The Coronavirus Response Bill: $114 Billion in Transportation Aid

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State of Play

- As of March 25 at 2 p.m.:
  - Final agreement struck just before 1 a.m. this morning.
  - Bill text 99% final but still being tweaked here and there.
  - Senate hopes to vote on passage of the bill today, then leave town until April 20.
  - House cannot vote until Thursday at the earliest.
  - If House cannot get unanimous consent, members will have to fly back to DC, so vote might slip to Friday.
Final Bill

- $2 trillion (!?!) in federal appropriations and credit assistance.

- $114 billion specifically for transportation:
  - $36.1 billion in discretionary appropriations for the U.S. Department of Transportation
  - $32 billion in grants for aviation sector businesses outside the appropriations process.
  - Up to $46 billion in loans and loan guarantees for aviation sector businesses.
Airlines - Grants

- Treasury Secretary “shall provide financial assistance that shall exclusively be used for the continuation of payment of employee wages, salaries, and benefits”
  - $25 billion for passenger air carriers.
  - $4 billion for cargo air carriers.
  - $3 billion for contractors performing catering, ground crew, and ticketing/check-in functions for Part 121 air carriers.
Airlines - Grants

- Grants given to individual carriers in proportion to the salaries and benefits they paid in the April 1 – September 30, 2019 biennium.

- Treasury to issue rules within 5 days of enactment and start cutting checks within 10 days of enactment.

- Grant recipients must not cut pay/benefits or do involuntary furloughs until after Sept. 30, 2020.

- Grant recipients may not buy back their stock or pay stock dividends until after Sept, 30, 2021.

- USDOT authorized to force carriers to maintain all the service to destinations served as of March 1, 2020 and maintain that service through March 1, 2022.
Out of the general $500 billion in loan and loan guarantee authority for large businesses, the following are set aside:

- Up to $25 billion for loans and loan guarantees for passenger air carriers, Part 145 repair stations, and ticket agents/brokers.
- Up to $4 billion for loans and loan guarantees for cargo air carriers.
- Up to $17 billion for loans and loan guarantees to "businesses critical to maintaining national security" (a.k.a. Boeing).
Airlines - Loans

- Loans can only be made if the Treasury Secretary determines that:
  - Regular credit is not “reasonably available” for the applicant.
  - The intended obligation is “prudently incurred.”
  - The interest rate reflects market risk and is not less than a comparable pre-COVID rate.
  - The loan duration is as short as practicable and no longer than 5 years.
  - “the eligible business must have incurred or is expected to incur covered losses [directly or indirectly as a result of COVID] such that the continued operations of the business are jeopardized, as determined by the Secretary.”
Airlines - Loans

- Loan/guarantee agreements must contain the following:
  - Prohibition on stock buybacks during the life of the loan unless already contractually obligated.
  - Prohibition on dividend payments for the life of the loan plus one year.
  - Requirement that recipient maintain March 24, 2020 employment levels “to the extent practicable” and under no circumstances can cut employment by more than 10 percent from that base.
  - Certification that the recipient is based in the U.S. and has a majority of its employees in the U.S.
  - Restrictions on compensation of executives making over $425 thousand per year (through 1 year after the end of the loan).
For the aviation sector, loans and loan guarantees can only be made “if the Secretary receives a warrant or equity interest in the eligible business” (or, for privately held companies, some other kind of warrant or senior debt instrument).

“Such terms and conditions shall be designed to provide for a reasonable participation by the Secretary, for the benefit of taxpayers, in equity appreciation”

Treasury may sell such warrants “for the primary benefit of taxpayers”

Warrants shall not give Treasury voting power.
Airlines – Tax Relief

- Collections of Airport and Airway Trust Fund excise taxes are suspended from the date of enactment through January 1, 2021.

- This, combined with the slowdown in activity, will probably drive the AATF “uncommitted” balance below zero and begin to eat away at the $17 billion balance of money held in the Fund that is already obligated or otherwise committed but not yet spent.

- (In other words, it makes the AATF more like the Highway Trust Fund, which has a negative uncommitted balance.)
Airport Grants

- $10 billion in grants to airports, same as Senate bill.
- $500 million to increase the federal share of FY 2020 AIP grants up to 100 percent.
- $7.4 billion in grants “for any purpose for which airport revenues can lawfully be used,” at a 100 percent federal share, apportioned 50% by 2018 enplanements and 50% by airport debt service costs.
- $2.0 billion in grants “for any purpose for which airport revenues can be lawfully used,” at a 100 percent federal share, apportioned by the regular AIP formula.
- $100 million for general aviation airports “for any purpose for which airport revenues can lawfully be used,” at a 100 percent federal share, apportioned by airport percentage of total NPIAS development costs.
Airport Grants

- Restrictions attached to the airport grants:
  - Primary and hub airports must maintain at least 90 percent of their employment levels (measured as of date of enactment) through December 21, 2020.
Mass Transit Grants

- $25 billion in grants to mass transit agencies, the same as the House bill.
- Funds to be apportioned within 7 days of enactment.
- 100 percent federal cost share.
- Funds are “available for the operating expenses of transit agencies related to the response to a coronavirus public health emergency...beginning on January 20, 2020, reimbursement for operating costs to maintain service and lost revenue due to the coronavirus public health emergency, including the purchase of personal protective equipment, and paying the administrative leave of operations personnel due to reductions in service”
Mass Transit Grants

Funds are to be apportioned using four different formulas, in the ratio that those for programs received FY 2020 apportionments:

<table>
<thead>
<tr>
<th>Formula</th>
<th>Estimated Amount</th>
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<tbody>
<tr>
<td>§5307 Urbanized Area</td>
<td>$13.9 billion</td>
</tr>
<tr>
<td>§5311 Rural Area</td>
<td>$1.8 billion</td>
</tr>
<tr>
<td>§5337 State of Good Repair</td>
<td>$7.6 billion</td>
</tr>
<tr>
<td>§5340 Fast-Growth &amp; High-Density State</td>
<td>$1.7 billion</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$25.0 billion</td>
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Estimates do not include oversight and other set-asides.
Amtrak Grants

- $1.018 billion in additional grants for Amtrak.
- $492 million for Northeast Corridor grants.
- $526 million for National Network grants.
- Both grants are “to prevent, prepare for, and respond to coronavirus”
- Provides that no state shall have to pay Amtrak more than 80% of its FY 2019 PRIIA sec. 209 payment and sets aside $239 million of the NN grant to be “made available for use in lieu of any increase in a State’s payment”
- Requires Amtrak to recall furloughed employees when service is restored to the March 1, 2020 levels.
Harbor Maintenance Trust Fund

- Senate Appropriations chairman Richard Shelby has FINALLY been able to get his HMTF provision into the final (?) version of a must-pass bill.

- "Sec. 14003. Any discretionary appropriation for the Corps of Engineers derived from the Harbor Maintenance Trust Fund (not to exceed the total amount deposited in the [HMTF] in the prior fiscal year) shall be subtracted from the estimate of discretionary budget authority and outlays [for any budget scoring purposes]."

- Does not appear to allow spend-down of $9 billion built-up balance, only annual receipts and interest.

- Takes effect the earlier of Jan. 1, 2021 or enactment of the next WRDA law.
$56 million for Essential Air Service subsidies.

$25 million in previous FAA emergency appropriations repurposed for coronavirus response.

Allows truck weight limits on Interstates to be exceeded through Sept. 30, 2020 for trucks carrying emergency supplies so long as the President’s disaster declaration is in effect.

Extends NHTSA highway traffic safety grant deadlines if delays in state or federal commitment is due to coronavirus.
What Got Dropped?

- House bill had $1.1 billion for airline GHG emissions reductions – dropped entirely.

- Efforts to ensure all air carriers and contractors paid a $15 minimum wage – dropped.

- Efforts to ensure labor representation on all airline boards of directors – dropped.