FISCAL YEAR 2021 BUDGET RECONCILIATION LEGISLATION TRANSPORTATION AND INFRASTRUCTURE PROVISIONS

FEDERAL EMERGENCY MANAGEMENT AGENCY

Section 7001 provides the Federal Emergency Management Agency's (FEMA) Disaster Relief Fund (DRF) with an additional $50,000,000,000 for reimbursement to state, local, tribal, and territorial (SLTT) governments dealing with ongoing response and recovery activities from COVID-19 and other Presidentially-declared disasters and emergencies, available through fiscal year 2025. President Biden signed two presidential memos expanding and clarifying eligible expenses for COVID-related activities, including vaccination efforts, the continued deployment of the National Guard, providing personal protective equipment for critical public sector employees, and disinfecting activities in public facilities such as schools and courthouses.[1] This appropriation will provide FEMA with the resources necessary to continue providing assistance to SLTT governments to defeat the pandemic, along with ongoing recoveries across the nation from other disasters.

Section 7002 directs FEMA to continue providing funeral assistance for COVID-related deaths—pursuant to Sec. 408(e)(1) of the *Robert T. Stafford Disaster Relief and Emergency Assistance Act* (P.L. 93-288, as amended)—but at 100 percent federal share. A statutory adjustment of cost share for funeral assistance is necessary because the Stafford Act does not allow for administrative adjustment of cost share for Sec. 408 assistance, despite then-President Trump's invocation of Stafford Sec. 501(b) to declare the national emergency as a result of the pandemic, stating "the United States exercises exclusive or preeminent responsibility and authority."[2] Congress provided an initial 100 percent federal share adjustment in the *FY21 Omnibus and COVID Relief and Response Act* (Div. M, Title II, Sec. 201 of P.L. 116-260), but only for deaths occurring on or before December 31, 2020. Section 7002 eliminates the date limitation.

FEMA assistance to qualified individuals and households will be of an amount based on average mortuary, funeral, and burial costs nationally; individuals and households that qualify for this assistance might see full or partial coverage of costs incurred depending on several variables, but none will receive assistance greater than costs incurred. FEMA is currently working toward implementation of the assistance mandated by P.L. 116-260 and the Agency will require and collect documentation—including a death certificate and funeral-related receipts—to prevent fraudulent claims.

ECONOMIC DEVELOPMENT ADMINISTRATION

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[1] "Memorandum to Extend Federal Support to Governors' Use of the National Guard to Respond to COVID-19 and to Increase Reimbursement and Other Assistance Provided to States," January 21, 2021, available at https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/21/extend-federal-support-to-governors-use-of-national-guard-to-respond-to-covid-19-and-to-increase-reimbursement-and-other-assistance-provided-to-states/ and "Memorandum on Maximizing Assistance from the Federal Emergency Management Agency," February 2, 2021, available at https://www.whitehouse.gov/briefing-room/presidential-actions/2021/02/02/memorandum-maximizing-assistance-from-the-federal-emergency-management-agency/.

[2] "Letter from President Donald J. Trump on Emergency Determination Under the Stafford Act". March 13, 2020. Available at https://trumpwhitehouse.archives.gov/briefings-statements/letter-president-donald-j-trump-emergency-determination-stafford-act/.

Section 7003 provides $3,000,000,000 for the Economic Development Administration (EDA) to provide economic adjustment assistance for fiscal year 2021 for the purpose of preventing, preparing for, and responding to economic injury caused by the COVID-19 pandemic. In order to provide support for communities and industries that have been disproportionately impacted by the pandemic, the appropriation reserves 15 percent of the assistance for communities that have suffered economic injury as a result of job losses in travel, tourism, or outdoor recreation activities. Consistent with the *Coronavirus Assistance, Relief, and Economic Security (CARES) Act* (P.L. 116-136), this section also provides EDA with special hiring authority to ensure hiring of qualified temporary staff who will, among other things, promote funding opportunities and grants in response to the pandemic.

GREAT LAKES ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION

Section 7003 provides a one-time transfer of $1.5 million from the Harbor Maintenance Trust Fund (HMTF) for operations, maintenance, and capital infrastructure activities of the Seaway International Bridge. The Seaway International Bridge is a structure that crosses the St. Lawrence Seaway between Cornwall, Ontario, and Rooseveltown, New York, and is owned jointly with Canada through the Federal Bridge Corporation Ltd. and the United States through the GLS. Pursuant to a series of bilateral agreements, the two countries agreed that a subsidiary corporation of the Canadian owner, the Seaway International Bridge Corporation (SIBC) would be created to operate and maintain the bridge on behalf of its Canadian and U.S. government owners.

Due in part to the COVID-19 pandemic, cross-border traffic, including commercial traffic, has been in significant decline—and has resulted in a corresponding drop in operation and maintenance revenues that come from tolling. The GLS needs $1.5 million to support the U.S. contribution for necessary operation and maintenance activities for the Seaway International Bridge.

Section 7005 provides $1.5 billion to keep Amtrak fully operational through fiscal year 2021 and help it remain viable for future generations. Amtrak ridership numbers were devastated by the coronavirus pandemic and remain at roughly 25 percent of pre-pandemic levels—the passenger railroad forecasts a total of 8.7 million trips for fiscal year 2021, compared to 32.5 million in fiscal year 2019.

AMTRAK

Amtrak funding is split between two accounts administered by the Federal Railroad Administration. The Northeast Corridor account funds Amtrak service along the East Coast from Washington, D.C., to Boston, where track is mostly owned and maintained by Amtrak with contributions from states that run commuter service to the various cities along the route. This rail connection provides travelers with a green alternative to driving on the I-95 highway corridor, improving local air quality, reducing greenhouse gases, cutting energy use, and enhancing community access and overall quality of life. The National Network account funds 15 different long distance service routes and supports partnership with 17 states to operate state-supported routes of less than 750 miles. These services connect the Nation's rural communities, enhance local economies, and provide an alternative to air and automobile travel.

The bill provides $820 million for the Northeast Corridor and $680 million for the National Network. This funding level will allow Amtrak to recall and pay employees furloughed due to the COVID-19 pandemic through the end of fiscal year 2021 and restore daily long-distance service within 90 days after enactment. This section also sets aside:

- $175 million to states to help cover lost revenue in state-supported routes and avoid large increases in state payments to Amtrak;
- $109 million to states and commuter rail agencies to cover their Northeast Corridor commuter rail payments to Amtrak; and
- $101 million to cover Amtrak's debt repayments.

TRANSIT

Section 7006 provides $30 billion in relief for transit agencies to prevent, prepare for, and respond to the ongoing threat of COVID-19. Unlike traditional transit grants, which are primarily provided for capital expenses, these funds are targeted largely to operational expenses, which include the reimbursement for payroll of public transportation (including payroll and expenses of private providers of public transportation); operating costs to maintain service including the purchase of personal protective equipment; and paying the administrative leave of operations or contractor personnel due to reductions in service. Transit agencies are required to direct funds under the bill to payroll and operations unless the recipient certifies to the Secretary that the recipient has not furloughed any employees. Funds are provided at 100 percent federal share and available for immediate obligation.

Included within the $30 billion are formula-based funds for transit agencies that serve communities of all sizes, discretionary funds to allow the Biden Administration to target additional resources to the areas with the greatest need, and grants to ensure the solvency of major capital investments. The proposal includes:

- $26.1 billion in operating assistance formula grants for transit agencies located in areas of populations of 50,000 and above. Each area in this population range with transit service receives funding under the bill; with additional resources targeted to agencies who received proportionally less in prior rounds of relief funding.
- $280.9 million in operating assistance formula grants for states to support rural transit agencies in areas of fewer than 50,000 people;
- $5.0 million in discretionary grants for transit on Tribal lands;
- $50.0 million for transit providers in communities of all sizes to provide transportation for seniors and persons with disabilities;
- $100.0 million for intercity bus service that provides essential connections to rural transit;
- $2.2 billion in emergency relief funding for the Biden Administration to allocate to transit agencies with the greatest need;
- $1.25 billion in funds to ensure the solvency of ongoing New Start, Core Capacity, and Small Start capital investments; and
- $25.0 million in planning grants to help agencies improve service throughout the pandemic, including by improving the quality and frequency of service provided to low-income riders and disadvantaged communities.

Transit agencies face ongoing and significant impacts from the COVID-19 pandemic. According to a new independent analysis prepared by EPB US, Inc, on behalf of the American Public Transportation Association, transit systems are facing a shortfall of $39.3 billion through the end of calendar year 2023, even when accounting for the $39 billion in relief Congress has provided to date. This includes shortfalls of $25.2 billion in 2021, $15.1 billion in 2022, and $13.0 billion in 2023.[3]

The analysis found that the shortfall is being driven by several factors, including a 79 percent decline in transit ridership at the start of the pandemic. Severe ridership loss continued throughout 2020, averaging 65 percent below normal levels from June through December. Suppressed ridership is expected to continue at current levels through the third quarter of 2021, with lower-than-average ridership expected through calendar year 2023 due to lower employment and increased reliance on remote work.

In addition to lower ridership, many transit agencies faced additional losses during the early stages of the pandemic as they suspended fare collection to enhance social distancing between riders and transit workers. Transit agencies are also experiencing losses due to reductions in other funding sources, including income taxes and state transportation funds. In addition to revenue losses, the EPB analysis finds that costs to transit agencies have also increased due to the need for providing personal protective equipment to frontline transit workers, implementing new sanitation and disinfection measures, and handling personnel absences due to the pandemic.

These funding shortfalls threaten essential connections relied upon by millions of Americans for their day-to-day travel. According to an analysis by the advocacy group TransitCenter, census data show that over 2.7 million frontline workers—including doctors, nurses, grocery store workers, postal workers, and first responders—use transit for their commutes.[4] At the same time, transit serves as a lifeline for many dependent riders who rely on buses and trains to get them to doctor's appointments, jobs, and daily errands.

AIRPORTS

Section 7007 would provide $8 billion in emergency aid for primary airports, non-primary airports, and airport concessions. Of this amount, $6.4 billion would be distributed to primary airports for costs related to operations, personnel, debt service payments, and combating the spread of pathogens at airports, among other things. In exchange for receiving these federal funds, primary airports are required to continue to retain at least 90 percent of their workforce as of March 27, 2020, through the end of this fiscal year.

Additionally, this section would provide $100 million directly to non-primary airports to help address costs related to the current pandemic and more than $600 million to help ensure all airports receive 100 percent of the federal cost share for any Airport Improvement Program (AIP) grant

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[3] EPB US, Inc. (January 27, 2021). The Impact of the COVID-19 Pandemic on Public Transit Funding Needs in the U.S. https://mk0aptacoma227k83f08.kinstacdn.com/wp-content/uploads/APTA-COVID-19-Funding-Impact-2021-01-27.pdf.

[4] TransitCenter. (Accessed February 5, 2021). Transit is Essential: 2.8 Million Essential Workers Ride Transit to their Jobs. https://transitcenter.org/2-8-million-u-s-essential-workers-ride-transit-to-their-jobs/.

awarded to them in fiscal year 2021. Lastly, this section would allocate $800 million to airport concessions at primary airports in the form of relief from rent and minimum annual guarantee obligations. Of this $800 million allocation, 80 percent would be targeted toward small businesses and minority-owned firms.

The COVID-19 pandemic has had a devastating effect on the aviation and aerospace industries, including our nation's airports. According to the Transportation Security Administration, passenger screening levels plummeted by as much as 90 percent throughout the pandemic compared to similar periods in 2019. Furthermore, the International Air Transport Association predicts the aviation industry will not fully recover until 2024 at the earliest. Without federal aid, the dramatic and sustained drop in airline passenger traffic levels at U.S. airports will make it difficult for airports to retain their current workforce levels and maintain essential operations, let alone invest in critical airport safety and other infrastructure projects.

AVIATION MANUFACTURING JOBS PROTECTION

Subtitle B establishes a $3 billion temporary payroll support program, administered by the U.S. Department of Transportation, to provide a 50 percent federal share to eligible U.S. aerospace manufacturing companies—those that involuntarily furloughed at least 10 percent of their workforce or experienced at least a 15 percent decline in revenues in 2020 and have a majority of their aviation employees based in the United States—to help cover the wages, salaries, and benefits of manufacturing employees most at risk of being furloughed (i.e., those making less than $200,000 annually) and to facilitate the recall or rehire of such employees furloughed during the COVID-19 pandemic. A federal contribution may be used for no other purposes. Moreover, while receiving federal funds, a manufacturer recipient is prohibited from conducting involuntary furloughs or reducing the pay rates and benefits of its eligible employee groups.

The ongoing pandemic, and resulting decline in air travel, continues to devastate the U.S. aviation and aerospace industries. According to recent industry analysis, an estimated 100,000 aerospace manufacturing workers have already lost their jobs nationwide and 220,000 additional jobs are at risk of furlough.

On January 28, 2021, Subcommittee on Aviation Chair Rick Larsen (D-WA) and Representative Ron Estes (R-KS) introduced a version of the aerospace manufacturers payroll program: H.R. 553, the *Aviation Manufacturing Jobs Protection Act of 2021*, a bipartisan bill to create a temporary payroll support program to prevent further aerospace manufacturing supply chain furloughs due to the COVID-19 pandemic. That bill is substantially similar to the language in this Subtitle.

H.R. 553 is supported by the following groups: International Association of Machinists and Aerospace Workers, General Aviation Manufacturers Association, Aerospace Industries Association, Aeronautical Repair Station Association, National Defense Industrial Association, Aerospace Futures Alliance, International Federation of Professional and Technical Engineers, Society of Professional Engineering Employees in Aerospace, Aircraft Owners and Pilots Association, Experimental Aircraft Association, Helicopter Association International, National Association of State Aviation Officials, National Air Transportation Association and the National Business Aviation Association.

RAILROAD WORKER UNEMPLOYMENT BENEFITS

Subtitle C ensures that unemployed railroad workers continue to receive parity with regards to unemployment benefits. Railroad workers are not eligible for unemployment benefits provided through the normal state-administered unemployment programs. Instead, eligible railroad workers receive unemployment and sickness benefits under the Railroad Unemployment Insurance Act (RUIA), which is administered by the Railroad Retirement Board (RRB). Both railroad labor unions and the railroad industry support such parity. Specifically, this section includes:

- an additional $400 per week to unemployed railroad workers on top of their standard benefit;
- up to 29 additional weeks of unemployment benefits, and
- waiving of the one-week delay in benefits for newly unemployed or sick workers.

In addition, this Subtitle provides the RRB $6.8 million for additional hiring and overtime bonuses needed to get through the backlog of benefits and $21.175 million for improvements to the Information Technology Investment Initiatives so that RRB can finally complete its efforts to fully modernize its systems.

The RRB is understaffed, its computer systems are antiquated, and its sickness benefit application process is still paper-based. This leads to delays and unnecessary burdens on beneficiaries during the times when they need support the most. The pandemic has made this situation even worse. The RRB needs administrative funding to increase staffing to administer the sustained high volume of unemployment and sickness benefits.

Average railroad employment levels have declined sharply due to the pandemic, falling from an estimated 205,000 workers in March 2020 to an estimated 191,000 workers in November 2020. This has caused a dramatic increase in the number of applications and claims for unemployment and sickness benefits. In calendar year 2020 the RRB experienced a:

- 60 percent increase in unemployment applications;
- 67 percent increase in unemployment claims;
- 40 percent increase in sickness applications; and an
- 11 percent increase in sickness claims.

The pandemic has exacerbated RRB's challenge of maintaining staffing levels to nearly untenable conditions, with average customer service call wait times increasing by 56 percent, and the average processing time for initial sickness benefit applications increasing by 150 percent since the pandemic struck. Compounding these delays, the agency operates using information technology (IT) systems that are rooted in antiquated systems and require significant resources to maintain. The RRB's outdated IT systems limit the agency's ability to swiftly make programming changes. This vulnerability was on display when it took nearly two months for RRB to reprogram its systems to begin processing and paying the extended benefits the *CARES Act* provided.

Finally, this Subtitle also provides $500,000 to the RRB's Inspector General for oversight activities.