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Veterans Benefits: Merchant Seamen

Christine Scott, Domestic Social Policy Division; Douglas Reid Weimer, American Law Division

December 23, 2008

Abstract. This report provides an overview of seamen of the U.S. merchant marine (merchant seamen or merchant mariners) and World War II, post-war efforts for benefits for merchant seamen, the efforts by merchant seamen for recognition under P.L. 95-202, and legislation introduced in the 110th Congress.

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Veterans Benefits: Merchant Seamen

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Summary

Seamen of the U.S. merchant marine contributed to the World War II effort through the transportation of goods, materials, and personnel to the various theaters of war. However, they were civilians and not members of the U.S. Armed Forces. As a result, at the end of the war they did not receive the benefits granted to members of the U.S. Armed Forces.

In the years after the war, Congress held hearings on legislation introduced that would have either expanded benefits then currently available to merchant seamen, or provided benefits comparable to those provided in the Servicemen's Readjustment Act of 1944 (The GI Bill or GI Bill of Rights, P.L. 78-346). None of the legislation introduced was passed by Congress.

The GI Bill Improvement Act of 1977 (P.L. 95-202) recognized the service of one group of civilians, the Women's Air Forces Service Pilots, as active service for benefits administered by the Department of Veterans Affairs (VA). In addition, P.L. 95-202 provided that the Secretary of Defense could determine that service for the Armed Forces by a group of civilians, or contractors, be considered active service for benefits administered by the VA.

Following litigation, the Secretary of the Air Force determined on January 19, 1988, that the service of the American Merchant Marine in Oceangoing Service during the period December 7, 1941, to August 15, 1945, is considered "active duty" for the purposes of all laws administered by the VA if the merchant seamen met certain criteria.

Since then, certain merchant seamen have been eligible for the same benefits administered by the VA as veterans of the U.S. Armed Forces. However, some merchant seamen are advocating for a monthly payment because benefits were not provided until years after World War II.

This report will provide a brief overview of seamen of the U.S. merchant marine (merchant seamen or merchant mariners) and World War II, post-war efforts for benefits for merchant seamen, the efforts by merchant seamen for recognition under P.L. 95-202, and legislation introduced in the 110th Congress. The report will be updated as needed for additional information and legislative changes.

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Introduction

During World War II, merchant seamen and a large number of other civilians, either through private employment or voluntarily, contributed directly to the war effort. These contributions took place while their private employers were under contract or direction of the U.S. military or government, or due to their participation in military activities such as the defense of certain geographic areas (for example, Guam or Bataan). Because these individuals were not members of the U.S. Armed Forces, their participation in World War II is not considered “active duty” military service for purposes of veterans benefits.¹

In the years after the war, Congress held hearings on legislation introduced that would have either expanded benefits then currently available to merchant seamen, or provide benefits comparable to those provided in the Servicemen’s Readjustment Act of 1944 (The GI Bill or GI Bill of Rights, P.L. 78-346). None of the legislation introduced was passed by Congress.

After World War II, various groups of civilians, including the merchant seamen, have from time to time petitioned Congress to grant them veterans benefits based on service during a time of war, particularly World War II. The GI Bill Improvement Act of 1977 (P.L. 95-202) recognized the service of one group of civilians, the Women’s Air Forces Service Pilots (WASPs), as active service for benefits administered by the Department of Veterans Affairs (VA). In addition, P.L. 95-202 provided that the Secretary of Defense could determine that service for the Armed Forces by a group of civilians, or contractors, be considered “active service” for benefits administered by the VA. Department of Defense Directive 1000.20 directed that the determination be made by the Secretary of the Air Force, and established the Civilian/Military Service Review Board and Advisory Panel.²

In 1988, following litigation, the Secretary of the Air Force determined that the service during the period December 7, 1941, and August 15, 1945, of U.S. merchant seamen meeting certain criteria was active service for the purposes of benefits administered by the VA. At that time certain U.S. merchant seamen became eligible for all benefits administered by the VA. Like other groups recognized under P.L. 95-202, the benefit eligibility was not retroactive.

This report will provide a brief overview of seamen in the U.S. Merchant Marine and World War II, post-war efforts for benefits for merchant seamen, the efforts by merchant seamen for recognition under P.L. 95-202, and legislation introduced in the 110th Congress.

¹ See CRS Report RL33113, *Veterans Affairs: Basic Eligibility for Disability Benefit Programs*, by Douglas Reid Weimer; and CRS Report RL33323, *Veterans Affairs: Benefits for Service-Connected Disabilities*, by Douglas Reid Weimer.

² Department of Defense, Directive 1000.20, available at <http://www.dtic.mil/whs/directives/corres/pdf/100020p.pdf>.

World War II and U.S. Merchant Seamen

Changes Prior to World War II

In the years prior to the United States entering World War II (on December 7, 1941), several legislative measures were enacted that impacted the working conditions for U.S. merchant seamen (also known as merchant mariners):³

- The Merchant Marine Act of 1936 (P.L. 835) established the United States Maritime Commission, and stated as a matter of policy that the United States should have a merchant marine that is “capable of serving as a naval and military auxiliary in time of war or national emergency.”⁴
- The Social Security Act Amendments of 1939 (P.L. 76-379) expanded the definition of employment to include service “on or in connection with an American vessel under a contract of service which is entered into within the United States or during the performance of which the vessel touches at a port in the United States, if the employee is employed on and in connection with such vessel.”⁵
- In 1941, a joint resolution, H.J.Res 237 (P.L. 294), repealed Section 6 of the Neutrality Act of 1939 (related to the arming of American vessels) and authorized the President during the national emergency (declared on May 27, 1941) to arm or permit to arm any American vessel.⁶

When the U.S. entered the war, the merchant marine was needed to transport the personnel and materials of war to the various combat theaters.⁷ On February 7, 1942, President Franklin D. Roosevelt, through Executive Order Number 9054 established the War Shipping Administration (WSA). The WSA was a separate emergency agency, not part of the U.S. Maritime Administration, that was charged with building or purchasing, and operating the civilian shipping vessels needed for the war effort. The WSA, also in 1943, was given the authority to design and grant medals and honors to U.S. merchant seamen, including a medal for members who were injured due to an action of an enemy of the U.S. (the Mariners Medal).

The Maritime War Emergency Board, established in December 1941 by the WSA, regulated maritime war risk insurance, hazardous duty bonuses, wages and bonuses when vessels were lost, and reimbursements for lost personal effects. The board was chaired by the WSA Deputy Administrator for Labor Relations, Manning, Training, and Recruitment, and was composed of representatives of the U.S. Conciliation Service⁸ and the National War Labor Board. The board established, in cooperation with industry and unions, war-risk insurance and a system of bonuses

³ For purposes of this report, the term merchant seamen is used.

⁴ P.L. 835, §101(b).

⁵ P.L. 76-379 §209(b).

⁶ Gun crews on merchant marine vessels were Navy personnel sometimes supplemented by vessel crew.

⁷ Note that because of the war, most of the oceangoing shipping during the war, and for a period afterwards, was related to the needs of war or relief and not the needs of consumers or civilian industry.

⁸ The U.S. Conciliation Service (now the U.S. Federal Mediation and Conciliation Service) provided mediation services on labor issues.

for merchant seamen. Because the safety or risk associated with various waters and ports changed through the war, so did the application of the different bonuses. Bonuses were paid on a monthly basis for voyages in risky waters, or on an incidence basis for an attack on a vessel. In addition, vessels in certain ports were considered at risk and a one-time bonus was paid for seamen on a vessel in those ports of call.

Contributions During World War II

During World War II, the U.S. merchant marine transported goods and materials through “contested waters”⁹ to the various combat theaters. At the end of World War II, the merchant marine helped transport several million members of the U.S. Armed Forces back home to the U.S.

Benefits Available to Merchant Seamen

Merchant seamen, unlike many other workers in the United States at that time, did not receive unemployment compensation. The health care of merchant seamen was provided by the Public Health Service (which began with the operation of marine hospitals specifically to care for merchant seamen). However, under regulations a merchant seaman had to report to a marine hospital for admission within 60 days of discharge from a vessel. Compensation for disability and death for merchant seamen was limited to that of war-risk insurance or legal recovery for injuries or death due to negligence by a vessel’s owners. War-risk insurance, which had benefits in the event of death or disability of up to \$5,000, was provided to merchant seamen at no charge. However, the benefit was only for war-risk and not for other marine hazards. Depending on state law, a disabled merchant seaman may have been eligible for vocational training under the state program for the disabled.

Prior to World War II some merchant seamen on U.S. government vessels were considered federal government employees and entitled to the same compensation as other federal employees for death or disability. During World War II, this distinction between merchant seamen based on ownership of the vessel generally did not exist. However, certain licensed officers may have remained eligible for the benefits related to death and disability provided under law for federal employees. Also during World War II, merchant seamen were members of one of the labor unions representing workers in the maritime industry.

During World War II, merchant seamen spanned a wide range of age—some former merchant seamen returned to service as part of the war effort, and other individuals interrupted school to join the merchant marine. According to the WSA, 51% of the merchant seamen were under age 25, and 16.5% were under age 19.¹⁰ A merchant seaman also received an automatic draft deferment while serving as a merchant seaman. If a merchant seaman left service for longer than a stated period (usually 30 days), the merchant seaman was subject to the draft. However, some

⁹ Contested waters are those for which control was being fought for by both the U.S. and its enemies. Two of the major oceans—the Atlantic and the Pacific—were considered by the U.S. Navy to be contested waters until the hostilities associated with those waters ended (May 1945 for the Atlantic Ocean and August 1945 for the Pacific Ocean).

¹⁰ U.S. Congress, Hearings before the Ship Construction and Operation and Maritime Labor Subcommittee of the Committee on Merchant Marine and Fisheries, Eightieth Congress, First Session on H.R. 476, February 18; May 12,13,14,16,19,21,22,23; and June 2,3,5,9, 1947, p. 38. Representative J. Hardin Peterson of Florida testified using information from the War Shipping Administration that he stated was provided for a hearing in 1946.

individuals became merchant seamen because they were not qualified for the U.S. Armed Forces due to physical condition or age.

Post World War II Benefits for U.S. Merchant Seamen

After World War II, merchant seamen sought through legislative means to gain recognition as veterans of World War II. Legislation was introduced to either provide benefits to merchant seamen comparable to those of the GI Bill,¹¹ or expand the benefits merchant seamen were receiving at that time. In 1945, H.R. 2346 would have provided benefits to merchant seamen comparable to those of other World War II veterans. During two days of hearings in October 1945, the House Committee on Merchant Marine and Fisheries heard testimony on four bills, including H.R. 2346, that would have provided some benefits to merchant seamen. Testimony in favor of H.R. 2346 was heard from a number of former merchant seamen and the Merchant Marine Veterans Association. Testimony in opposition came from various administration agencies, including the War Department and the Veterans Administration (currently the Department of Veterans Affairs).

During the 1945 hearing a great deal of discussion was focused on the freedom of a merchant seaman to make decisions about whether or not to take a particular voyage or leave service, and the earnings of merchant seamen relative to Navy seamen. One argument against providing benefits was the high pay of merchant seamen, which was greater than that of military personnel, particularly Navy seamen. Testimony presented at the hearing on earnings included a WSA study done in response to a letter from the American Legion (which testified in opposition to legislation providing benefits).¹² The results of this study are still being used today. However, the results of the WSA study should be used cautiously. The WSA comparison in the study was limited in that the calculations were done for a seaman with a wife and two children (not a single seaman with no dependents), and did not include any bonuses for the merchant seaman. If the base pay comparison done at that time was for a single Navy seaman with no dependents, the merchant seaman would have significantly higher pay than the Navy seaman.

The issue of pay comparability during the war is extremely difficult. While both merchant and Navy seamen would receive additional pay because of hazardous conditions, the bonuses for merchant seamen were much larger (as much as 100% of monthly pay with a minimum of \$100). Navy seamen received allotments for spouses and dependents (a portion of which came out of the seaman's pay), while merchant seamen pay did not contain any additional allotments for dependents. Merchant seamen paid Social Security and income taxes but not for war-risk insurance, while Navy seamen paid for life insurance but did not pay Social Security or income taxes (there was an exemption large enough to cover most Navy seamen). Navy seamen also received benefits related to travel while on leave (free train and bus fares) that merchant seamen did not receive.

¹¹ The GI Bill provided veterans of the Armed Forces with benefits for education or training, home loans, and a cash allowance for unemployed veterans (the military was not eligible for unemployment compensation at that time).

¹² U.S. Congress, Hearings before the Committee on the Merchant Marine and Fisheries, Seventy-ninth Congress, First Session on H.R. 2346, H.R. 2180, H.R. 2449, H.R. 3500, Part 1, pp. 101-103.

In 1947, H.R. 476 was introduced, which would have expanded the existing benefits for merchant seamen related to health care and disability, and introduced an education benefit. No legislation was enacted after World War II that granted veteran status to U.S. merchant seamen or provided additional benefits to merchant seamen related to health care, disability, or education.

The U.S. Merchant Seamen under P.L. 95-202

As noted earlier, P.L. 95-202¹³ established a process by which the Secretary of the Air Force determines if the wartime employment of certain groups of individuals is considered “active duty” military service for the purpose of receiving certain veterans benefits.¹⁴ If these groups of individuals are considered to be “active duty” by the Secretary, they are eligible to receive certain benefits, including health care.¹⁵

Regulations implementing P.L. 95-202 specify which groups the Secretary has determined were employed in “active duty” service.¹⁶ The regulations also established the Department of Defense Civilian/Military Service Review Board and Advisory Panel to review each application for “active duty” status.¹⁷ Following its review, the board issues a written recommendation to the Secretary as to whether the applicant group should be considered “active duty” for the purposes of the act. The Secretary makes the final decision, based upon the recommendation of the board. Pursuant to this procedure, various groups of persons have been accorded “active duty” status.¹⁸

The regulations concerning the designation of “active duty” status have undergone revision over the years. Changes and clarification to the regulations implemented in 1989 “stem from a Federal Court determination [*Schumacher v. Aldridge*]¹⁹ that the Department of Defense had failed to clarify factors and criteria in their implementing directive concerning P.L. 95-202.”²⁰ The 1989 regulations remain in effect.

Application of the Oceangoing Merchant Marines

Following the passage of the P.L. 95-202, several efforts were made to have the service of various groups of merchant seamen recognized as “active duty” service pursuant to the act. The lack of success of these efforts culminated in litigation, *Schumacher v. Aldridge*, discussed below, regarding the Secretary’s decision that merchant seamen were not entitled to “active duty” military service recognition, and consequently were not entitled to receive certain veterans

¹³ 38 U.S.C. § 106 note.

¹⁴ See CRS Report RL33113, *Veterans Affairs: Basic Eligibility for Disability Benefit Programs*, by Douglas Reid Weimer; and CRS Report RL33323, *Veterans Affairs: Benefits for Service-Connected Disabilities*, by Douglas Reid Weimer.

¹⁵ See 38 C.F.R. § 3.7.

¹⁶ 32 C.F.R. § 47. See 38 C.F.R. § 3.7 for those groups that have been so designated.

¹⁷ The applications are usually submitted by representatives of the employment group.

¹⁸ 38 C.F.R. § 3.7. See 655 F.Supp. 41, 44. Among the successful applicants were Women’s Air Forces Service Pilots (WASPs); Signal Corps Female Telephone Operators Unit (World War I); Engineer Field Clerks (World War I); Male Civilian Ferry Pilots (World War II); and other groups of employees with war-related occupations.

¹⁹ 665 F.Supp. 41 (D.D.C. 1987).

²⁰ 54 *Fed. Reg.* 39,991 (September 29, 1989).

benefits. The *Schumacher* court found that the Secretary had erred in denying the application of the merchant seamen and outlined the application and administrative procedures that had been undertaken in the effort to obtain “active duty” status for merchant seamen, prior to the litigation. These administrative actions and the decision are discussed below, and the administrative and legislative actions subsequent to the *Schumacher* decision are summarized.

In January 1980, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) submitted an application on behalf of a group of World War II-era merchant seamen—the Oceangoing Merchant Marines—(Oceangoing Group).²¹ Their application specifically defined “active oceangoing service” and outlined in detail the type of merchant marine service and the groups of personnel for whom “active duty” status was sought.

The board, on January 5, 1982, recommended that the Secretary deny the application of the Oceangoing Group. On January 13, 1982, the Secretary adopted the board’s recommendation and denied the application. The Secretary reasoned that the seamen (1) received only limited military training, (2) did not render service exclusively for the U.S. Armed Forces, (3) were not subject exclusively to military discipline, (4) were not subject to “pervasive” military control, (5) had no reasonable expectation of “active military service” status, and (6) were not part of a wartime organization, formed for or because of a wartime need.²²

Application of the Invasion Group

In February 1983, an application was filed on behalf of the Invasion Group. This application included *all* American merchant seamen who participated in a military invasion during World War II, including the invasions of Normandy, Sicily, and the Philippines.²³ On May 13, 1985, the board recommended that the application be denied, generally for the reasons previously given for denying the Oceangoing Group’s application.²⁴

Application of Operation Mulberry

On May 13, 1985, the board issued a mixed recommendation on behalf of an application of the “Merchant Seamen Requisition by [the] U.S. Army for Participation in Operation Mulberry.” The operation involved the construction of artificial harbors (mulberries) to facilitate the World War II invasion of Normandy. The board noted that of all the seamen involved in the operation, about 1,000 merchant seamen were needed to sail the blockships.²⁵ The board focused its attention on those seamen who saw service aboard the blockships.

The board, after reviewing the application and the history of the operation, recommended approval of the Operation Mulberry/blockship application, but recommended denial of the application submitted on behalf of the overall Operation Mulberry group. The board stated that the overall group was too broad and diverse to make an adequate determination as to the roles of

²¹ 665 F.Supp. 41, 49.

²² *Id.* at 50.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.* Blockships were a part of the artificial harbor installations. About thirty to forty merchant seaman served aboard each blockship.

the many subgroups involved in the operation.²⁶ However the board determined that the merchant marines involved in the blockship operations had performed a uniquely military mission in a combat zone, which was not a task normally performed by the merchant marine.

The Secretary adopted the board's recommendations and rationales, denied the blanket application for all participants in the operation, but approved the application of the mulberry blockship group.²⁷

*Schumacher v. Aldridge*²⁸

Following the Secretary's decision in Operation Mulberry, a lawsuit was filed. The plaintiffs were three persons who served as merchant seamen in World War II and the AFL-CIO. The defendant was Edward C. Aldridge, who was sued in his capacity as Secretary of the Air Force.²⁹ The plaintiffs challenged the denial of the Invasion Group and the Oceangoing Group applications.³⁰ They argued that the merchant seamen included in those applications satisfied the established criteria to a greater extent than many of the approved groups, and argued that the denials were inconsistent with the Secretary's prior decisions.³¹ The Secretary responded that the plaintiffs misunderstood the designation criteria and outlined characteristics that the approved groups shared.³²

In its analysis, the court scrutinized the criteria that the Secretary applied in making the decisions. The court determined that the Secretary had failed to "articulate clear and intelligible criteria for the administration" of the selection process.³³ It noted that Congress provided vague selection criteria, and the Secretary adopted these same criteria without "articulating specific, meaningful criteria to guide decisions."³⁴ The court found that in addition to utilizing vague criteria, the Secretary applied criteria which were not published in either the statute or in the implementing regulations. As the court observed, when "Congress gave the Secretary discretion in adopting appropriate regulations, it assuredly did not license the Secretary to publish one set of criteria and to apply another."³⁵ By making decisions based on unpublished criteria, the court found, the Secretary frustrated the purpose of the implementing regulations and denied the plaintiffs a fair opportunity to present their case.³⁶

The court observed that the Secretary also failed to apply established standards for administrative decision making. Reviewing one of the Secretary's prior decisions, the court found that the decision made no reference to most of the criteria set out in the regulations. The court concluded that "because the criteria are vague and have not been applied in a workmanlike manner, it is

²⁶ *Id.* at 51.

²⁷ *Id.*

²⁸ 665 F.Supp. 41 (D.D.C. 1987).

²⁹ *Id.* at 42.

³⁰ The Secretary's decision in Operation Mulberry was not challenged in the litigation.

³¹ 665 F.Supp. at 51.

³² *Id.* at 51-52.

³³ *Id.* at 52.

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 53.

difficult to assess the accuracy and significance of many of the Board’s conclusions.”³⁷ In reviewing the record of the case, the court further concluded that the criteria set forth in the Secretary’s regulations had not been applied even-handedly.³⁸ The court found that the Secretary erred in denying the applications of the Invasion Group and the Oceangoing Group and remanded for reconsideration.³⁹

Post-Schumacher Actions

Reconsideration of the Merchant Seamen Applications

Following the *Schumacher* decision, the Secretary reconsidered the applications of the various merchant seamen and determined on January 19, 1988, that the service of the American Merchant Marine in Oceangoing Service⁴⁰ during the Period of Armed Conflict, December 7, 1941, to August 15, 1945, is considered “active duty” for the purposes of all laws administered by the VA.⁴¹ In order to be eligible for VA benefits, each member of the group must meet the following criteria:

1. Was employed by the War Shipping Administration or Office of Defense Transportation or their agents as a merchant seaman documented by the U.S. Coast Guard or the Department of Commerce (Merchant Mariner’s Document/Certificate of Service); or as a civil servant employed by the U.S. Army Transport Service (later redesignated U.S. Army Transportation Corps, Water Division) or the Naval Transportation Service; and
2. Served satisfactorily as a crew member during the period of armed conflict, December 7, 1941, to August 15, 1945, aboard:
 - a. Merchant vessels in oceangoing, i.e., foreign, intercoastal, or coastwise service (46 U.S.C. 10301 and 10501) and further to include “near foreign” voyages between the United States and Canada, Mexico, or the West Indies via ocean routes, or
 - b. Public vessels in oceangoing service or foreign waters.⁴²

The *Federal Register* announcement also provided application/eligibility information.⁴³

³⁷ *Id.* at 54-55.

³⁸ *Id.* at 55.

³⁹ *Id.* at 56.

⁴⁰ Apparently, the Secretary did not undertake a specific reconsideration of the Invasion Group application, but considered all merchant seamen under the category of American Merchant Marine in Oceangoing Service.

⁴¹ 53 *Fed. Reg.* 2775 (February 1, 1988).

⁴² *Id.*

⁴³ *Id.*

The Veterans Programs Enhancement Act of 1998⁴⁴

Section 402 of this legislation⁴⁵ extended burial and cemetery benefits to World War II-era members of the merchant marine. The legislation extended the time period of qualified service to December 31, 1946.⁴⁶ Criteria were given for the eligible type of service and for the documentation of the qualified service.

Following the enactment of this legislation, the Secretary determined that the service of the group known as “American Merchant Marine Mariners Who Were in Active Ocean-Going Service” during the period of August 15, 1945, to December 31, 1946, is not considered “active duty” under the provisions of P.L. 95-202 for the purposes of other benefits administered by the VA.⁴⁷ Hence, merchant seamen in active oceangoing service between August 15, 1945, through December 31, 1946, are not considered “active duty” for the purposes of VA benefits.

Current Issues

Delay of Recognition

U.S. merchant seamen were not covered by the Servicemen’s Readjustment Act of 1944 (P.L. 78-346), also known as the GI Bill of Rights. Because legislation introduced in 1945 and 1947 to grant them comparable benefits was not enacted, they were not entitled to the unemployment compensation, education, or housing loan benefits provided under the GI Bill of Rights to World War II veterans of the U.S. Armed Forces. In addition, because they were not former members of the U.S. Armed Forces, they were not entitled to the disability or health benefits provided by the VA.

When recognition under P.L. 95-202 is granted to a group, the members of that group become eligible for all of the benefits administered by the VA. However, some of the benefits, such as education, have time limitations which have already expired. Members of every group with recognition under P.L. 95-202 may have had their lives impacted by not receiving veterans benefits at an earlier time in their life.

Determining the value of the impact of delayed recognition for benefits is difficult. Some members of the civilian groups, such as those with medical conditions related to their service, may have heavily utilized veterans benefits if they were provided earlier in their lives. Others may have returned from service, accepted a job, and not taken advantage of the veterans benefits even if they had been available earlier in their lives. According to the VA history of the original GI education benefit, by 1956 (the end of the original GI bill) 7.8 million (48.8%) of the 16 million World War II veterans took advantage of the education benefits and participated in an education or training program.⁴⁸

⁴⁴ P.L. 105-368 (November 10, 1998).

⁴⁵ See 112 Stat. 3335.

⁴⁶ 112 Stat. 3336.

⁴⁷ 64 *Fed. Reg.* 48146 (September 2, 1999).

⁴⁸ Department of Veterans Affairs, *Born of Controversy: The GI Bill of Rights*, available at http://www.gibill.va.gov/GI_Bill_Info/history.htm.

Limitation on Service Period for Recognition

The period of service for recognition of U.S. merchant seamen (December 7, 1941, to August 15, 1945) is not the same as the World War II period for veterans of the U.S. Armed Forces (December 7, 1941, to December 31, 1946). The determination under P.L. 95-202 limited the period for U.S. merchant seamen to the time period during which the Navy considered the waters in which they sailed as contested. While certain waters were still considered dangerous by the Navy after this date, ships sailing these waters were not in danger of enemy attack.

Other civilian groups that have received recognition under P.L. 95-202 for service in World War II do not have a period of recognition that corresponds to the period for veterans of the U.S. Armed Forces during World War II. Certain airline flight crews and aviation ground support crews of airlines (Pan Am, Eastern, and Northwest Airlines) that provided transportation services to the U.S. Armed Forces in World War II were granted recognition under P.L. 95-202 with a period of recognition of December 14, 1941, through August 14, 1945.

Canadian Retroactive Award

Canada granted recognition of Canadian merchant seamen serving in all wars and various civilians in 1992 with the passage of the Merchant Navy Veteran and Civilian War-related Benefits Act. Merchant navy veterans were then eligible for all benefits administered by the Canadian Department of Veterans Affairs. The benefits were not retroactive. In 1998, Canadian merchant navy veterans conducted a hunger strike, and in 2000 the Canadian government established a grant program for merchant seamen. The program provided a lump-sum payment based on the length of service during a period of war.

Legislation in the 110th Congress

S. 961 (sponsored by Senator Benjamin Nelson) and H.R. 23 (sponsored by Representative Bob Filner) would have provided a new benefit to qualified U.S. merchant seamen. Under both bills, the new benefit would have been available to a U.S. merchant seaman who served between December 7, 1941, and December 31, 1946, as a crew member aboard a vessel that (1) was operated by the (now defunct) War Shipping Administration or the Office of Defense Transportation (or an agent of either entity); (2) did not operate on inland waters, the Great Lakes, or any U.S. lake, bay, or harbor; (3) was under contract to, was charter to, or was the property of the U.S. government; and (4) was serving the U.S. Armed Forces. In addition, the seaman had to be licensed to serve (or documented for service) as a crew member.

S. 961 would have provided a monthly payment of \$1,000 to U.S. merchant seamen who met the above qualifications and their survivors.

H.R. 23, as amended, was approved by the House of Representatives on July 30, 2007, by a voice vote. H.R. 23, as amended, would have established a Merchant Mariner Equity Compensation Fund, which would have provided a monthly payment of \$1,000 to U.S. merchant seamen who met the above qualifications and submitted an application for the new benefit to the VA before October 1, 2009.

H.R. 23, as amended, would have authorized funding for the Merchant Mariner Equity Compensation Fund at \$120 million for FY2008, declining to \$75 million in FY2012.⁴⁹ The Congressional Budget Office (CBO) estimated that if the new benefit had been funded at the authorized levels each year, the total cost would be \$485 million.⁵⁰

CBO estimated that 65,000 individuals would have been eligible for the benefit in the first year, and that 16,000 would have applied to the VA for the monthly benefit. The new benefit would have been provided on a “first-come, first-served basis” with applicants placed in order based on when their applications were received by the VA. Based on the level of authorized funding and the CBO estimate of the number of eligible individuals who would have applied for the new benefit, it was possible that not all eligible individuals who applied for the new benefit would have received payments.

This was because total payments for the new benefit would have been limited by the annual appropriation for the fund, and payments would be made based on the order in which an eligible individual’s application was received by the VA. For example, if \$120 million were available for payments in FY2008, only the first 10,000 eligible individuals who apply could receive monthly payments of \$1,000 for the full year. Depending on regulations issued by the Secretary of the VA, an eligible individual who was not among the first 10,000 applicants may receive benefits in FY2008 if he or she “moves up the list” as a result of deaths among the first 10,000 recipients of the new benefit.

Because the authorization level for the new benefit declined over time, the maximum number of individuals who could have received benefits for a full year also declined (in FY2012, if \$75 million were available for payments, only the first 6,250 living eligible individuals could have received monthly benefits for the full year). It was possible that some individuals who received payments in one year may not have received payments in subsequent years. For example, an individual who received payments in FY2011 (as the 6,500th living applicant) may not have received benefits in FY2012 if he or she was not among the first 6,250 living applicants in FY2012.

Another related measure in the 110th Congress, H.R. 447 (sponsored by Representative Jeff Fortenberry), would have provided U.S. merchant seamen who received the Mariners Medal with VA health care on the same basis as recipients of the Purple Heart.

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⁴⁹ For more information on H.R. 23 as amended, see H.Rept. 110-269.

⁵⁰ Congressional Budget Office, Cost Estimate, H.R. 23, Belated Thank You to the Merchant Mariners of World War II Act of 2007, July 25, 2007, available at <http://www.cbo.gov/ftpdocs/84xx/doc8455/hr23.pdf>.