

BELATED THANK YOU TO THE MERCHANT MARINERS OF WORLD WAR II ACT OF 2007

JULY 27, 2007.—Ordered to be printed

Mr. FILNER, from the Committee on Veterans’ Affairs,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 23]

[Including cost estimate of the Congressional Budget Office]

The Committee on Veterans’ Affairs, to whom was referred the bill (H.R. 23) to amend title 46, United States Code, to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

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The amendments are as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Belated Thank You to the Merchant Mariners of World War II Act of 2007”.

SEC. 2. PAYMENTS TO INDIVIDUALS WHO SERVED DURING WORLD WAR II IN THE UNITED STATES MERCHANT MARINE.

(a) ESTABLISHMENT OF COMPENSATION FUND.—Subchapter II of chapter 5 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 532. Merchant Mariner Equity Compensation Fund

“(a) COMPENSATION FUND.—(1) There is in the general fund of the Treasury a fund to be known as the ‘Merchant Mariner Equity Compensation Fund’ (in this section referred to as the ‘compensation fund’).

“(2) Subject to the availability of appropriations for such purpose, amounts in the fund shall be available to the Secretary without fiscal year limitation to make payments to eligible individuals in accordance with this section.

“(b) ELIGIBLE INDIVIDUALS.—(1) An eligible individual is an individual who—

“(A) before October 1, 2009, submits to the Secretary an application containing such information and assurances as the Secretary may require;

“(B) has not received benefits under the Servicemen’s Readjustment Act of 1944 (Public Law 78–346); and

“(C) has engaged in qualified service.

“(2) For purposes of paragraph (1), a person has engaged in qualified service if, between December 7, 1941, and December 31, 1946, the person—

“(A) was a member of the United States merchant marine (including the Army Transport Service and the Naval Transport Service) serving as a crew-member of a vessel that was—

“(i) operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);

“(ii) operated in waters other than inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States;

“(iii) under contract or charter to, or property of, the Government of the United States; and

“(iv) serving the Armed Forces; and

“(B) while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.

“(c) AMOUNT OF PAYMENTS.—The Secretary shall make a monthly payment out of the compensation fund in the amount of \$1,000 to an eligible individual. The Secretary shall make such payments to eligible individuals in the order in which the Secretary receives the applications of the eligible individuals.

“(d) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the compensation fund amounts as follows:

“(A) For fiscal year 2008, \$120,000,000.

“(B) For fiscal year 2009, \$108,000,000.

“(C) For fiscal year 2010, \$97,000,000.

“(D) For fiscal year 2011, \$85,000,000.

“(E) For fiscal year 2012, \$75,000,000.

“(2) Funds appropriated to carry out this section shall remain available until expended.

“(e) REPORTS.—The Secretary shall include, in documents submitted to Congress by the Secretary in support of the President’s budget for each fiscal year, detailed information on the operation of the compensation fund, including the number of applicants, the number of eligible individuals receiving benefits, the amounts paid out of the compensation fund, the administration of the compensation fund, and an estimate of the amounts necessary to fully fund the compensation fund for that fiscal year and each of the three subsequent fiscal years.

“(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.”

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall prescribe the regulations required under section 532(f) of title 38, United States Code, as added by subsection (a).

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item related to section 531 the following new item: “532. Merchant Mariner Equity Compensation Fund.”.

Amend the title so as to read:

A bill to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to establish the Merchant Mariner Equity Compensation Fund to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

PURPOSE AND SUMMARY

H.R. 23 would direct the Secretary of Veterans Affairs to pay a monthly benefit of \$1,000 to qualifying honorably-discharged individuals of the United States merchant marine (including members of the Army Transport Service and the Naval Transport Service) who served between December 7, 1941, and December 31, 1946.

H.R. 23 would:

1. Establish, out of the general fund of the Treasury, a Merchant Mariner Equity Compensation Fund subject to the availability of appropriations.
2. Require the Department of Veterans Affairs (VA) to provide a monthly payment in the amount of \$1,000 to each eligible individual in the order in which an application is received before October 1, 2009.
3. Require the VA to submit an annual report with the President’s budget for each fiscal year with detailed information pertaining to operation of the fund.
4. Require the VA to prescribe regulations 180 days after enactment of the bill.

BACKGROUND AND DISCUSSION

The merchant marine was the nation’s first navy and assisted the Continental Army in defeating the British during the Revolutionary War. Since 1775, the merchant marine has served in peace and in every war. After the terrorist attacks of September 11, 2001, 29 merchant marine academy students operated a fleet of boats in New York Harbor, transporting firefighters and other emergency equipment workers, medical supplies and food. Today, more than 8,000 mariners serve in the Military Sealift Command, most of them working in support of Operation Iraqi Freedom. The merchant mariners are also recognized at the World War II Memorial. The United States Merchant Marine Academy is the only one of our five military academies that sends its cadets into war—142 of these cadets perished during WWII. Current estimates of the surviving merchant mariners of WWII range from 10,000 to 16,000. The Committee adopted the 10,000 figure.

The merchant mariners of World War II were a volunteer, civilian military corps that served honorably in combat during the war, but were denied veterans’ benefits for their service until 1988 after a successful court challenge. By most reports, the World War II merchant marine suffered the greatest casualties of any of the fighting branches—with nearly one-in-26 dying in battle. By comparison, the death rate for the U.S. Marine Corps was one-in-33, in the Army, one-in-48, in the Navy, one-in-114, and in the Coast

Guard one-in-421. Before the Japanese attack on Pearl Harbor, more than 240 mariners had already perished.

HISTORICAL ANALYSIS

In 1936, the Merchant Marine Act was enacted (Public Law 74-835) to rebuild our nation's merchant marine which had decreased significantly after World War I. Title I of the Merchant Marine Act stated as a "Declaration of Policy" that the United States "shall have a merchant marine . . . capable of serving as a naval and military auxiliary in time of war or national emergency[.]" Also in 1936, President Roosevelt created the U.S. Maritime Commission to oversee the rebuilding of this fleet. The U.S. Maritime Service (USMS), the training arm established in 1938, built up the number of merchant mariners from the pre-war strength of 55,000 to 250,000 men at the end of World War II. In addition, President Roosevelt established maritime training facilities; the first at Sheepshead Bay, New York, and also in 1942, the United States Merchant Marine Academy at Kings Point, New York. These facilities trained well over 150,000 mariners. In February 1942, the U.S. War Shipping Administration (WSA), as an emergency wartime agency, took control of the purchasing, chartering, requisition and operation of commercial shipping vessels. Generally, only the day-to-day operations were the responsibility of the private shipping lines. As emergency construction began to replace wartime losses, the new ships were allocated among the private companies. The companies were paid fixed fees in addition to the charter rates for their ships. The WSA assumed all operating responsibilities and insurance liability for war-risk losses.

With the quick buildup of the Liberty ship cargo fleet, the country desperately needed people to man them. The merchant marine fleet rapidly grew from a few hundred to thousands of ships. A Liberty ship was considered successful if it made one voyage with war materiel. These ships were produced with amazing speed, most within eight weeks, some in as short as a week. They were not meant to be indispensable. Because of their bulkiness, they were also very slow and became easy targets for enemy air and water attacks. The U.S. plan became to build the ships faster than the enemy could sink them.

The WSA played an active role in the recruitment and training of World War II merchant mariners. As the parent agency, it organized three subsidiary units to deal with manpower issues: the Recruitment and Manning Organization; the Training Organization; and the Maritime Labor Relations Organizations. Many of the mariners belonged to a union and were covered by collective bargaining agreements with the private shipping companies. This relationship was completely reorganized by the WSA in 1942 and various agreements were reached to maintain existing arrangements. While at war, the WSA, through the Maritime Labor Relations Organizations, worked with both the operators and unions in establishing a uniform scale and working conditions aboard WSA ships. Merchant mariners of World War II were recruited, trained in gunnery, and received health care treatment, life insurance and compensation (although indirectly) from the Federal government. Throughout the Second World War, all merchant mariners were under the auspices and control of the WSA.

Thirty-seven official government USMS recruiting offices were established around the country with many offices located next to Navy and Coast Guard offices. Merchant mariners were not subject to the draft as long as they did not leave the service of any ship for longer than 30 days. According to testimony presented during the full Committee hearing on H.R. 23, held on April 18, 2007, many of these men were steered from the uniformed branches and ordered to join the merchant marine because, reportedly, they were told by recruiters “that’s where our country needs you.” The merchant marine worked some of the most perilous jobs during the war and their ships and crews were on the front lines of battle. Compared to the large number of men and women serving in World War II, the numbers of the merchant marine were small, but their chance of dying during service was extremely high, as it took anywhere from eight to 15 tons of supplies to support one soldier for one year at the front.

On December 29, 1940, President Roosevelt delivered his “Arsenal of Democracy” speech, indicating that he would deploy ships with supplies to help Great Britain. In 1941, Germany, in an attempt to isolate supplies to England, deployed its U-boats to the Atlantic. The U-boats, singly and in “wolf packs,” sank or damaged many ships crossing the Atlantic with supplies, but also found prime targets in the ships off the U.S. Coast from Maine to Florida, where merchant marine ships operated without military escort or convoy. Germany was also successful in curtailing merchant marine ships bringing petroleum and supplies through the Caribbean Sea and the Gulf of Mexico. In the first six months of 1942, German U-boats sank more than 400 merchant marine ships, more ships than had been built. Between 1941 and 1944, enemy forces sank more than 800 ships. About 600 mariners were prisoners of war and another 11,000 were injured.

With regard to pay, the average merchant mariner was paid on par with average Navy seaman as confirmed by Navy reports. Unlike the other servicemembers, merchant mariners were only paid when they were working on a ship. They received no vacation, sick or dock pay, and were not paid when their ships were torpedoed and sank, when they were on lifeboats, when injured, maimed, or when they became POWs. They were also subject to income tax and Victory Tax, from which the uniformed branches were exempt. Most families received just \$5,000 from the WSA when the mariner died in combat. Merchant mariners were also eligible for bonuses, but evidence indicates that during the war these were inconsistent and intermittent. According to the Congressional Research Service in a report entitled “Veterans Benefits: Merchant Seamen” dated May 8, 2007, the issue of pay comparability is “extremely difficult” to sort out.

AFTER THE WAR

On June 22, 1944, President Roosevelt signed into public law the Servicemen’s Readjustment Act of 1944 (Public Law 78-346). This act, commonly known as the “GI Bill” or “GI Bill of Rights” gave members of the Armed Forces who served at least 90 days anywhere geographically between December 7, 1941, and December 31, 1946, unemployment benefits, unprecedented education assistance, VA health care and counseling, housing and small business loans

as well. The vast and enduring positive socioeconomic effects of this final piece of New Deal legislation are widely touted. It is reported by many scholars that passage of this bill contributed to the country's ability to avoid a post-war depression, to expand the reach of higher education, and to build the middle class. When signing the GI Bill, President Roosevelt stated "I trust that Congress will soon provide similar opportunities to members of the merchant marine who have risked their lives time and time again during war for the welfare of their country."

Efforts in Congress to extend the benefits of the 1944 GI Bill of Rights, primarily through the Merchant Mariner Readjustment Act (H.R. 2346, 79th Congress), failed in Committee, due mostly to pressure and opposition from the uniformed branches and the veteran service organizations. As a result, the merchant mariners of World War II and their families did not receive any of the benefits of the 1944 GI Bill.

The effort to attain veteran status resurfaced after many years of denial by the Civilian Military Service Review Board (that determined active duty services for the purposes of veterans benefits), when in 1988, three merchant mariners including Stanley Willner, who testified during the full Committee hearing on April 18, 2007, successfully sued for veteran status for the merchant mariners of World War II. (*Schumacher, Willner et al. v. Secretary of the Air Force Edward C. Aldridge, Jr.*, 665 F. Supp. 41 (D.D.C. 1987). Accordingly, on January 19, 1988, in adherence to the *Schumacher* decision, the merchant mariners who served between December 7, 1941, and August 15, 1945, attained veteran status. At that point, over 40 years later, the education benefits had expired and over 125,000 merchant mariners had died.

The Secretary of the Air Force, who headed the Civilian Military Service Review Board, established the cut-off date for qualifying service of merchant mariners as August 15, 1945, although the official end of the war was December 31, 1946, for members of the Armed Forces. This move denied a few thousand mariners veteran's benefits. In 1998, President William J. Clinton signed into law the "Veterans Programs Enhancement Act of 1998" (Public Law 105-368) that gave mariners who served from August 15, 1945, to December 31, 1946, limited veterans benefits. However, these men received certificates, not honorable discharges, and their service is not considered active duty for the receipt of VA benefits.

H.R. 23, as amended, sponsored by Chairman Bob Filner, seeks to rectify the lost benefits sustained by all of the merchant mariners of World War II, who served from December 7, 1941, through December 31, 1946, by providing a \$1,000 monthly payment to qualifying living merchant mariners (including qualifying individuals of the Army Transport and Naval Transportation Service who were civilian sealift personnel), subject to the availability of appropriations.

LEGISLATIVE HISTORY

On January 4, 2007, Representative Bob Filner of California, Chairman of the Committee on Veterans' Affairs, introduced H.R. 23, the "Belated Thank You to the Merchant Mariners of World War II Act of 2007."

On April 18, 2007, the Committee on Veterans' Affairs conducted a legislative hearing on H.R. 23.

On July 17, 2007, the full Committee met in open markup session and approved a number of bills including H.R. 23, as amended. The amendment to H.R. 23 was in the nature of a substitute. An amendment offered by Representative Steve Buyer of Indiana, the Ranking Member, was not agreed to by voice vote. The full Committee, by voice vote, ordered H.R. 23, as amended, reported favorably to the House of Representatives.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Section 1 would provide the short title of H.R. 23 as the "Belated Thank You to the Merchant Mariners of World War II Act of 2007."

Section 2. Payments to individuals who served during World War II in the United States merchant marine

This section allows for payments to individuals who served during World War II in the United States merchant marine.

This section, by addition of a new section 532, would amend subchapter II of chapter 5 of title 38, United States Code, to establish a Merchant Mariner Equity Compensation Fund (compensation fund) in the general fund of the Treasury.

This new section would make funds in the compensation fund, which are subject to the availability of appropriations, available to the Secretary of the VA to distribute payments to eligible individuals without fiscal year limitation.

Subsection (b) of this new section would require eligible individuals to submit applications with such information and assurances as the VA may require before October 1, 2009, and would make ineligible those individuals who received benefits under the Servicemen's Readjustment Act of 1944 (P.L. 78-346).

In addition, subsection (b) would require the Secretary to recognize the qualifying service of those who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during the period of December 7, 1941, and December 31, 1946. An individual has engaged in qualifying service if between December 7, 1941 and December 31, 1946, the eligible individual was a member of the United States merchant marine (including the Army Transport Service and the Naval Transport Service) serving as a crewmember of a vessel that was operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office); operated in waters other than inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States; under contract or charter to, or property of, the Government of the United States; serving the Armed Forces; and, while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for service.

New subsection (c) would require the Secretary to make a monthly payment of \$1,000 out of the compensation fund to eligible individuals in the order of receipt of applications.

New subsection (d) would authorize appropriations in the amount of \$120 million in FY 2008; \$108 million in FY 2009; \$97 million in FY 2010; \$85 million in FY 2011; and \$75 million in FY 2012. This new subsection would also authorize that funds appropriated under this new section remain available until expended.

New subsection (e) would require the Secretary to submit a report to Congress with the President's budget for each fiscal year to contain information about the operation of the compensation fund, including the number of applicants, the number of eligible individuals receiving benefits, the amounts paid out of and administration of the compensation fund and an estimate of necessary amounts to fully fund the compensation fund for that fiscal year and each of the three subsequent fiscal years.

New subsection (f) would require the Secretary to issue regulations 180 days after the date of enactment.

EXPLANATION OF AMENDMENTS

During the full Committee markup on July 17, 2007, the Ranking Member of the Committee, Representative Steve Buyer of Indiana, offered an amendment to the Amendment in the Nature of a Substitute to H.R. 23, which would have created a fund to allow payments for the service of those persons that have been determined to have been active duty pursuant to section 1401 of the GI Bill Improvement Act of 1977 (38 U.S.C. 106 note). The amendment was not agreed to by voice vote.

COMMITTEE CONSIDERATION

On July 17, 2007, the full Committee ordered H.R. 23, as amended, reported favorably to the House of Representatives by voice vote.

ROLLCALL VOTES

The Committee held no roll call votes on this bill. A motion to order H.R. 23, as amended, reported favorably to the House of Representatives was agreed to by voice vote.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch where the bill relates to the terms and conditions of employment or access to public services and accommodations. This bill does not relate to employment or access to public services and accommodations.

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause (2)(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

The reported bill would authorize benefits and programs under laws administered by the Secretary of Veterans Affairs. The De-

partment of Veterans Affairs' performance goals and objectives are established in annual performance plans and are subject to the Committee's regular oversight and evaluation by the U.S. Government Accountability Office. VA publishes a performance and accountability report for each fiscal year.

CONSTITUTIONAL AUTHORITY STATEMENT

Under clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee must include a statement citing the specific powers granted to Congress to enact the law proposed by H.R. 23. Article 1, Section 8 of the Constitution of the United States grants Congress the power to enact this law.

FEDERAL ADVISORY COMMITTEE ACT

The Committee finds that the legislation does not establish or authorize the establishment of an advisory committee within the definition of 5 U.S.C. App., section 5(b).

UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by section 101(a)(2) of the Unfunded Mandate Reform Act, Pub. L. 104-4) require a statement whether the provisions of the reported bill include unfunded mandates. In compliance with this requirement, the Committee has received a letter from the Congressional Budget Office that is included herein.

EARMARK IDENTIFICATION

H.R. 23, as amended, does not contain any congressional earmarks, limited tax benefits, or limited tariff as defined in clause 9(d), 9(e), or 9(f) of rule XXI of the Rules of the House of Representatives.

COMMITTEE ESTIMATE

Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs that would be incurred in carrying out H.R. 23, as amended. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act.

BUDGET AUTHORITY AND CONGRESSIONAL BUDGET OFFICE COST
ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 2007.

Hon. BOB FILNER, *Chairman,*
Committee on Veterans' Affairs,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 23, the Belated Thank You to the Merchant Mariners of World War II Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Dwayne M. Wright.

Sincerely,

PETER R. ORSZAG,
Director.

Enclosure.

H.R. 23—Belated thank you to the Merchant Mariners of World War II Act of 2007

Summary: H.R. 23 would make certain individuals who served as merchant mariners for the United States during World War II eligible for a monthly payment from the Department of Veterans Affairs (VA) and would require VA to conduct an annual report on the status of the new benefit program. CBO estimates that implementing H.R. 23 would cost \$120 million in 2008 and \$485 million over the 2008–2012 period, assuming appropriation of the authorized amounts. Enacting the bill would not affect direct spending or receipts.

H.R. 23 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 23 is shown in the following table. The costs of this legislation fall within budget function 700 (veterans benefits and services).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level	120	108	97	85	75
Estimated Outlays	120	108	97	85	75

Basis of estimate: H.R. 23 would entitle certain individuals who served with the U.S. Merchant Marine during World War II to a monthly benefit of \$1,000, subject to the availability of funds for that purpose. To be eligible for the benefit, individuals would need to submit an application by October 1, 2009, and to demonstrate that they served as a merchant marine between December 7, 1941, and December 31, 1946, on a vessel that was:

- Operated by the War Shipping Administration or the Office of Defense Transportation;
- Operated in waters other than inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States;

- Under contract or charter to, or property of the government of the United States; and
- Serving the Armed Forces.

H.R. 23 would establish the Merchant Mariner Equity Compensation Fund. Amounts in the fund would be used to pay the monthly benefit to eligible individuals, on a first-come, first-served basis. The bill would specifically authorize the appropriation of \$120 million in 2008, \$108 million in 2009, \$97 million in 2010, \$85 million in 2011, and \$75 million in 2012.

Based on information from VA on the number of merchant mariners that served during the specified period, their average age, and mortality rates from the Department of Defense, CBO estimates that, in 2008, about 65,000 merchant mariners would have the requisite service qualifications and that one-quarter of them, or about 16,000, would apply for the benefit. However, the authorized amounts under H.R. 23 would provide for a maximum of 10,000 merchant mariners to receive the monthly benefit in 2008. Therefore, CBO assumes that 10,000 eligible merchant mariners would apply for and receive the full authorized amount in 2008.

Using the same mortality rates described above, CBO estimates that there will be a sufficient number of surviving merchant mariners in each of 2009 through 2012 to exhaust all of the funds authorized to be appropriated for that period.

For this estimate, CBO assumes that H.R. 23 will be enacted near the beginning of fiscal year 2008 and that the specified amounts will be appropriated near the start of each fiscal year.

In total, CBO estimates that implementing H.R. 23 would cost \$120 million in 2008 and \$485 million over the 2008–2012 period.

Intergovernmental and private-sector impact: H.R. 23 contains no intergovernmental or private-sector mandates as defined in URMA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Dwayne M. Wright; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum; Impact on the Private Sector: Victoria Liu.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italics* and existing law in which no change is proposed is shown in *roman*):

TITLE 38, UNITED STATES CODE

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

SUBCHAPTER I—GENERAL AUTHORITIES

Sec.

501. Rules and regulations.

* * * * *

SUBCHAPTER II—SPECIFIED FUNCTIONS

521. Assistance to certain rehabilitation activities.

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532. *Merchant Mariner Equity Compensation Fund.*

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SUBCHAPTER II—SPECIFIED FUNCTIONS

* * * * *

§ 532. Merchant Mariner Equity Compensation Fund

(a) *COMPENSATION FUND.*—(1) *There is in the general fund of the Treasury a fund to be known as the “Merchant Mariner Equity Compensation Fund” (in this section referred to as the “compensation fund”).*

(2) *Subject to the availability of appropriations for such purpose, amounts in the fund shall be available to the Secretary without fiscal year limitation to make payments to eligible individuals in accordance with this section.*

(b) *ELIGIBLE INDIVIDUALS.*—(1) *An eligible individual is an individual who—*

(A) *before October 1, 2009, submits to the Secretary an application containing such information and assurances as the Secretary may require;*

(B) *has not received benefits under the Servicemen’s Readjustment Act of 1944 (Public Law 78–346); and*

(C) *has engaged in qualified service.*

(2) *For purposes of paragraph (1), a person has engaged in qualified service if, between December 7, 1941, and December 31, 1946, the person—*

(A) *was a member of the United States merchant marine (including the Army Transport Service and the Naval Transport Service) serving as a crewmember of a vessel that was—*

(i) *operated by the War Shipping Administration or the Office of Defense Transportation (or an agent of the Administration or Office);*

(ii) *operated in waters other than inland waters, the Great Lakes, and other lakes, bays, and harbors of the United States;*

(iii) *under contract or charter to, or property of, the Government of the United States; and*

(iv) *serving the Armed Forces; and*

(B) *while so serving, was licensed or otherwise documented for service as a crewmember of such a vessel by an officer or employee of the United States authorized to license or document the person for such service.*

(c) *AMOUNT OF PAYMENTS.*—*The Secretary shall make a monthly payment out of the compensation fund in the amount of \$1,000 to*

an eligible individual. The Secretary shall make such payments to eligible individuals in the order in which the Secretary receives the applications of the eligible individuals.

(d) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the compensation fund amounts as follows:

- (A) For fiscal year 2008, \$120,000,000.*
- (B) For fiscal year 2009, \$108,000,000.*
- (C) For fiscal year 2010, \$97,000,000.*
- (D) For fiscal year 2011, \$85,000,000.*
- (E) For fiscal year 2012, \$75,000,000.*

(2) Funds appropriated to carry out this section shall remain available until expended.

(e) REPORTS.—The Secretary shall include, in documents submitted to Congress by the Secretary in support of the President's budget for each fiscal year, detailed information on the operation of the compensation fund, including the number of applicants, the number of eligible individuals receiving benefits, the amounts paid out of the compensation fund, the administration of the compensation fund, and an estimate of the amounts necessary to fully fund the compensation fund for that fiscal year and each of the three subsequent fiscal years.

(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.

* * * * *

ADDITIONAL VIEWS

I have reservations regarding this legislation. I believe that H.R. 23 sets a poor precedent by awarding a \$1,000 monthly payment to World War II Merchant Mariners. The authorization described in the bill has no requirement for the Merchant Mariner to have a disability or suffer from financial hardship. Currently, the only veterans authorized to receive a service pension are Medal of Honor recipients.

Whether or not to grant an unprecedented new service pension to World War II Merchant Mariners is not a question of bravery or contributions to victory over the Axis in 1945. Those questions have long been settled to the resounding credit of the mariners who braved unspeakable dangers to transport cargo that kept the Atlantic Alliance alive and fighting.

It should be noted that the casualty rate often cited for mariners in the war has been disputed. This disparity was addressed in a 1992 hearing on H.R. 44 (hearing report pages 142–144). The Civilian Military Service Review Board analysis of the Merchant Marine casualty statistics states that, “Statistical analysis by merchant mariner organizations did not use the same method as U.S. Armed Forces.”

The Merchant Mariners serving during World War II were given veteran status under a system established by Congress in the G.I. Bill Improvement Act of 1977, Public Law 95–202. This process determined if civilian groups of World War II, like Merchant Mariners, should receive veteran status based on their service during the war. As of 1992, all World War II Merchant Mariners received full veteran status under this system who served from the beginning of the war through victory in Japan day. This means that all of these World War II Merchant Mariners are veterans and qualify for all VA benefits and services including healthcare and old age pension.

An objective and carefully researched report on the contributions of Merchant Mariners during World War II and post-war benefits for which they were eligible can be found in the Congressional Research Service Report for Congress, *Veterans Benefits: Merchant Seamen*, May 8, 2007 (Order Code: RL33992: <http://www.congress.gov/erp/rl/pdf/RL33992.pdf>), by Christine Scott and Douglas Reid Weimer.

Thirty other groups that provided military-related service to the U.S. in World War II have received veteran status in the same manner as the Merchant Mariners. However, this bill ignores their service to the nation; it focuses only on the service provided by Merchant Mariners who served during that same period. These groups include the Women’s Air Force Service Pilots, the Women’s Army Auxiliary Corps, the famed Flying Tigers and many others who gained their status decades after their service. They served

loyally, selflessly, and courageously. Their service contributed directly to victory in 1945. Yet this bill does nothing for them.

During the full Committee markup of H.R. 23, I offered an amendment that would include these groups, which was defeated by voice vote. I attach a list of the other veteran groups that received veteran status under the Servicemen's Readjustment Act of 1944 (P.L. 78-346) [Attachment A].

I also find the funding mechanism for this bill to be of concern. When this bill was introduced in previous Congresses, it was determined that because the benefit was an entitlement, it was subject to PAYGO offset requirements. However, the current bill uses a compensation fund to turn this entitlement into discretionary spending. This side-steps budget rules and places an unnecessary burden on the Appropriations Committees.

There is no current appropriations measure that would fund this benefit. The Committee on Veterans' Affairs, which is unable to identify the necessary PAYGO offsets to fund this benefit, is simply passing the buck to the Appropriations Committee. I do not believe this is a fiscally sound way to legislate. Further, if insufficient funds were to be appropriated, only some Merchant Mariners would receive the benefit, while others would not.

The Military Officers Association of America (MOAA), in opposing this bill said, "If these measures were approved, the annuity payable for even a single month of Merchant Marine service in World War II would significantly exceed those payable to thousands of World War II combat veterans who served far longer and suffered significant combat disabilities . . ." MOAA also wrote, "A World War II military veteran who served 20 years and retired in 1955 at the grade of E-5 [sergeant] is entitled to a military retired pay check of only \$900 today."

I believe this legislation, though well-meaning, does not make the best use of taxpayer dollars, and I fear that it will have unintended consequences for future Congresses.

RECOGNIZED GROUPS UNDER PUBLIC LAW 95-202

1. 8 Mar 79—Women's Air Force Service Pilots (WWII).
2. 22 Jan 81—Civilian Employees, Pacific Naval Air Bases, Who Actively Participated in the Defense of Wake Island during WWII.
3. 17 Jul 81—Male Civilian Ferry Pilots (WWII).
4. 7 Apr 82—Wake Island defenders from Guam (WWII).
5. 27 Dec 82—Civilian Personnel Assigned to the Secret Intelligence Element of the OSS (WWII).
6. 10 May 83—Guam Combat Patrol (WWII).
7. 7 Feb 84—Quartermaster Corps Keswick Crew on Corregidor (WWII).
8. 7 Feb 84—U.S. Civilian Volunteers Who Actively Participated in the Defense of Bataan (WWII).
9. 18 Oct 85—U.S. Merchant Seamen Who Served on Blockships in Support of Operation Mulberry (WWII).
10. 19 Jan 88—American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941,x to August 15, 1945 (WWII).

11. 2 Aug 88—Civilian U.S. Navy IFF Technicians Who Served in the Combat Areas of the Pacific during World War II (December 7, 1941, to August 15, 1945) (WWII).

12. 30 Aug 90—U.S. Civilians of the American Field Service (AFS) Who Served Overseas Under U.S. Armies and U.S. Army Groups in World War II During the Period December 7, 1941, through May 8, 1945 (WWII).

13. 5 Oct 90—U.S. Civilian Flight Crew and Aviation Ground Support Employees of American Airlines Who Served Overseas as a result of American Airlines' Contract with Air Transport Command during the Period December 14, 1941, through August 14, 1945 (WWII).

14. 8 Apr 91—Civilian Crewmen of the United States Coast and Geodetic Survey vessels who performed their service in areas of immediate military hazard while conducting cooperative operations with and for the United States Armed Forces within a time frame of December 7, 1941, to August 15, 1945 (WWII).

15. 3 May 91—Honorably Discharged Members of the American Volunteer Group (Flying Tigers) Who Served During the Period December 7, 1941, to July 18, 1942 (WWII).

16. 12 May 92—U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), Who Served Overseas as a Result of UAL's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945 (WWII).

17. 12 May 92—U.S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract with the Air Transport Command during the Period December 14, 1941, through August 14, 1945 (WWII).

18. 14 May 92—American Field Service (AFS) who served honorably on flights with the 3d Combat Cargo Squadron, Army Air Forces, December 7, 1941, through August 14, 1945 (Addendum to August 30, 1990 AFS (WWII) SAF decision) (WWII).

19. 14 May 92—Addendum which adds three ships (Oceanographer, Hydrographer, and Pathfinder) to the April 8, 1991, USCGS SAF decision (WWII).

20. 29 Jun 92—U.S. Civilian Flight Crew and Aviation Ground Support Employees of Consolidated Vultee Aircraft Corporation (Convair Division), Who Served Overseas as a Result of a Contract with the Air Transport Command during the Period (WWII) U.S. Civilian Flight Crew and Aviation Ground Support during the Period December 7, 1941, through August 14, 1945 (WWII).

21. 29 Jun 92—Honorably Discharged Members of the American Volunteer Guard, Eritrea Service Command during the Period June 21, 1942 to March 31, 1943 (WWII).

22. 29 Jun 92—Addendum for "oceangoing" merchant marine (includes U.S. Army Corps Engineers, U.S. Army Coast Artillery Corps, or U.S. Army Air Force) (WWII).

23. 17 Jul 92—U.S. Civilian Flight Crew and Aviation Ground Support Employees of Pan American World Airways and its subsidiaries and affiliates, Who Served Overseas as a Result of Pan American's Contract with the Air Transport Command and Naval

Air Transport Service during the Period December 14, 1941 through August 14, 1945 (WWII).

24. 4 Nov 92—U.S. Civilian Flight Crew and Aviation Ground Support Employees of Eastern Air Lines-Military Transport Division (EAL-MTD), Who Served Overseas as a Result of EAL-MTD's Contract With the Air Transport Command During the Period December 14, 1941, through August 14, 1945 (WWII).

25. 13 Dec 93—U.S. Civilian Flight Crew and Aviation Ground Support Employees of Northwest Airlines, Who Served Overseas as a Result of Northwest Airline's Contract with the Air Transport Command during the Period December 14, 1941, through August 14, 1945 (WWII).

26. 13 Dec 93—U.S. Civilian Female Employees of the U.S. Army Nurse Corps While Serving in the Defense of Bataan and Corregidor During the Period January 2, 1942, to June 12, 1945 (WWII).

27. 2 Jun 97—U.S. Civilian Flight Crew and Aviation Ground Support Employees of Braniff Airways, who served overseas in the North Atlantic or under the jurisdiction of the North Atlantic Wing as a result of a contract with Air Transport Command during the period February 26, 1942, to August 14, 1945 (WWII).

28. 2 Jun 97—U.S. Civilian Flight Crew and Aviation Ground Support Employees of Northeast Airlines Atlantic Division, who served overseas in the result Northeast Airlines' contract with the Air Transport Command during the Period December 7, 1941, to August 14, 1945 (WWII).

29. 27 Aug 99—Operational Analysis Group of the Office of Scientific Research and Development, who served overseas from December 7, 1941, through August 15, 1945.

30. 30 Sep 99—Three scout/guides assisting U.S. Marines in offensive operations in Northern Mariana Islands from June 19, 1944, through September 2, 1945.

31. 30 Sep 99—Approximately 50 Chamorro and Carolinian policemen, who received military training and under the command of the 6th Provisional Military Police Battalion, to accompany U.S. Marines in combat patrol activity from August 19, 1945, to September 2, 1945.

32. 21 Feb 03—Reconsideration of "Pursers" as part of the Flight Crews of U.S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., Who Served Overseas as a Result of TWA's Contract with the Air Transport Command during the Period December 14, 1941, through August 14, 1945.

STEVE BUYER.