

116TH CONGRESS
2D SESSION

S. 4634

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2020

Mr. WICKER (for himself and Ms. COLLINS) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

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”.

6 **SEC. 2. DEFINITIONS.**

7 Unless otherwise specified, the terms in section
8 40102(a) of title 49, United States Code, shall apply to
9 this Act, except that—

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

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

9 (3) the term “contractor” means—

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

14 (i) catering functions; or

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

1 (B) a subcontractor that performs such
2 functions;

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

6 (5) the term “Secretary” means the Secretary
7 of the Treasury.

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

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

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

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

20 (3) contractors, in an aggregate amount up to
21 \$3,000,000,000.

22 (b) ADMINISTRATIVE EXPENSES.—Notwithstanding
23 any other provision of law, the Secretary may use
24 \$100,000,000 of the funds made available under section

1 11(a) for costs and administrative expenses associated
2 with providing financial assistance under this Act.

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

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

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

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

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

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

22 (A) the amount such air carrier received
23 under section 4113 of the CARES Act (15
24 U.S.C. 9073), plus an additional 15 percent of
25 such amount; or

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

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

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

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

22 (b) ADDITIONAL AWARDBLE AMOUNTS.—The Sec-
23 retary shall provide financial assistance under this Act to
24 an air carrier that did not receive assistance under section
25 4113 of the CARES Act (15 U.S.C. 9073) and does not

1 transmit reports under such part 241 in an amount that
2 such an air carrier certifies, using sworn financial state-
3 ments or other appropriate data, as the amount of total
4 salaries and related fringe benefits that such air carrier
5 incurred and would be required to be reported to the De-
6 partment of Transportation pursuant to such part 241,
7 if the carrier were required to transmit such information
8 during the period from April 1, 2019, through September
9 30, 2019.

10 (c) DEADLINES AND PROCEDURES.—

11 (1) IN GENERAL.—

12 (A) FORMS; TERMS AND CONDITIONS.—Fi-
13 nancial assistance provided to an air carrier or
14 contractor under this Act shall be in such form,
15 on such terms and conditions (including re-
16 quirements for audits and the clawback of any
17 financial assistance provided upon failure by a
18 passenger air carrier, cargo air carrier, or con-
19 tractor to honor the assurances specified in sec-
20 tion 5), as agreed to by the Secretary and the
21 recipient for assistance received under section
22 4113 of the CARES Act (15 U.S.C. 9073), ex-
23 cept where inconsistent with this Act.

24 (B) PROCEDURES.—The Secretary shall
25 publish streamlined and expedited procedures

1 not later than 5 days after the date of enact-
2 ment of this Act for air carriers and contractors
3 to submit requests for financial assistance
4 under this Act.

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

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

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

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

4 **SEC. 5. REQUIRED ASSURANCES.**

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

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

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

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

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

1 (b) DEPARTMENT OF TRANSPORTATION AUTHORITY
2 TO CONDITION ASSISTANCE ON CONTINUATION OF SERV-
3 ICE.—

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

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

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

1 **SEC. 6. PROTECTION OF COLLECTIVE BARGAINING AGREE-**
2 **MENT.**

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

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

19 **SEC. 7. LIMITATION ON CERTAIN EMPLOYEE COMPENSA-**
20 **TION.**

21 (a) IN GENERAL.—The Secretary may only provide
22 financial assistance under this Act to an air carrier or con-
23 tractor after such carrier or contractor enters into an
24 agreement with the Secretary which provides that, during
25 the 2-year period beginning March 24, 2020, and ending
26 March 24, 2022, no officer or employee of the air carrier

1 or contractor whose total compensation exceeded
2 \$425,000 in calendar year 2019 (other than an employee
3 whose compensation is determined through an existing col-
4 lective bargaining agreement entered into prior to enact-
5 ment of this Act)—

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

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

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

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

1 (B) 50 percent of the excess over
2 \$3,000,000 of the total compensation received
3 by the officer or employee from the eligible
4 business in calendar year 2019.

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

10 **SEC. 8. TAX PAYER PROTECTION.**

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

22 (b) OTHER APPLICANTS.—With respect to an appli-
23 cant that did not receive assistance under such section
24 4113, the Secretary may receive warrants, options, pre-
25 ferred stock, debt securities, notes, or other financial in-

1 struments issued by an applicant that receives assistance
2 under this Act in a form and amount that are, to the max-
3 imum extent practicable, the same as the terms and condi-
4 tions as agreed to by the Secretary and similarly situated
5 recipients of assistance under such section 4113 to provide
6 appropriate compensation to the Federal Government for
7 the provision of the financial assistance under this Act.

8 **SEC. 9. REPORTS.**

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

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

1 **SEC. 10. COORDINATION.**

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

4 **SEC. 11. FUNDING.**

5 (a) **DIRECT APPROPRIATION.**—Notwithstanding any
6 other provision of law, there is appropriated, out of
7 amounts in the Treasury not otherwise appropriated,
8 \$11,400,000,000 to carry out this Act.

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

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

17 (2) \$11,100,000,000 from subsection (b)(3) of
18 section 4003 of the CARES Act (15 U.S.C. 9042).

19 (3) \$3,200,000,000 from subsection (a)(2) of
20 section 4112 of the CARES Act (15 U.S.C. 9072).

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