from their payrolls.

Over the past 30 years, the nature of the energy industry has changed. To increase profitability, many companies have outsourced non-essential jobs, likely accounting for the drop in energy's share of employment. The jobs that were outsourced tend to be at the lower end of the pay scale. The jobs retained were core functions, which tend to be

higher-skilled and higher-paid positions. The energy workforce was more blue collar-oriented in the '80s and '90s. Today it's more white-collar-oriented. And over the past 30 years, Houston has shifted from a place where the industry made things to a place where the industry makes decisions.

Houstonians have a love-hate relationship with oil and gas. From '10 to '14, during the height of the fracking boom, Houston lead the nation in job growth, population growth and housing starts. No one seemed to mind that the good times were driven by a drilling boom in the Eagle Ford shale. Now that energy is shedding jobs, the industry is seen as a liability, especially in light of growing concerns over climate change. But Houstonians need to consider a few points: The energy industry helped make Houston a global city. According to '17 Global Houston, one-fifth of the world's national oil companies, two-thirds of the global integrated oil companies, and half of the world's non-U.S. oil field service firms have offices in Houston. A majority of tonnage handled at Port of Houston is energy related—crude 29 percent, refined exports 24 percent, chemicals and plastics 14 percent. The industry is well integrated into Houston's cultural life. Scan the advertisers along the outfield fence in Minute Maid Park and over half are energy-related companies. Pick up a program for the opera, symphony or ballet and energy companies are among the major underwriters.

Houston now faces a double whammy of weak energy demand because of the COVID-19 pandemic and needs to transition away from fossil fuels to mitigate global climate change. The industry, at first slow to recognize the need for change, now embraces it. In June '19, the Center for Houston's Future hosted the region's first low carbon energy summit. The event brought together energy executives, climate experts and thought leaders to start a dialogue on harnessing Houston's expertise to address the transition to a low carbon future. At this year's annual meeting, Partnership Chairman Bobby Tudor declared Houston having not only the opportunity, but also the responsibility, to lead the global energy transition. BP, Shell, Chevron, Exxon have all launched initiatives to reduce carbon emissions and are funding research into alternative energy sources. And Greentown Labs will soon open Houston's first climate tech and clean tech-focused startup incubator. This will be its first venture outside of its hometown of Boston. Some have referred to this shift in focus as Energy 2.0; however, Houston would not have the opportunity for an Energy 2.0 without foundation already having been laid with Energy 1.0.

Energy's Contribution to Houston GDP In '19

Industry	$ Millions	%
Oil & Gas Extraction	$38,597.8	7.2
Drilling Oil & Gas Wells	$5,971.5	1.1
Support Activities for Oil & Gas	$8,346.7	1.5
Pipe & Valve Mfg.	1,575.8	0.3
Petroleum Refineries	$18,846.0	3.7
Petrochemical Mfg.	$20,741.0	3.9
Pipeline Transportation	$7,971.5	1.5
Engineering Services	$12,209.2	2.3
Energy Sector Total	$120,401.2	22.3
HOUSTON MSA TOTAL	$538,725.9	100.%

U.S. Job Openings and Labor Turnover

The number of job openings increased to 5.9 million on the last business day of June. Hires decreased to 6.7 million in June, but was still the second highest level in the series history. The largest monthly increase in hires occurred in May 2020. Total separations increased to 4.8 million. Within separations, the quits rate rose to 1.9 percent while the layoffs and discharges rate was unchanged at 1.4 percent. These changes in the labor market reflected a limited resumption of economic activity that had been curtailed in March and April due to the coronavirus (COVID-19) pandemic and efforts to contain it.

On the last business day of June, the number of job openings increased to 5.9 million (+518,000) while the rate was little changed at 4.1 percent. Job openings rose in a number of industries with the largest increases in accommodation and food services (+198,000), other services (+69,000), and arts, entertainment, and recreation (+34,000). Job openings decreased in construction (-70,000) and in state and local government education (-26,000). The number of job openings increased in the Northeast and Midwest regions.

In June, the number of hires decreased to 6.7 million (-503,000), the second highest level in series history, the series high occurred in May 2020. The June hires rate decreased to 4.9 percent. Hires decreased in a number of industries, with the largest fall in other services (-326,000), followed by health care and social assistance (-282,000), and construction (-181,000). Hires increased in professional and business services (+255,000), accommodation and food services (+78,000), and state and local government, excluding education (+30,000). The number of hires decreased in the West region.

Total separations includes quits, layoffs and discharges, and other separations. The quits rate can serve as a measure of workers' willingness or ability to leave jobs. Layoffs and discharges are involuntary separations initiated by the employer. Other separations includes separations due to retirement, death, disability, and transfers to other locations of the same firm. In June, the number and rate of total separations increased to 4.8 million (+522,000) and 3.5 percent, respectively. A year ago, total separations levels and rates were higher at 5.6 million and 3.7 percent in June 2019. Total separations increased in many industries in June 2020 with the largest increases in accommodation and food services (+175,000), retail trade (+103,000), and durable goods manufacturing (+58,000). The number of total separations decreased in state and local government education (-59,000) and federal government (-12,000). Total separations increased in the Northeast and West regions. In June, the number and rate of quits increased to 2.6 million (+531,000) and 1.9 percent, respectively. Quits increased in a number of industries with the largest increases in health care and social assistance (+106,000), accommodation and food services (+104,000), and retail trade (+99,000). Quits decreased in state and local government education (-40,000). The number of quits increased in all four regions. The number of layoffs and discharges was little changed at 1.9 million and the rate was unchanged at 1.4 percent in June. The rate, which had reached a series high of 7.6 percent in March, declined to 1.4 percent in May, and remains near its pre-pandemic rate of 1.2 percent in February. In June, the layoffs and discharges level decreased in health care and social assistance (-71,000), state and

local government, excluding education (-24,000), and federal government (-10,000). Layoffs and discharges increased in accommodation and food services (+70,000) and durable goods manufacturing (+38,000). The number of layoffs and discharges was little changed in all four regions. The number of other separations was little changed in June. Other separations increased in retail trade (+23,000) and arts, entertainment, and recreation (+3,000). Other separations decreased in state and local government education (-11,000) and educational services (-4,000). Other separations were little changed in all four regions.

Large numbers of hires and separations occur every month throughout the business cycle. Net employment change results from the relationship between hires and separations. When the number of hires exceeds the number of separations, employment rises, even if the hires level is steady or declining. Conversely, when the number of hires is less than the number of separations, employment declines, even if the hires level is steady or rising. Over the 12 months ending in June, hires totaled 70.2 million and separations totaled 79.1 million, yielding a net employment loss of 8.9 million. These totals include workers who may have been hired and separated more than once during the year.

Challenger, Gray & Christmas' July Job Cuts Report

Job cuts announced by U.S.-based employers jumped in July to 262,649, the third-largest monthly total ever behind April's 671,129 and May's 397,016, according to global outplacement and business and executive coaching firm Challenger, Gray & Christmas, Inc. July's total is 54% higher than the 170,219 job cuts announced in June, and 576% higher than the July 2019 total of 38,845. Prior to the COVID-19 pandemic, the highest monthly total of job cuts was 186,350 in February 2009. Last month's cuts bring the yearly total so far to 1,847,696, up 212% from the 592,556 cuts at this time last year. The current year-to-date total is 109,180 cuts away from the 1,956,876 cuts announced in 2001, the highest annual total on record. Challenger began tracking job cut announcements in January 1993. The reason cited for 77,092 of the announced cuts is market conditions. COVID-19 caused 63,517 cuts in July, followed by 60,831 job cuts due to demand downturn, and 17,069 cuts due to voluntary severance/buyouts. COVID-19 is the reason for 1,074,904 cuts so far this year. "The lapse in extended unemployment benefits for millions of Americans will significantly impact the economy, as we see more employers announce they are cutting jobs permanently," said Andrew Challenger, Senior Vice President of Challenger, Gray & Christmas, Inc. "The downturn is far from over, especially as COVID cases rise around the country. Consumers are buying fewer goods and services, businesses are closing, and bankruptcies are rising," he added. In fact, 1,977 job cuts were attributed to bankruptcies last month, for a seven-month total of 11,558. Another 79,497 cuts so far this year are due to closings. The majority of cuts continue to come from Entertainment/Leisure companies, including bars, restaurants, hotels, and amusement parks, which announced 109,940 cuts in July, an 18% increase over the industry's 92,954 cuts announced in June, and a 21,976% increase over the 498 Entertainment/Leisure cuts tracked in July 2019. So far this year, these companies have announced 781,780 cuts, an 8,309% increase over the 9,297 cuts announced in the sector through July 2019. Retailers announced the second-highest number of job cuts this year with 163,112, 196% higher than the 55,167 cuts announced

through the same period last year. The Services sector, which includes companies that provide catering, linen, marketing, and administrative services, announced 121,741 cuts so far in 2020, 781% higher than the 13,812 cuts announced through the same period in 2019. The Transportation sector has announced 105,026 job cuts so far this year, a 452% increase over the 19,039 jobs cut through July 2019. The Automotive sector cut 83,853 jobs in July, a 144% increase over the 34,379 cuts in July 2019. Hiring announcements almost equaled the number of jobs cut in July, as companies announced 246,507 hiring plans. Warehousing led with 100,340 hires, as more and more Americans shop online. Government plans to add 22,024 jobs, and the Services sector is looking to add 33,485 jobs. So far this year, 1,582,622 hiring plans have been announced. “The long-lasting ramifications of COVID-19 on certain industries are readily apparent. It is clear that many job losses are now permanent, and it will be challenging for many workers to find new jobs and feel safe taking jobs that are public-facing,” said Challenger.

Weekly U.S. Unemployment Claims Drop Below One Million for First Time Since March

U.S. unemployment claims fell below one million last week for the first time since the coronavirus pandemic struck in March, as the deeply wounded labor market continues to regain some footing. New applications for unemployment benefits dropped to a seasonally adjusted 963,000 in the week ended August 8th, the Labor Department said Thursday, marking the second weekly reduction in filings. The number of people collecting unemployment benefits through regular state programs, which cover the majority of workers, also decreased to about 15.5 million at the beginning of August. But both figures remain well above even the worst figures before the pandemic struck, with the number of people receiving benefits more than double the 6.6 million reached in 2009. Unemployment remains elevated as other measures of the economy, including consumer spending, also lag behind levels from before the coronavirus hit. An increase in coronavirus infections across much of the country continues to threaten economic gains as states put in place new restrictions aimed at containing the pandemic. Still, the decline in jobless claims indicates layoffs are easing and hiring is picking up, said Julia Pollak, economist at job site ZipRecruiter. “There may now just finally be enough activity to make businesses feel confident enough to try to open their doors, even though they’re running at a low capacity in most cases,” she said. The drop in claims could also reflect waning fiscal support by the government, Ms. Pollak said. The late-July expiration of an extra $600 a week in federal jobless benefits—added in March under a virus-relief package—puts much less money in unemployed individuals’ pockets, possibly discouraging them from seeking benefits. Without the $600 weekly boost, payments dropped to the level set by states, which averaged about $330 a week for the 12 months through June. Gus Faucher, economist at PNC Financial Services Group, said the income boost helped prop up outlays for many households. Without it, some consumers will likely cut back on their spending this month. “That is going to be a drag on the recovery,” he said. The Commerce Department releases fresh figures on retail sales Friday, and economists estimate sales rose at a slower pace in July than in the spring. Newer data suggest retail spending weakened this month, likely a result of the expiring unemployment aid. With Congress unable to agree to extend the aid, President Trump signed an executive action that authorized states to extend a federally funded $300 in benefits and provide an extra $100 in state-funded benefits. States likely won’t start implementing the supplemental benefits for weeks, and funding could be

exhausted a month and a half later. Actual claims figures—numbers not adjusted for seasonal factors—dropped as well, falling by 156,453 to 831,856. Economists have been watching for distortions in the seasonally adjusted figures, given the scope of shifts in economic data caused by the pandemic. Some workers who don't qualify for benefits under regular state programs—such as the self-employed, gig workers and parents who can't find childcare—can collect benefits under a federal stimulus bill passed in March. About 10.7 million individuals were collecting benefits through this program at the end of July, a decline from the previous week's 13 million. Economists are watching claims figures to see if they will tick back up once the new federal unemployment aid kicks in. Many people who have returned to the workforce are also finding that new jobs can be short-lived as the U.S. struggles to contain the virus. A Cornell University survey that showed about 31% of workers who were placed back on payrolls after an initial layoff were laid off a second time.

Texas Unemployment Claims Fall

New claims for unemployment benefits in Texas fell for the fifth consecutive week, adding to evidence that layoffs across the state are slowing and the beginning of an economic recovery is underway. Analysts warn, though, that recovery could be destabilized with the federal pandemic unemployment benefits ended. About 51,000 people in Texas applied for unemployment benefits last week, down nearly 20 percent from 63,000 a week prior. Initial jobless claims in Texas have trended down following a midsummer spike driven by a surge in COVID-19 cases that required businesses to walk back re-opening efforts. Initial jobless claims in Texas are at the lowest levels since the shutdown orders began in March. Still, claims are running four times higher than pre-pandemic rates. In early 2020, about 14,000 people typically applied for unemployment benefits each week in Texas. Nationally, initial jobless claims last week fell below 1 million for the first time since the pandemic driven shutdowns began in March. Initial claims peaked near 7 million per week in late March. Before the shutdowns, around 218,000 claims were filed in the United States each week. While falling claims are a welcome sign, the labor market still is in high distress, experts warn. Continuing claims remain elevated — 15.5 million nationally last week — meaning those who are receiving benefits are not finding work or getting called back to previous jobs.

Health Care Hiring Gives Big Bump to Houston's Jobs Data

Houston added 8,000 jobs in the health care sector in June, recovering from major employment losses for the second month in a row. But analysts said it's too early to know whether that trend will continue for the rest of the summer. Job gains in health care across the country last month may be an indicator of what's to come for Houston's health care sector. Nationally, health care gained 126,000 jobs in July, primarily in dentist and physician offices, hospital systems and home health care. The industry, however, still has 800,000 fewer jobs than in February, before the coronavirus began spreading rapidly in the United States. "It's counterintuitive, right?" said Steven Scarborough, manager for strategic initiatives at the Center for Houston's Future, a local think tank. "People would think during a pandemic, health care employment would be in higher demand than ever, but a lot of activity in that sector wasn't

happening." Employment has risen as stay-at-home requirements ease and more patients feel comfortable returning to doctors for routine visits. To allay patient fears of crowded waiting rooms and coming into contact with medical professionals who might treat COVID-19 victims, doctors have stocked up on personal protective equipment such as face shields and disposable gloves, limited the number of patients they see each day, and extended business hours. Orders to halt elective procedures that earn hospitals much of their profits along with delays in federal loan disbursements led many to lay off or furlough workers, Scarborough said. The health care sector was particularly hard hit in March and April, when an estimated 41,000 health care sector jobs disappeared in Houston, according to Patrick Jankowski, senior vice president of research for the Greater Houston Partnership. Health care regained 27,500 back from May to June. Employment statistics include jobs in the Texas Medical Center, private practices around the region, nursing homes, therapists and many others. Health care accounts for about one in 10 jobs in Houston, according to the Federal Reserve Bank of Dallas. Until there is a vaccine and conditions return to normal, it's hard to tell how long those employment gains will last, analysts said. So long as people across all industries are losing jobs and employer-sponsored insurance, hospitals and doctors may not see the same patient volumes they were before. Other factors shaping the growth of the industry include the shift to telemedicine and the costs of health insurance plans to employers, which have in recent years pressured insurance companies to tamp down on prices. The outlook for the rest of the year is "highly uncertain," Jankowski said. "My concern is when we hit that steady state where we learn to live with the virus and work around it," Jankowski said. "There can still be a lot of people out of work. And there are going to be whole sectors of the economy which don't function."

Construction Industry Adds 20,000 Employees in U.S. in July

Construction employment increased by 20,000 jobs in July but the gains were limited to housing, while employment related to infrastructure and nonresidential building construction slipped by 4,000, according to an analysis by the Associated General Contractors of America of government data. Association officials cautioned that non-housing construction job losses will continue unless the federal government provides infrastructure funding for state and local budgets, enacts liability reforms and other relief measures. "It is gratifying that the construction industry continued to add jobs in July, but last month's gains were entirely in residential building and specialty trades," said Ken Simonson, the association's chief economist. "It is likely that many nonresidential jobs are in jeopardy following the completion of emergency projects and ones begun before the pandemic. Projects that had been scheduled to start this summer or later are being canceled by both public agencies and private owners, while few new facilities are breaking ground." The employment pickup in July follow gains of 163,000 jobs in June and 456,000 in May, the economist noted. Nevertheless, construction employment in July remained 444,000 jobs or 5.6 percent below the recent peak in February. Residential building and specialty trade construction firms accounted for 24,000 additional jobs in July. In contrast, employment among nonresidential segments declined by 4,000 jobs. Compared to the most recent peak in February, employment in the heavy and civil engineering construction segment of the industry, representing firms that work mainly on highways and other infrastructure—was 7.4 percent below the February total. Employment at nonresidential building and specialty

trade construction firms was 6.8 percent less than in February. Employment at residential building and specialty trade construction firms combined slipped by a more modest 4.1 percent. The industry's unemployment rate in July was 8.9 percent, with 870,000 former construction workers idled. These figures were more than double the July 2019 figures and were the highest July totals since 2013 and 2012, respectively. Association officials said the best way to avoid the expected future construction job losses is for federal officials to quickly enact and implement funding for infrastructure, pass needed liability reforms and other pro-growth recovery measures. They said that investing in infrastructure will add to employment in many manufacturing, trucking and other sectors and will create assets that improve productivity, safety and well-being for all.

What Employees Really Want When They Return To Work

How are employees feeling about their employer's back-to-physical-workplace policies? According to the American Staffing Association's Workforce Monitor study, employees' most common requests in order to feel safe at work are social distancing measures (51%), detailed cleaning protocols (45%), PPE requirements (41%), COVID-19 testing offered to employees (41%) and temperature/symptom screening (41%). Most employed adults are satisfied with their employer's response to the COVID-19 pandemic, specifically the office cleanliness protocols (85%), remote/telework policies (82%) and communications about the pandemic (81%). However, across all generations, male employees are more likely to be satisfied than their female counterparts regarding employer cleanliness protocols, pandemic communication, and return to work plan. And the younger the worker, the less likely they are to be satisfied. Though the majority of Gen-Z (62%) approves their employer's back-to-work plan, they are the least satisfied generational cohort. This may be, in part, because many don't work in office settings where it's easier to practice social distancing. As the newest entrants to the world of work, Gen-Z may be discontent with more than just their work setting. The study indicates that in general, this generation is less happy about their day-to-day job duties (38%), work hours/shift (33%), job security (28%) and their job overall (26%). As we move through month four of the pandemic, companies are now navigating the varied preferences of employees who want to return, others who want to continue working from home and those who want a hybrid of the two. For many, remote work has proven to be a viable option for business continuity—but other employees are admittedly struggling. What employees ultimately want from their workplace isn't much different now than pre-COVID, but one of the most basic requirements—a safe and clean environment—is no longer taken for granted. Employers who communicate often, invite dialogue, listen well and apply health and safety protocols consistently can reassure their workforce that employee wellbeing is not just a perk, but a business priority.

Employers Confront Issues When Testing Employees for COVID-19

With the resurgence of COVID-19 infections across the United States, employers are facing growing pressure to ascertain whether their employees have contracted the virus. Temperature checks and symptoms screening, while helpful, will not identify employees who are asymptomatic and potentially contagious. This gap is critical

because studies show that up to 45% of people infected with the virus do not show any symptoms. As a result, COVID-19 testing can be essential to remaining operational or reopening after a workplace outbreak. The Equal Employment Opportunity Commission (EEOC) has issued guidance stating that mandatory testing of employees for COVID-19 falls within an exception to the Americans with Disabilities Act's (ADA) general prohibition against mandatory medical examinations of employees. While lawful under the ADA, testing presents serious privacy and information security risks for employers. In deciding which employees to test and how frequently to test them, employers must tailor their testing program to align with the rationale for legally permissible testing. Although the ADA generally prohibits medical examinations of employees, such examinations are permissible to determine whether an employee poses a direct threat to the workplace. In guidance issued on April 23, 2020, the EEOC clarified that the COVID-19 pandemic poses a direct threat to the workplace, opening the door for COVID-19 testing of employees to reduce the risk of infection of co-workers and others. That guidance, however, does not mean employers necessarily could justify the substantial privacy intrusion of frequent testing of all employees. To help minimize intrusiveness and ensure that COVID-19 testing will fall within the "direct threat exception" to the ADA's general prohibition on employee testing, employers should design their testing program based on objective evidence of how the virus spreads and how the test detects the virus. For example, testing employees who work exclusively in their own office where they can isolate themselves from co-workers may be more difficult to justify than testing factory workers who cannot engage in social distancing because of the nature of the manufacturing process. As another example, testing employees who must engage in business travel to perform their job responsibilities generally should be delayed until a few days after those employees have completed business travel (assuming they are asymptomatic at that time) because studies indicate that individuals may not have reliably detectable levels of virus until several days after exposure. Consequently, testing these employees on the day they return from business travel would more likely result in false negatives and arguably would not be necessary to prevent a direct threat to the workplace. As these examples highlight, employers need to design their testing program to ensure that the testing at least has the potential to materially reduce the risk of COVID-19 infection in the workplace. Therefore, when structuring the program, employers should evaluate a wide range of factors specific to the employer's workplace, such as where and how employees perform their job responsibilities, the nature of the business, the physical layout of the workplace, and the degree of community spread in the relevant jurisdiction. The results of this evaluation should serve as the basis for a written testing protocol. Adherence to the protocol would assist the employer to conduct testing in a consistent manner across the organization. In addition, the protocol would support the conclusion that the employer conducts COVID-19 testing only as necessary to prevent a direct threat to the workplace. Of course, any testing protocol will need to be administered across similarly situated employees to avoid allegations of discrimination. At the same time, employers should permit limited exceptions as necessary to accommodate disabled employees and employees' religious beliefs. Due to the inherent invasiveness of medical examinations, employers should avoid subjecting employees to COVID-19 tests unless they provide useful results. Indeed, the EEOC's guidance emphasizes that only "accurate and reliable" COVID-19 tests fall within the "direct threat exception" to the ADA's general prohibition on employee testing. Consequently, employers' test selection is fundamental to the lawfulness of the testing program. COVID-19 tests currently fall into

the following three high-level categories with varying levels of accuracy and reliability: (1) Virus tests: tests for the presence of the SARS-CoV-2 virus that causes COVID-19; (2) Antibody tests: tests for antibodies to the virus; and (3) Antigen tests: tests for the presence of proteins that are part of the virus. Of these, the most likely candidate for employers is the virus test. In guidance issued on June 17, 2020, the EEOC opined that the ADA does not permit antibody tests. The EEOC cited the Centers for Disease Control and Prevention's (CDC) own guidance that antibody tests "should not be used to make decisions about returning persons to the workplace," because they are not sufficiently accurate or reliable. Also, at least at this time, antigen tests show low levels of accuracy compared to tests for the virus itself and, therefore, also are likely impermissible under the ADA. Even when selecting a virus test, employers need to confirm the test's reliability. For example, while many "rapid" testing products are making their way into the marketplace, their accuracy and reliability may be subject to challenge. The Health Insurance Portability and Accountability Act (HIPAA) and the ADA closely regulate the collection, use and disclosure of health data, and the California Consumer Privacy Act (CCPA) establishes notice requirements for the collection of any type of employee personal information. To lawfully obtain and use the results of employees' COVID-19 tests, employers must structure the testing process to comply with these laws. Regardless of whether an employer relies on in-house medical staff, a third-party service provider, or employees themselves to collect the specimen for COVID-19 testing, most employers will have no choice but to rely on a third-party laboratory to test the specimen for the presence of COVID-19. Many testing laboratories are "covered entities" subject to HIPAA. When a HIPAA-covered laboratory conducts the COVID-19 test, the test results and all related health and demographic information are protected health information (PHI) that must be handled in compliance with HIPAA. HIPAA generally prohibits a covered entity from disclosing PHI without the subject's first executing a HIPAA-compliant authorization. That means testing laboratories subject to HIPAA cannot disclose COVID-19 test results to the employer without a HIPAA-compliant authorization executed by the employee. Several states add state-specific requirements to the contents of this authorization form. Employers should, therefore, include in their employee-testing packet a HIPAA-compliant authorization form that employees must sign and provide to the testing laboratory when the testing laboratory is subject to HIPAA. Some testing laboratories are not subject to HIPAA. Using such laboratories would avoid the need to obtain a HIPAA-compliant authorization from each employee who is tested. That benefit generally will not outweigh two key advantages of using a HIPAA-covered testing lab. First, HIPAA-covered labs are required to implement the extensive information security safeguards required by the HIPAA Security Rule, thereby reducing the risk of a security breach (discussed further below) involving COVID-19 test results. Second, employees may have a greater level of trust in a HIPAA-covered testing lab and be less likely to refuse to participate in the testing program. Once the employer receives the COVID-19 test results, the employer must handle them in compliance with the ADA — regardless of whether the testing laboratory is subject to HIPAA. The ADA applies to any employee health information received by an employer when assessing whether employees constitute a direct threat to the workplace, *i.e.*, are infected by COVID-19. The ADA requires employers to maintain the confidentiality of the results of employee medical examinations. In particular, the test results must be maintained in a confidential medical file separate from the general personnel file. Only those employees who need the test outcome to protect the workplace from COVID-19 infection should be granted access

to the information. For many employers, this means a small group of employees, typically including HR professionals, who are responsible for the organization's COVID-19 response. The ADA also prohibits employers from disclosing employee medical information to third parties except in narrow circumstances that generally will not apply in the context of COVID-19 testing. Consequently, those employees authorized to review test results should be trained not to disclose them to third parties with one important exception. The EEOC has issued guidance stating that employers may disclose positive COVID-19 test results to relevant public health authorities. The ADA raises one other noteworthy consideration. The ADA allows employers to conduct voluntary medical examinations only as part of an "employee health program." Such programs must comply with several regulatory requirements, including (a) a prohibition on disclosure to the employer of employee medical information gathered through the program, and (b) distribution of a notice to employees that informs employees, among other things, of the confidentiality requirement. To complicate matters further, in certain conditions, an "employee health program" that offers voluntary COVID-19 testing will be subject to ERISA. As a result of these requirements, voluntary COVID-19 testing may not be an attractive option for many employers. The CCPA requires covered employers to provide employees who reside in California with a "notice at collection" at or before the point when the employer obtains the test results. This notice must describe the categories of personal information to be collected and how the employer will use the information. Generally, employers will find it most convenient to provide the notice either as part of a general announcement of the testing program or when the specimen is collected (unless the employee engages in self-collection). The employer must then use the test results only for the purposes detailed in the notice and ensure that the testing lab does the same. Employers need to protect against a security breach involving COVID-19 test results in their own possession. In many states, the unauthorized acquisition of health data may constitute a data breach. Nineteen states, the District of Columbia and Puerto Rico define health information as "personal information" for purposes of data breach notification laws. In these states, a breach of COVID-19 test results — whether positive or negative — might require notifications to the affected employees and, in some states, to government authorities. The security breach risk is especially high for employers in California, which is one of the states that classifies health information as "personal information" for purposes of data breach notification laws. Under the CCPA, California residents now have the right to recover up to $750 in statutory damages for a breach of health data, on an individual or class-wide basis, when that breach results from the employer's failure to implement reasonable safeguards for the compromised information. Employers also should consider the risk of a security breach when contracting with testing laboratories. If the testing laboratory is subject to HIPAA and employees' test results are compromised, the laboratory would be required to notify relevant employees and the U.S. Department of Health and Human Services of the security breach. Although the laboratory would bear the brunt of the cost, the employer likely would incur costs itself and be confronted with employee complaints. Consequently, employers should ensure that any agreement with a testing laboratory, at a minimum, impose stringent information security standards on the laboratory and address the risks associated with a security breach. Even when the testing laboratory is not subject to HIPAA, employers should consider obtaining similar provisions in the service agreement because, as described above, many state data breach notification laws require notification when health information is compromised. Employers planning to test their employees for COVID-19 should consider

taking the following steps: (1) Implement a protocol that aligns the scope and frequency of testing with the objective of reducing the direct threat of COVID-19 infection to the workplace; (2) Select an accurate and reliable COVID-19 test; (3) Inform employees of the testing program and provide a CCPA notice at collection when applicable; (4) Require employees to execute a HIPAA-compliant authorization to allow any HIPAA-covered testing laboratory to disclose the COVID-19 test results to the employer; (5) Implement safeguards for test results that are maintained by the employer; and (6) Include in the service agreement with any testing laboratory provisions that address information security and the risk of a security breach.

First Wave of COVID-19 Lawsuits Against Companies Over Worker Deaths

Employers across the country are being sued by the families of workers who contend their loved ones contracted lethal cases of Covid-19 on the job, a new legal front that shows the risks of reopening workplaces. Walmart Inc., Safeway Inc., Tyson Foods Inc. and some health-care facilities have been sued for gross negligence or wrongful death since the coronavirus pandemic began unfolding in March. Employees' loved ones contend the companies failed to protect workers from the deadly virus and should compensate their family members as a result. Workers who survived the virus also are suing to have medical bills, future earnings and other damages paid out. In responding to the lawsuits, employers have said they took steps to combat the virus, including screening workers for signs of illness, requiring they wear masks, sanitizing workspaces and limiting the number of customers inside stores. Some point out that it is impossible to know where or how their workers contracted Covid-19. The new coronavirus has created a global health and economic crisis, responsible for the death of more than 150,000 people in the U.S. The cases are part of an unfolding liability threat facing U.S. companies of all industries as many resume operations after having employees work remotely or being shut down altogether for months. The coronavirus relief bill that Senate Republicans would make it harder for workers to sue their employer if they get sick on the job. The proposed legislation protects companies, schools and churches from being held liable for coronavirus infections beginning in December 2019, unless they acted with willful misconduct or engaged in grossly negligent behavior. The bill would cap punitive damages, set a clear-and-convincing-evidence burden of proof and raise requirements for personal-injury lawsuits. It would also push such lawsuits to federal courts, which potentially are more favorable to defendants. The measures face resistance in the Democratic-controlled House, where Speaker Nancy Pelosi opposes the GOP liability plans. She wants lawmakers to instead bolster protections for workers by strengthening Occupational Safety and Health Administration rules. Legal experts say the GOP proposals would significantly curb, but not eliminate, cases filed on behalf of sickened workers. "The amount of litigation on the horizon is enormous," said Harold H. Kim, president of the U.S. Chamber Institute for Legal Reform, an arm of the business trade group. Labor unions and consumer advocates say that few lawsuits have been filed, and that the Senate bill would deny redress to injured workers and their families. About 69 employment and labor cases contending that workers were exposed or potentially exposed to the virus had been filed as of late July, according to a coronavirus litigation tracker maintained by the law firm Hunton Andrews Kurth. Employers rarely are found liable for employee deaths tied to the workplace. That's because the legal bar for proving fault is high, and because

states often restrict such complaints to their workers' compensation systems, which typically limit payouts to a portion of a worker's salary, coverage of their medical bills and disability compensation. Legal experts say the coronavirus pandemic could change how such cases play out. Early lawsuits on behalf of sickened workers center on whether employers adhered to state and federal guidelines for reducing the spread of the virus, which evolved rapidly in March and April, especially on mask use, and at times conflicted with each other. Employers who didn't send sick workers home, enforce social distancing or adhere to mask-wearing guidance could be found liable, legal experts say. Cases that show the employer acted with gross negligence—which aren't precluded by the Senate proposal and sometimes can proceed outside the workers' compensation system—could result in out-of-court settlements or end up before sympathetic juries.

Korn Ferry Survey - Professionals More Worried About Economic Fallout Than Threat Of Illness Due To Pandemic

As the world continues to deal with the fallout from the coronavirus pandemic, professionals in a new Korn Ferry survey weigh in on their biggest concerns. Nearly two-thirds of respondents (61 percent) say they are more worried about the economic fallout from the virus than the health risks. The situation is also putting a strain on relationships, as more than half of professionals (55 percent) say concerns about work during the pandemic have caused friction with their family members. Nearly half (48 percent) say they are surprised the pandemic is still at a critical stage, and it is taking a toll. Sixty percent say it is more difficult to concentrate at work now than it was at the beginning of the crisis. When asked why it is difficult to concentrate, 45 percent say they are dealing with too many responsibilities, and nearly a third (31 percent) say they feel overwhelmed with the pandemic and the issues surrounding it. A change in the work environment is not the issue - only 9 percent say working from home is the top reason they find it difficult to concentrate. "With all of the social unrest, health concerns, and economic issues being thrown at us right now, it's no surprise many feel overwhelmed," said Dennis Baltzley, Korn Ferry's global solution head for leadership development. "A key job of the company is to understand where employees are – are they safe? Are they engaged even if working remotely? More than ever it's critical to project empathy and listen carefully to help people navigate the crisis." Despite a slowing of business in many industries, more than two-thirds of respondents (67 percent) say they personally are busier at work now than they were pre-pandemic. Most are not going to take a break from their job. Only 20 percent say they are going to take a vacation, with 35 percent saying they are staying home because there is no place to go. Only 17 percent say they are foregoing a vacation because they are worried about catching the virus.

Sources: Littler; Houston Chronicle; Greater Houston Partnership; Wall Street Journal; Korn Ferry; MarketWatch; Associated General Contractors of America; ASA Staffing