

Calendar No. 563

116TH CONGRESS
2D SESSION**S. 4774**

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. DEFINITIONS.**

2 Unless otherwise specified, the terms in section
3 40102(a) of title 49, United States Code, shall apply to
4 this Act, except that—

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

7 (2) the term “airline catering services” means
8 preparation, assembly, or both, of food, beverages,
9 provisions and related supplies for delivery, and the
10 delivery of such items, directly to aircraft or to a lo-
11 cation on or near airport property for subsequent
12 delivery to aircraft;

13 (3) the term “contractor” means—

14 (A) a person that performs, under contract
15 with a passenger air carrier conducting oper-
16 ations under part 121 of title 14, Code of Fed-
17 eral Regulations—

18 (i) catering functions; or

19 (ii) functions on the property of an
20 airport that are directly related to the air
21 transportation of persons, property, or
22 mail, including but not limited to the load-
23 ing and unloading of property on aircraft;
24 assistance to passengers under part 382 of
25 title 14, Code of Federal Regulations; se-
26 curity; airport ticketing and check-in func-

1 tions; ground-handling of aircraft; or air-
2 craft cleaning and sanitization functions
3 and waste removal; or

4 (B) a subcontractor that performs such
5 functions;

6 (4) the term “employee” means an individual,
7 other than a corporate officer, who is employed by
8 an air carrier or a contractor; and

9 (5) the term “Secretary” means the Secretary
10 of the Treasury.

11 **SEC. 3. PANDEMIC RELIEF FOR AVIATION WORKERS.**

12 (a) FINANCIAL ASSISTANCE FOR EMPLOYEE WAGES,
13 SALARIES, AND BENEFITS.—Notwithstanding any other
14 provision of law, to preserve aviation jobs and compensate
15 air carrier industry workers, the Secretary shall provide
16 financial assistance that shall exclusively be used for the
17 continuation of payment of employee wages, salaries, and
18 benefits to—

19 (1) passenger air carriers, in an aggregate
20 amount up to \$25,500,000,000;

21 (2) cargo air carriers, in the aggregate amount
22 up to \$300,000,000; and

23 (3) contractors, in an aggregate amount up to
24 \$3,000,000,000.

1 (b) ADMINISTRATIVE EXPENSES.—Notwithstanding
2 any other provision of law, the Secretary, may use
3 \$100,000,000 of the funds made available under section
4 11(a) for costs and administrative expenses associated
5 with providing financial assistance under this Act.

6 **SEC. 4. PROCEDURES FOR PROVIDING PAYROLL SUPPORT.**

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

9 (1) to an air carrier required to file reports pur-
10 suant to part 241 of title 14, Code of Federal Regu-
11 lations, as of March 27, 2020, in an amount equal
12 to—

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

16 (B) at the request of such air carrier, the
17 amount of the salaries and benefits reported by
18 the air carrier to the Department of Transpor-
19 tation pursuant to such part 241, for the period
20 from October 1, 2019, through March 31,
21 2020;

22 (2) to an air carrier that did not transmit re-
23 ports under such part 241, as of March 27, 2020,
24 in an amount equal to—

1 (A) the amount such air carrier received
2 under section 4113 of the CARES Act (15
3 U.S.C. 9073), plus an additional 15 percent of
4 such amount; or

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

7 (i) the amount that such air carrier
8 certifies, using sworn financial statements
9 or other appropriate data, as the amount
10 of total salaries and related fringe benefits
11 that such air carrier incurred and would be
12 required to be reported to the Department
13 of Transportation pursuant to such part
14 241, if the carrier were required to trans-
15 mit such information during the period
16 from April 1, 2019, through September 30,
17 2019; and

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

23 (3) to a contractor in an amount equal to the
24 amount such contractor received under section 4113
25 of the CARES Act (15 U.S.C. 9073).

1 (b) ADDITIONAL AWARDABLE AMOUNTS.—The Sec-
2 retary shall provide financial assistance under this Act to
3 an air carrier that did not receive assistance under section
4 4113 of the CARES Act (15 U.S.C. 9073) and does not
5 transmit reports under such part 241 in an amount that
6 such an air carrier certifies, using sworn financial state-
7 ments or other appropriate data, as the amount of total
8 salaries and related fringe benefits that such air carrier
9 incurred and would be required to be reported to the De-
10 partment of Transportation pursuant to such part 241,
11 if the carrier were required to transmit such information
12 during the period from April 1, 2019, through September
13 30, 2019.

14 (c) DEADLINES AND PROCEDURES.—

15 (1) IN GENERAL.—

16 (A) FORMS; TERMS AND CONDITIONS.—Fi-
17 nancial assistance provided to an air carrier or
18 contractor under this Act shall be in such form,
19 on such terms and conditions (including re-
20 quirements for audits and the clawback of any
21 financial assistance provided upon failure by a
22 passenger air carrier, cargo air carrier, or con-
23 tractor to honor the assurances specified in sec-
24 tion 5), as agreed to by the Secretary and the
25 recipient for assistance received under section

1 4113 of the CARES Act (15 U.S.C. 9073), ex-
2 cept where inconsistent with this Act.

3 (B) PROCEDURES.—The Secretary shall
4 publish streamlined and expedited procedures
5 not later than 5 days after the date of enact-
6 ment of this Act for air carriers and contractors
7 to submit requests for financial assistance
8 under this Act.

9 (2) DEADLINE FOR IMMEDIATE PAYROLL AS-
10 SISTANCE.—Not later than 10 days after the date of
11 enactment of this Act, the Secretary shall make ini-
12 tial payments to air carriers and contractors that
13 submit requests for financial assistance approved by
14 to the Secretary.

15 (3) SUBSEQUENT PAYMENTS.—The Secretary
16 shall determine an appropriate method for timely
17 distribution of payments to air carriers and contrac-
18 tors with approved requests for financial assistance
19 from any funds remaining available after providing
20 initial financial assistance payments under para-
21 graph (2).

22 (d) PRO RATA REDUCTIONS.—The amounts under
23 subsections (a)(1)(B), (a)(2)(B)(i), and (b) shall, to the
24 maximum extent practicable, be subject to the same pro
25 rata reduction applied by the Secretary to passenger or

1 cargo air carriers, as applicable, that received assistance
2 under section 4113 of the CARES Act (15 U.S.C. 9073).

3 (e) AUDITS.—The Inspector General of the Depart-
4 ment of the Treasury shall audit certifications made under
5 subsection (a) or (b).

6 **SEC. 5. REQUIRED ASSURANCES.**

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

12 (1) refrain from conducting involuntary fur-
13 loughs or reducing pay rates and benefits until
14 March 31, 2021;

15 (2) through March 31, 2022, ensure that nei-
16 ther the air carrier or contractor nor any affiliate of
17 the air carrier or contractor may, in any transaction,
18 purchase an equity security of the air carrier or con-
19 tractor or the parent company of the air carrier or
20 contractor that is listed on a national securities ex-
21 change;

22 (3) through March 31, 2022, ensure that the
23 air carrier or contractor shall not pay dividends, or
24 make other capital distributions, with respect to the

1 common stock (or equivalent interest) of the air car-
2 rier or contractor; and

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

4 (b) DEPARTMENT OF TRANSPORTATION AUTHORITY
5 TO CONDITION ASSISTANCE ON CONTINUATION OF SERV-
6 ICE.—

7 (1) IN GENERAL.—The Secretary of Transpor-
8 tation is authorized to require, to the extent reason-
9 able and practicable, an air carrier provided finan-
10 cial assistance under this Act to maintain scheduled
11 air transportation service, as the Secretary of Trans-
12 portation deems necessary, to ensure services to any
13 point served by that carrier before March 1, 2020.

14 (2) REQUIRED CONSIDERATIONS.—When con-
15 sidering whether to exercise the authority provided
16 by this subsection, the Secretary of Transportation
17 shall take into consideration the air transportation
18 needs of small and remote communities and the need
19 to maintain well-functioning health care supply
20 chains, including medical devices and supplies, and
21 pharmaceutical supply chains.

22 (3) SUNSET.—The authority provided under
23 this subsection shall terminate on April 1, 2022, and
24 any requirements issued by the Secretary of Trans-

1 portation under this subsection shall cease to apply
2 after that date.

3 **SEC. 6. PROTECTION OF COLLECTIVE BARGAINING AGREE-**
4 **MENT.**

5 (a) IN GENERAL.—Neither the Secretary, nor any
6 other actor, department, or agency of the Federal Govern-
7 ment, shall condition the issuance of financial assistance
8 under this Act on an air carrier’s or contractor’s imple-
9 mentation of measures to enter into negotiations with the
10 certified bargaining representative of a craft or class of
11 employees of the air carrier or contractor under the Rail-
12 way Labor Act (45 U.S.C. 151 et seq.) or the National
13 Labor Relations Act (29 U.S.C. 151 et seq.), regarding
14 pay or other terms and conditions of employment.

15 (b) PERIOD OF EFFECT.—With respect to an air car-
16 rier or contractor to which financial assistance is provided
17 under this Act, this section shall be in effect with respect
18 to the air carrier or contractor beginning on the date on
19 which the air carrier or contractor is first issued such fi-
20 nancial assistance and ending on March 31, 2021.

21 **SEC. 7. LIMITATION ON CERTAIN EMPLOYEE COMPENSA-**
22 **TION.**

23 (a) IN GENERAL.—The Secretary may only provide
24 financial assistance under this Act to an air carrier or con-
25 tractor after such carrier or contractor enters into an

1 agreement with the Secretary which provides that, during
2 the 2-year period beginning March 24, 2020, and ending
3 March 24, 2022, no officer or employee of the air carrier
4 or contractor whose total compensation exceeded
5 \$425,000 in calendar year 2019 (other than an employee
6 whose compensation is determined through an existing col-
7 lective bargaining agreement entered into prior to enact-
8 ment of this Act)—

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

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

22 (3) no officer or employee of the eligible busi-
23 ness whose total compensation exceeded \$3,000,000
24 in calendar year 2019 may receive during any 12

1 consecutive months of such period total compensa-
2 tion in excess of the sum of—

3 (A) \$3,000,000; and

4 (B) 50 percent of the excess over
5 \$3,000,000 of the total compensation received
6 by the officer or employee from the eligible
7 business in calendar year 2019.

8 (b) **TOTAL COMPENSATION DEFINED.**—In this sec-
9 tion, the term “total compensation” includes salary, bo-
10 nuses, awards of stock, and other financial benefits pro-
11 vided by an air carrier or contractor to an officer or em-
12 ployee of the air carrier or contractor.

13 **SEC. 8. TAX PAYER PROTECTION.**

14 (a) **CARES ACT ASSISTANCE RECIPIENTS.**—With
15 respect to a recipient of assistance under section 4113 of
16 the CARES Act (15 U.S.C. 9073) that receives assistance
17 under this Act, the Secretary may receive warrants, op-
18 tions, preferred stock, debt securities, notes, or other fi-
19 nancial instruments issued by such recipient in the same
20 form and amount, and under the same terms and condi-
21 tions, as agreed to by the Secretary and the recipient for
22 assistance received under such section 4113 to provide ap-
23 propriate compensation to the Federal Government for the
24 provision of the financial assistance under this Act.

1 (b) OTHER APPLICANTS.—With respect to an appli-
2 cant that did not receive assistance under such section
3 4113, the Secretary may receive warrants, options, pre-
4 ferred stock, debt securities, notes, or other financial in-
5 struments issued by an applicant that receives assistance
6 under this Act in a form and amount that are, to the max-
7 imum extent practicable, the same as the terms and condi-
8 tions as agreed to by the Secretary and similarly situated
9 recipients of assistance under such section 4113 to provide
10 appropriate compensation to the Federal Government for
11 the provision of the financial assistance under this Act.

12 **SEC. 9. REPORTS.**

13 (a) REPORT.—Not later than May 1, 2021, the Sec-
14 retary shall submit to the Committee on Transportation
15 and Infrastructure and the Committee on Financial Serv-
16 ices of the House of Representatives and the Committee
17 on Commerce, Science, and Transportation and the Com-
18 mittee on Banking, Housing, and Urban Affairs of the
19 Senate a report on the financial assistance provided to air
20 carriers and contractors under this Act, including a de-
21 scription of any financial assistance provided.

22 (b) UPDATE.—Not later than the last day of the 1-
23 year period following the date of enactment of this Act,
24 the Secretary shall update and submit to the Committee
25 on Transportation and Infrastructure and the Committee

1 on Financial Services of the House of Representatives and
2 the Committee on Commerce, Science, and Transportation
3 and the Committee on Banking, Housing, and Urban Af-
4 fairs of the Senate the report described in subsection (a).

5 **SEC. 10. COORDINATION.**

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

8 **SEC. 11. FUNDING.**

9 (a) DIRECT APPROPRIATION.—Notwithstanding any
10 other provision of law, there is appropriated, out of
11 amounts in the Treasury not otherwise appropriated,
12 \$11,400,000,000 to carry out this Act.

13 (b) TRANSFER OF UNOBLIGATED CARES ACT
14 FUNDS.—In addition to the amount appropriated under
15 subsection (a) to carry out this Act, the amounts made
16 available under the following provisions of law are hereby
17 transferred and made available to the Secretary to carry
18 out this Act:

19 (1) \$3,100,000,000 from subsection (b)(2) of
20 section 4003 of the CARES Act (15 U.S.C. 9042).

21 (2) \$11,100,000,000 from subsection (b)(3) of
22 section 4003 of the CARES Act (15 U.S.C. 9042).

23 (3) \$3,200,000,000 from subsection (a)(2) of
24 section 4112 of the CARES Act (15 U.S.C. 9072).

1 **SEC. 12. EFFECTIVE DATE.**

2 This Act shall take effect one day after enactment.

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116TH CONGRESS
2^D SESSION

S. 4774

A BILL

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other purposes.

OCTOBER 1, 2020

Read the second time and placed on the calendar