To provide support for air carrier workers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

September 30 (legislative day, September 29), 2020
Mr. WICKER (for himself and Ms. COLLINS) introduced the following bill; which was read the first time

October 1, 2020
Read the second time and placed on the calendar

A BILL

To provide support for air carrier workers, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Air Carrier Worker Support Extension Act of 2020”.

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SEC. 2. DEFINITIONS.

Unless otherwise specified, the terms in section 40102(a) of title 49, United States Code, shall apply to this Act, except that—

(1) the term “airline catering employee” means an employee who performs airline catering services;

(2) the term “airline catering services” means preparation, assembly, or both, of food, beverages, provisions and related supplies for delivery, and the delivery of such items, directly to aircraft or to a location on or near airport property for subsequent delivery to aircraft;

(3) the term “contractor” means—

(A) a person that performs, under contract with a passenger air carrier conducting operations under part 121 of title 14, Code of Federal Regulations—

(i) catering functions; or

(ii) functions on the property of an airport that are directly related to the air transportation of persons, property, or mail, including but not limited to the loading and unloading of property on aircraft; assistance to passengers under part 382 of title 14, Code of Federal Regulations; security; airport ticketing and check-in func-
tions; ground-handling of aircraft; or air-
craft cleaning and sanitization functions
and waste removal; or
(B) a subcontractor that performs such
functions;
(4) the term “employee” means an individual,
other than a corporate officer, who is employed by
an air carrier or a contractor; and
(5) the term “Secretary” means the Secretary
of the Treasury.

SEC. 3. PANDEMIC RELIEF FOR AVIATION WORKERS.

(a) Financial Assistance for Employee Wages,
Salaries, and Benefits.—Notwithstanding any other
provision of law, to preserve aviation jobs and compensate
air carrier industry workers, the Secretary shall provide
financial assistance that shall exclusively be used for the
continuation of payment of employee wages, salaries, and
benefits to—
(1) passenger air carriers, in an aggregate
amount up to $25,500,000,000;
(2) cargo air carriers, in the aggregate amount
up to $300,000,000; and
(3) contractors, in an aggregate amount up to
$3,000,000,000.
(b) ADMINISTRATIVE EXPENSES.—Notwithstanding any other provision of law, the Secretary, may use $100,000,000 of the funds made available under section 11(a) for costs and administrative expenses associated with providing financial assistance under this Act.

SEC. 4. PROCEDURES FOR PROVIDING PAYROLL SUPPORT.

(a) AWARDABLE AMOUNTS.—The Secretary shall provide financial assistance under this Act—

(1) to an air carrier required to file reports pursuant to part 241 of title 14, Code of Federal Regulations, as of March 27, 2020, in an amount equal to—

(A) the amount such air carrier received under section 4113 of the CARES Act (15 U.S.C. 9073); or

(B) at the request of such air carrier, the amount of the salaries and benefits reported by the air carrier to the Department of Transportation pursuant to such part 241, for the period from October 1, 2019, through March 31, 2020;

(2) to an air carrier that did not transmit reports under such part 241, as of March 27, 2020, in an amount equal to—
(A) the amount such air carrier received under section 4113 of the CARES Act (15 U.S.C. 9073), plus an additional 15 percent of such amount; or

(B) at the request of such carrier, the sum of—

(i) the amount that such air carrier certifies, using sworn financial statements or other appropriate data, as the amount of total salaries and related fringe benefits that such air carrier incurred and would be required to be reported to the Department of Transportation pursuant to such part 241, if the carrier were required to transmit such information during the period from April 1, 2019, through September 30, 2019; and

(ii) an additional amount equal to the difference between the amount certified under clause (i) and the amount the air carrier received under section 4113 of the CARES Act (15 U.S.C. 9073); and

(3) to a contractor in an amount equal to the amount such contractor received under section 4113 of the CARES Act (15 U.S.C. 9073).
(b) ADDITIONAL AWARDABLE AMOUNTS.—The Secretary shall provide financial assistance under this Act to an air carrier that did not receive assistance under section 4113 of the CARES Act (15 U.S.C. 9073) and does not transmit reports under such part 241 in an amount that such an air carrier certifies, using sworn financial statements or other appropriate data, as the amount of total salaries and related fringe benefits that such air carrier incurred and would be required to be reported to the Department of Transportation pursuant to such part 241, if the carrier were required to transmit such information during the period from April 1, 2019, through September 30, 2019.

(c) DEADLINES AND PROCEDURES.—

(1) IN GENERAL.—

(A) FORMS; TERMS AND CONDITIONS.—Financial assistance provided to an air carrier or contractor under this Act shall be in such form, on such terms and conditions (including requirements for audits and the clawback of any financial assistance provided upon failure by a passenger air carrier, cargo air carrier, or contractor to honor the assurances specified in section 5), as agreed to by the Secretary and the recipient for assistance received under section
4113 of the CARES Act (15 U.S.C. 9073), except where inconsistent with this Act.

(B) Procedures.—The Secretary shall publish streamlined and expedited procedures not later than 5 days after the date of enactment of this Act for air carriers and contractors to submit requests for financial assistance under this Act.

(2) Deadline for immediate payroll assistance.—Not later than 10 days after the date of enactment of this Act, the Secretary shall make initial payments to air carriers and contractors that submit requests for financial assistance approved by the Secretary.

(3) Subsequent payments.—The Secretary shall determine an appropriate method for timely distribution of payments to air carriers and contractors with approved requests for financial assistance from any funds remaining available after providing initial financial assistance payments under paragraph (2).

(d) Pro Rata Reductions.—The amounts under subsections (a)(1)(B), (a)(2)(B)(i), and (b) shall, to the maximum extent practicable, be subject to the same pro rata reduction applied by the Secretary to passenger or
cargo air carriers, as applicable, that received assistance under section 4113 of the CARES Act (15 U.S.C. 9073).

(c) AUDITS.—The Inspector General of the Department of the Treasury shall audit certifications made under subsection (a) or (b).

SEC. 5. REQUIRED ASSURANCES.

(a) IN GENERAL.—To be eligible for financial assistance under this Act, an air carrier or contractor shall enter into an agreement with the Secretary, or otherwise certify in such form and manner as the Secretary shall prescribe, that the air carrier or contractor shall—

(1) refrain from conducting involuntary furloughs or reducing pay rates and benefits until March 31, 2021;

(2) through March 31, 2022, ensure that neither the air carrier or contractor nor any affiliate of the air carrier or contractor may, in any transaction, purchase an equity security of the air carrier or contractor or the parent company of the air carrier or contractor that is listed on a national securities exchange;

(3) through March 31, 2022, ensure that the air carrier or contractor shall not pay dividends, or make other capital distributions, with respect to the
common stock (or equivalent interest) of the air carrier or contractor; and

(4) meet the requirements of sections 6 and 7.

(b) Department of Transportation Authority to Condition Assistance on Continuation of Service.—

(1) In general.—The Secretary of Transportation is authorized to require, to the extent reasonable and practicable, an air carrier provided financial assistance under this Act to maintain scheduled air transportation service, as the Secretary of Transportation deems necessary, to ensure services to any point served by that carrier before March 1, 2020.

(2) Required considerations.—When considering whether to exercise the authority provided by this subsection, the Secretary of Transportation shall take into consideration the air transportation needs of small and remote communities and the need to maintain well-functioning health care supply chains, including medical devices and supplies, and pharmaceutical supply chains.

(3) Sunset.—The authority provided under this subsection shall terminate on April 1, 2022, and any requirements issued by the Secretary of Trans-
portation under this subsection shall cease to apply after that date.

SEC. 6. PROTECTION OF COLLECTIVE BARGAINING AGREEMENT.

(a) IN GENERAL.—Neither the Secretary, nor any other actor, department, or agency of the Federal Government, shall condition the issuance of financial assistance under this Act on an air carrier’s or contractor’s implementation of measures to enter into negotiations with the certified bargaining representative of a craft or class of employees of the air carrier or contractor under the Railway Labor Act (45 U.S.C. 151 et seq.) or the National Labor Relations Act (29 U.S.C. 151 et seq.), regarding pay or other terms and conditions of employment.

(b) PERIOD OF EFFECT.—With respect to an air carrier or contractor to which financial assistance is provided under this Act, this section shall be in effect with respect to the air carrier or contractor beginning on the date on which the air carrier or contractor is first issued such financial assistance and ending on March 31, 2021.

SEC. 7. LIMITATION ON CERTAIN EMPLOYEE COMPENSATION.

(a) IN GENERAL.—The Secretary may only provide financial assistance under this Act to an air carrier or contractor after such carrier or contractor enters into an
agreement with the Secretary which provides that, during
the 2-year period beginning March 24, 2020, and ending
March 24, 2022, no officer or employee of the air carrier
or contractor whose total compensation exceeded
$425,000 in calendar year 2019 (other than an employee
whose compensation is determined through an existing col-
lective bargaining agreement entered into prior to enact-
ment of this Act)—

(1) will receive from the air carrier or con-
tractor total compensation which exceeds, during
any 12 consecutive months of such 2-year period,
the total compensation received by the officer or em-
ployee from the air carrier or contractor in calendar
year 2019;

(2) will receive from the air carrier or con-
tractor severance pay or other benefits upon termi-
nation of employment with the air carrier or con-
tractor which exceeds twice the maximum total com-
ensation received by the officer or employee from
the air carrier or contractor in calendar year 2019;
and

(3) no officer or employee of the eligible busi-
ness whose total compensation exceeded $3,000,000
in calendar year 2019 may receive during any 12
consecutive months of such period total compensation in excess of the sum of—

(A) $3,000,000; and

(B) 50 percent of the excess over $3,000,000 of the total compensation received by the officer or employee from the eligible business in calendar year 2019.

(b) TOTAL COMPENSATION DEFINED.—In this section, the term “total compensation” includes salary, bonuses, awards of stock, and other financial benefits provided by an air carrier or contractor to an officer or employee of the air carrier or contractor.

SEC. 8. TAX PAYER PROTECTION.

(a) CARES ACT ASSISTANCE RECIPIENTS.—With respect to a recipient of assistance under section 4113 of the CARES Act (15 U.S.C. 9073) that receives assistance under this Act, the Secretary may receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by such recipient in the same form and amount, and under the same terms and conditions, as agreed to by the Secretary and the recipient for assistance received under such section 4113 to provide appropriate compensation to the Federal Government for the provision of the financial assistance under this Act.
(b) OTHER APPLICANTS.—With respect to an applicant that did not receive assistance under such section 4113, the Secretary may receive warrants, options, preferred stock, debt securities, notes, or other financial instruments issued by an applicant that receives assistance under this Act in a form and amount that are, to the maximum extent practicable, the same as the terms and conditions as agreed to by the Secretary and similarly situated recipients of assistance under such section 4113 to provide appropriate compensation to the Federal Government for the provision of the financial assistance under this Act.

SEC. 9. REPORTS.

(a) REPORT.—Not later than May 1, 2021, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Financial Services of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the financial assistance provided to air carriers and contractors under this Act, including a description of any financial assistance provided.

(b) UPDATE.—Not later than the last day of the 1-year period following the date of enactment of this Act, the Secretary shall update and submit to the Committee on Transportation and Infrastructure and the Committee
on Financial Services of the House of Representatives and
the Committee on Commerce, Science, and Transportation
and the Committee on Banking, Housing, and Urban Af-
| fairs of the Senate the report described in subsection (a).

SEC. 10. COORDINATION.

In implementing this Act, the Secretary shall coordi-
nate with the Secretary of Transportation.

SEC. 11. FUNDING.

(a) Direct Appropriation.—Notwithstanding any
other provision of law, there is appropriated, out of
amounts in the Treasury not otherwise appropriated,
$11,400,000,000 to carry out this Act.

(b) Transfer of Unobligated CARES Act
Funds.—In addition to the amount appropriated under
subsection (a) to carry out this Act, the amounts made
available under the following provisions of law are hereby
transferred and made available to the Secretary to carry
out this Act:

(1) $3,100,000,000 from subsection (b)(2) of

(2) $11,100,000,000 from subsection (b)(3) of

(3) $3,200,000,000 from subsection (a)(2) of
SEC. 12. EFFECTIVE DATE.

This Act shall take effect one day after enactment.
To provide support for air carrier workers, and for other purposes.

A BILL

S. 4774

116TH CONGRESS

Calendar No. 563

Read the second time and placed on the calendar

OCTOBER 1, 2020