

Suspend the Rules and Pass the Bill, S. 407

(The amendment strikes all after the enacting clause and inserts a new text)

117TH CONGRESS
1ST SESSION

S. 407

To provide redress to the employees of Air America.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2021

Mr. RUBIO (for himself, Mr. WARNER, Mrs. GILLIBRAND, Mrs. SHAHEEN, Mrs. FEINSTEIN, Mrs. MURRAY, Mr. CORNYN, Ms. ROSEN, Ms. KLOBUCHAR, Mr. BRAUN, Mr. MENENDEZ, Mr. CARDIN, Mr. ROUNDS, Mr. CASEY, Mr. VAN HOLLEN, Mr. SCHUMER, Ms. SMITH, Mr. BOOKER, Ms. HIRONO, Mr. CASSIDY, Mr. HAWLEY, Ms. SINEMA, Mr. MANCHIN, Mr. DURBIN, Ms. CORTEZ MASTO, Ms. BALDWIN, Mr. TESTER, Mr. COTTON, and Mr. PADILLA) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To provide redress to the employees of Air America.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Air America Act of
5 2022”.

1 **SEC. 2. AIR AMERICA.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) Air America, Incorporated (referred to in
4 this section as “Air America”) and its related cover
5 corporate entities provided direct and indirect sup-
6 port to Central Intelligence Agency (CIA) oper-
7 ations, airdropping thousands of tons of food, evacu-
8 ating civilians, rescuing downed aircrews, and flying
9 emergency medical evacuations throughout South-
10 east Asia from 1950 to 1976.

11 (2) The employees of Air America working in
12 Southeast Asia performed vital service in support of
13 the United States and performed their missions
14 swiftly and courageously during the Vietnam War,
15 including—

16 (A) suffering high rates of casualties in the
17 course of service;

18 (B) saving thousands of lives in search and
19 rescue missions for downed United States air-
20 men and allied refugee evacuations; and

21 (C) serving lengthy periods under chal-
22 lenging circumstances abroad.

23 (3) It is the sense of Congress that the employ-
24 ees of Air America who supported CIA operations in
25 Southeast Asia from 1950 to 1976 should be award-
26 ed a financial award in honor of their patriotism,

1 service, and sacrifice to the United States of Amer-
2 ica.

3 (b) DEFINITIONS.—In this section—

4 (1) the term “affiliated company”, with respect
5 to Air America, includes Air Asia Company Limited,
6 CAT Incorporated, Civil Air Transport Company
7 Limited, and the Pacific Division of Southern Air
8 Transport;

9 (2) the term “qualifying service” means service
10 that—

11 (A) was performed in Southeast Asia by a
12 United States citizen as an employee of Air
13 America or an affiliated company who sup-
14 ported CIA operations as air crew in Southeast
15 Asia and who performed dangerous missions
16 during the period beginning on January 1,
17 1950, and ending on December 31, 1976; and

18 (B) is documented in records possessed by
19 the United States Government; and

20 (3) the term “Director” means the Director of
21 the Central Intelligence Agency.

22 (c) AWARD AUTHORIZED TO ELIGIBLE PERSONS.—

23 (1) IN GENERAL.—Subject to the limitation in
24 subsection (d), the Director shall make an award
25 payment of \$35,000 under this section to a person

1 who demonstrates to the satisfaction of the Director
2 that he or she has performed qualifying service for
3 a period of greater than or equal to five years, pro-
4 vided that the Director may also rely on records pos-
5 sessed by the United States Government to verify a
6 person's qualifying services. If a person can dem-
7 onstrate to the Director that his or her qualifying
8 service exceeded five years, the Director may pay an
9 additional \$7,500 for each full year in excess of five
10 (and a proportionate amount for a partial year), but
11 the total amount awarded to, or with respect to, a
12 person under this section may not exceed \$75,000.

13 (2) SURVIVORS.—In the case of a decedent who
14 would have been eligible for an award payment
15 under paragraph (1) if alive, the award under this
16 section shall be made to the surviving spouse, or if
17 there is no surviving spouse, to the surviving chil-
18 dren (including natural children and adopted chil-
19 dren) of the decedent, in equal shares.

20 (d) FUNDING LIMITATION.—The total amount of
21 awards granted under this section may not exceed
22 \$40,000,000.

23 (e) TIME LIMITATIONS.—

24 (1) IN GENERAL.—To be eligible for an award
25 under this section, a claimant must file a claim for

1 the award with the Director within 24 months of the
2 effective date of the regulations implementing this
3 section.

4 (2) DETERMINATION.—Not later than 6
5 months after receiving a claim for an award under
6 this section, the Director shall determine the eligi-
7 bility of the claimant for payment of the claim. If
8 the Director determines that the claimant is eligible
9 for the award, the Director shall promptly pay the
10 award.

11 (f) REGULATIONS.—The Director shall prescribe reg-
12 ulations to carry out this section. Such regulations shall
13 include procedures by which persons may submit claims
14 for payment under this section and by which the Director
15 will equitably award the amounts under subsection (c)(1)
16 to eligible persons whose qualifying service exceeded five
17 years. Such regulations shall be prescribed not later than
18 two months after the date of the enactment of this Act.
19 Such regulations shall be published in the Code of Federal
20 Regulations, but such regulations shall not be subject to
21 chapter 5 of title 5, United States Code.

22 (g) RULE OF CONSTRUCTION.—Nothing in this Act
23 shall be construed to—

24 (1) entitle any person to Federal benefits, in-
25 cluding retirement benefits under chapter 83 or 84

1 of title 5, United States Code, and disability or
2 death benefits under chapter 81 of such title;

3 (2) change the legal status of the former Air
4 America corporation or any affiliated company; or

5 (3) create any legal rights, benefits, or entitle-
6 ments beyond the one-time award authorized by this
7 Act.

8 (h) ATTORNEYS' AND AGENTS' FEES.—

9 (1) IN GENERAL.—It shall be unlawful for more
10 than 10 percent of an award paid pursuant to this
11 Act to be paid to, or received by, any agent or attor-
12 ney for any service rendered to a person who re-
13 ceives an award under subsection (c) in connection
14 with the award under this Act.

15 (2) VIOLATION.—Any agent or attorney who
16 violates paragraph (1) shall be fined under title 18,
17 United States Code.

18 (i) NO RIGHT TO JUDICIAL REVIEW.—Except for a
19 fine under subsection (h)(2)—

20 (1) all determinations by the Director pursuant
21 to this section are final and conclusive, notwith-
22 standing any other provision of law; and

23 (2) claimants under this section have no right
24 to judicial review, and such review is specifically pre-
25 cluded.

1 (j) REPORTS TO CONGRESS.—Until the date that all
2 funds available for awards under this section are ex-
3 pended, the Director shall submit annually, to the Com-
4 mittee on Oversight and Reform and the Permanent Select
5 Committee on Intelligence in the House of Representatives
6 and the Committee on Homeland Security and Govern-
7 mental Affairs and Select Committee on Intelligence in the
8 Senate, a report listing the numbers of award payments
9 made and denied during the calendar year preceding the
10 submission of the report, including the rationales for any
11 denials.