

117TH CONGRESS  
1ST SESSION

# S. 407

To provide redress to the employees of Air America.

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## 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

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## 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 2021”.

6 **SEC. 2. AIR AMERICA.**

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

1           (1) Air America, Incorporated (referred to in  
2 this section as “Air America”) and its related cover  
3 corporate entities were wholly owned and controlled  
4 by the United States Government and directed and  
5 managed by the Department of Defense, the Depart-  
6 ment of State, and the Central Intelligence Agency  
7 from 1950 to 1976.

8           (2) Air America, a corporation owned by the  
9 Government of the United States, constituted a  
10 “Government corporation”, as defined in section 103  
11 of title 5, United States Code.

12           (3) It is established that the employees of Air  
13 America and the other entities described in para-  
14 graph (1) were Federal employees.

15           (4) The employees of Air America were retro-  
16 actively excluded from the definition of the term  
17 “employee” under section 2105 of title 5, United  
18 States Code, on the basis of an administrative policy  
19 change in paperwork requirements implemented by  
20 the Office of Personnel Management 10 years after  
21 the service of the employees had ended and, by ex-  
22 tension, were retroactively excluded from the defini-  
23 tion of the term “employee” under section 8331 of  
24 title 5, United States Code, for retirement credit  
25 purposes.

1           (5) The employees of Air America were paid as  
2 Federal employees, with salaries subject to—

3           (A) the General Schedule under subchapter  
4 III of chapter 53 of title 5, United States Code;  
5 and

6           (B) the rates of basic pay payable to mem-  
7 bers of the Armed Forces.

8           (6) The service and sacrifice of the employees  
9 of Air America included—

10           (A) suffering a high rate of casualties in  
11 the course of employment;

12           (B) saving thousands of lives in search and  
13 rescue missions for downed United States air-  
14 men and allied refugee evacuations; and

15           (C) lengthy periods of service in chal-  
16 lenging circumstances abroad.

17 (b) DEFINITIONS.—In this section—

18           (1) the term “affiliated company”, with respect  
19 to Air America, includes Air Asia Company Limited,  
20 CAT Incorporated, Civil Air Transport Company  
21 Limited, and the Pacific Division of Southern Air  
22 Transport; and

23           (2) the term “qualifying service” means service  
24 that—

1 (A) was performed by a United States cit-  
2 izen as an employee of Air America or an affili-  
3 ated company during the period beginning on  
4 January 1, 1950, and ending on December 31,  
5 1976; and

6 (B) is documented in the attorney-certified  
7 corporate records of Air America or any affili-  
8 ated company.

9 (c) TREATMENT AS FEDERAL EMPLOYMENT.—Any  
10 period of qualifying service—

11 (1) is deemed to have been service of an em-  
12 ployee (as defined in section 2105 of title 5, United  
13 States Code) with the Federal Government; and

14 (2) shall be treated as creditable service by an  
15 employee for purposes of subchapter III of chapter  
16 83 of title 5, United States Code.

17 (d) RIGHTS.—An individual who performed quali-  
18 fying service, or a survivor of such an individual, shall be  
19 entitled to the rights, retroactive as applicable, provided  
20 to employees and their survivors for creditable service  
21 under the Civil Service Retirement System under sub-  
22 chapter III of chapter 83 of title 5, United States Code,  
23 with respect to that qualifying service.

24 (e) DEDUCTION, CONTRIBUTION, AND DEPOSIT RE-  
25 QUIREMENTS.—The deposit of funds in the Treasury of

1 the United States made by Air America in the form of  
2 a lump-sum payment apportioned in part to the Civil Serv-  
3 ice Disability & Retirement Fund in 1976 is deemed to  
4 satisfy the deduction, contribution, and deposit require-  
5 ments under section 8334 of title 5, United States Code,  
6 with respect to all periods of qualifying service.

7 (f) APPLICATION TIME LIMIT.—Section 8345(i)(2) of  
8 title 5, United States Code, shall be applied with respect  
9 to the death of an individual who performed qualifying  
10 service by substituting “2 years after the effective date  
11 under section 2(g) of the Air America Act of 2021” for  
12 “30 years after the death or other event which gives rise  
13 to title to the benefit”.

14 (g) EFFECTIVE DATE.—This section shall take effect  
15 on the date that is 30 days after the date of enactment  
16 of this Act.

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