116TH CONGRESS
2D SESSION

H. R. ______

To extend the Payroll Support Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. DeFazio (for himself and Mr. Larsen of Washington) introduced the following bill; which was referred to the Committee on

A BILL

To extend the Payroll Support Program, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Payroll Support Pro-
gram Extension Act”.

SEC. 2. DEFINITIONS.

Unless otherwise specified, the definitions 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 functions; ground-handling of aircraft; or aircraft 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 an 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 funds made available under section 4112(b) of the CARES Act (15 U.S.C. 9072(b)) 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, or in the event such an air carrier did not receive assistance under section 4113 of the CARES Act (15 U.S.C. 9073), 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;

(B) in the event such an air carrier did not receive assistance under section 4113 of the CARES Act (15 U.S.C. 9073), 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 air carrier were required to transmit such information during the period from October 1, 2019, through March 31, 2020; or

(C) at the request of such carrier, provided such carrier received assistance under section 4113 of the CARES Act (15 U.S.C. 9073), 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 October 1, 2019, through March 31, 2020; 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—

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

(B) in the event such contractor did not receive assistance under section 4113 of the CARES Act (15 U.S.C. 9073), an amount that the contractor certifies, using sworn financial statements or other appropriate data, as the amount of wages, salaries, benefits, and other compensation that such contractor paid the employees of such contractor during the period from October 1, 2019, through March 31, 2020.

(b) DEADLINES AND PROCEDURES.—

(1) IN GENERAL.—
(A) FORMS; TERMS AND CONDITIONS.—Financial assistance provided to an air carrier or contractor under this Act shall—

(i) 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; or

(ii) in the event such an air carrier or contractor did not receive assistance under section 4113 of the CARES Act (15 U.S.C. 9073), 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 the Secretary determines appropriate.
(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 to the Secretary.

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

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

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—

(A) with respect to air carriers, March 31, 2021; or

(B) with respect to contractors, March 31, 2021, or the date on which the contractor exhausts such financial assistance, whichever is later;

(2) 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 through—

(A) with respect to air carriers, March 31, 2022; or

(B) with respect to contractors, March 31, 2022, or the date on which the contractor exhausts such financial assistance, whichever is later;

(3) ensure that the air carrier or contractor shall not pay dividends, or make other capital distributions, with respect to common stock (or equiva-
lent interest) of the air carrier or contractor through—

(A) with respect to air carriers, March 31, 2022; or

(B) with respect to contractors, March 31, 2022, or the date on which the contractor exhausts such financial assistance, whichever is later;

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

(5) affirm that the air carrier or contractor has—

(A) in the case of an air carrier or contractor that received loans, loan guarantees, other investments, or financial assistance under title IV of the CARES Act, recalled any employees involuntarily furloughed by such air carrier or contractor between March 27, 2020 and the date such air carrier or contractor enters into an agreement with the Secretary for financial assistance under this Act, compensated such employees for lost pay and benefits, and restored the rights and protections for such employees as if they had not been involuntarily furloughed; or
(B) in the case of an air carrier or contractor that did not receive loans, loan guarantees, other investments, or financial assistance under title IV of the CARES Act, recalled any employees involuntarily furloughed by such air carrier or contractor between October 1, 2020 and the date such air carrier or contractor enters into an agreement with the Secretary for financial assistance under this Act, compensated such employees for lost pay and benefits, and restored the rights and protections for such employees as if they had not been involuntarily furloughed.

SEC. 6. PROTECTION OF COLLECTIVE BARGAINING AGREEMENTS.

(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) **Air Carrier Period of Effect.**—With respect to any air carrier to which financial assistance is provided under this Act, this section shall be in effect with respect to the air carrier beginning on the date on which the air carrier is first issued such financial assistance and ending on March 31, 2021.

(c) **Contractor Period of Effect.**—With respect to any contractor to which financial assistance is provided under this Act, this section shall be in effect with respect to contractor beginning on the date on which the contractor is first issued such financial assistance and ending on March 31, 2021, or until the date on which all funds are expended, whichever is later.

**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 October 1, 2020, and ending October 1, 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 enactment of this Act)—

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

(2) will receive from the air carrier or contractor severance pay or other benefits upon termination of employment with the air carrier or contractor which exceeds twice the maximum total compensation received by the officer or employee from the air carrier or contractor in calendar year 2019; and

(3) no officer or employee of the air carrier or contractor 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 air carrier or contractor 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. MINIMUM AIR SERVICE GUARANTEES.**

(a) **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, as the Secretary of Transportation determines necessary, to ensure services to any point served by that air carrier before March 1, 2020, continues to receive a basic level of air service.

(b) **REQUIRED CONSIDERATIONS.**—When considering whether to exercise the authority provided by this section, the Secretary of Transportation shall take into consideration the air transportation needs of small and remote communities, the need to maintain well-functioning health care supply chains, including medical devices and supplies, and pharmaceutical supply chains, and such other matters as the public interest requires.

(e) **SUNSET.**—The authority provided under this section shall terminate on September 1, 2022, and any re-
requirements issued by the Secretary of Transportation under this section shall cease to apply after that date.

SEC. 9. 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. 10. REPORTS.

(a) REPORT.—Not later than May 1, 2021, 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 Affairs of the Senate a report on the financial assistance provided to air carriers and contractors under this Act, which includes—

(1) a description of any financial assistance provided to air carrier and contractors under this Act;

(2) any audits of air carriers or contractors receiving financial assistance under this Act;

(3) any reports filed by air carriers or contractors receiving financial assistance under this Act;

(4) any non-compliances by air carriers or contractors receiving financial assistance under this Act with the terms and conditions of this Act or agreements entered into with the Secretary to receive such financial assistance; and

(5) information relating to any clawback of any financial assistance provided to air carriers or contractors under this Act.
(b) INTERNET UPDATES.—The Secretary shall update the website of the Department of the Treasury on a daily basis as necessary to reflect new or revised distributions of financial assistance under this Act with respect to each air carrier or contractor that receives such assistance, the identification of any applicant that applied for financial assistance under this Act, and the date of application.

(e) SUPPLEMENTAL 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 Affairs of the Senate, the report submitted under subsection (a).

SEC. 11. COORDINATION.

In implementing this Act, the Secretary shall coordinate with the Secretary of Transportation.

SEC. 12. DIRECT APPROPRIATION.

Notwithstanding any other provision of law, there is appropriated, out of amounts in the Treasury not otherwise appropriated, $28,800,000,000 to carry out this Act.
SEC. 13. TECHNICAL CORRECTIONS AND CLARIFICATION.

(a) Section 4003(c)(1)(B) of the CARES Act (15 U.S.C. 9042(c)(1)(B)) is amended—

(1) by striking “As soon” and inserting the following:

“(i) IN GENERAL.—Subject to clause (ii), as soon”;

(2) by adding at the end the following:

“(ii) REQUIREMENT.—The procedures and any related guidance issued under clause (i) shall not prohibit any air carrier from applying for or receiving a loan or loan guarantee under paragraph (1), (2), or (3) of subsection (b) based on the amount of the loan or loan guarantee requested.”; and

(b) Section 4113(c) of the CARES Act (15 U.S.C. 9073(c)) is amended—

(1) by striking “section 4112” and inserting “subsection (a)”;

(2) by striking “such section” and inserting “such subsection”.

(c) Section 4114 of the CARES Act (15 U.S.C. 9074) is amended by adding at the end the following new subsections:

“(c) CONTINUED APPLICATION.—
“(1) IN GENERAL.—If, after September 30, 2020, a contractor expends funds made available pursuant to section 4112 and distributed pursuant to section 4113, the assurances under this section shall continue to apply until all funds are expended, notwithstanding the time limits included in paragraphs (1) through (3) of subsection (a), or section 4115 or 4116.

“(2) SPECIAL RULE.—Not later than January 5, 2021, each contractor that has received funds pursuant to such section 4112 shall report to the Secretary on the amount of such funds that the contractor has expended through December 31, 2020. If the contractor has expended an amount that is less than 50 percent of the total amount of funds the contractor received under such section, the Secretary shall initiate an action to recover any funds that remain unexpended as of January 31, 2021.

“(d) CLAWBACK OF ASSISTANCE.—Any contractor that conducted involuntary furloughs or reduced pay rates and benefits, between March 27, 2020, and the date on which the contractor entered into an agreement with the Secretary related to financial assistance under this sub-title, shall recall employees who were involuntary fur-
loughed, or the Secretary shall claw back such financial assistance, as necessary.’’

(d) With respect to loans issued under paragraph (1) or (2) of section 4003(b) of the CARES Act (15 U.S.C. 9042(b)) after the date of enactment of this Act to an air carrier, the Secretary may accept an unsecured debt instrument (in addition to a senior secured debt instrument) for a total loan allocation less than $300,000,000, if the air carrier certifies that the air carrier cannot feasibly issue collateral sufficient to receive the full amount of its loan allocation.

SEC. 14. EMERGENCY REQUIREMENT.

(a) In general.—This Act is designated as an emergency requirement pursuant to section 4(g) of the Statutory Pay-As-You-Go Act of 2010 (2 U.S.C. 933(g)).

(b) Designation in Senate.—In the Senate, this Act is designated as an emergency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.