

LONGSHORE AND HARBOR WORKERS' COVID-19
COMPENSATION ACT OF 2022

SEPTEMBER 29, 2022.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. SCOTT of Virginia, from the Committee on Education and
Labor, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3114]

The Committee on Education and Labor, to whom was referred the bill (H.R. 3114) to provide benefits authorized under the Longshore and Harbor Workers' Compensation Act to maritime workers who contract COVID-19, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Longshore and Harbor Workers’ COVID–19 Compensation Act of 2022”.

SEC. 2. CLAIMS RELATED TO COVID-19.

(a) **IN GENERAL.**—A covered employee who receives a diagnosis of COVID–19 or is subject to an order described in subsection (b)(2) and who provides notice of or files a claim under the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 901 et seq.) relating to such diagnosis or order shall be conclusively presumed to have an injury arising out of or in the course of employment for the purpose of compensation under the Longshore and Harbor Workers’ Compensation Act.

(b) **COVERED EMPLOYEE.**—In this Act, the term “covered employee” means an individual who, at any time during the period beginning January 27, 2020, and ending on January 27, 2024, is an employee engaged in maritime employment as defined in section 2 of the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 902(3)) and who—

(1)(A) is diagnosed with COVID–19; and

(B) during a covered exposure period with respect to the date of such diagnosis carried out duties which—

(i) required contact with members of the public, co-workers, or other individuals associated with the course of employment; or

(ii) included a risk of exposure to the novel coronavirus; or

(2) is ordered not to return to work by the employee’s employer or by a local, State, or Federal agency because of exposure, or the risk of exposure, to 1 or more individuals diagnosed with COVID–19 in the workplace.

(c) **CLARIFICATION OF MARITIME EMPLOYMENT.**—For the purposes of subsection (b), maritime employment does not include employment under—

(1) the Defense Base Act (42 U.S.C. 1651 et seq.);

(2) the Outer Continental Shelf Lands Act (43 U.S.C. 1333(b)); and

(3) section 8171 of title 5, United States Code.

(d) **LIMITATION.**—This Act shall not apply with respect to a covered employee who—

(1) provides notice or files a claim described in subsection (a) on or before the date of enactment of this Act; and

(2) is determined to be entitled to the compensation described in subsection

(a) or is awarded such compensation if such determination or award is made on or before the date of enactment of this Act.

(e) **DENIALS ON OR BEFORE THE DATE OF ENACTMENT.**—Subsection (a) shall apply with respect to a covered employee who is determined not to be entitled to, or who is not awarded, compensation described in subsection (a) if such determination or decision not to award such compensation is made on or before the date of enactment of this Act.

(f) **EXCLUSION.**—The Secretary shall not consider any compensation paid with respect to a notice or claim to which subsection (a) applies, including disability compensation, death benefits, funeral and burial expenses, and medical expenses, in calculating the annual assessments under section 44(c)(2) of the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 944(c)(2)).

SEC. 3. REIMBURSEMENT.

(a) **IN GENERAL.**—

(1) **ENTITLEMENT.**—An employer of a covered employee or the employer’s carrier shall be entitled to reimbursement pursuant to this Act for any compensation paid with respect to a notice or claim described in section 2(a), including disability compensation, death benefits, funeral and burial expenses, medical or other related costs for treatment and care, and reasonable and necessary allocated claims expenses.

(2) **SAFETY AND HEALTH REQUIREMENTS.**—To be entitled to reimbursement under paragraph (1)—

(A) an employer shall be in compliance with all applicable safety and health guidelines and standards that are related to the prevention of occupational exposure to the novel coronavirus, including such guidelines and standards issued by the Occupational Safety and Health Administration, State plans approved under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), the Centers for Disease Control and Prevention, and the National Institute for Occupational Safety and Health; and

- (B) a carrier—
- (i) shall be a carrier for an employer that is in compliance with subparagraph (A); and
 - (ii) shall not adjust the experience rating or the annual premium of the employer based upon the compensation paid by the carrier with respect to a notice or claim described in section 2(a).
- (b) REIMBURSEMENT PROCEDURES.—
- (1) IN GENERAL.—To receive reimbursement under subsection (a), a claim for such reimbursement shall be submitted to the Secretary of Labor—
 - (A) not earlier than the date on which a compensation order (as described in section 19(e) of the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 919(e))) is issued that fixes entitlement to benefits; or
 - (B) not later than one year after the final payment of compensation to a covered employee pursuant to this Act; and
 - (C) in accordance with a rule issued by the Secretary that the Secretary determines to be similar to the process established under part 61 of title 20, Code of Federal Regulations (as in effect on the date of enactment of this Act).
 - (2) RECORDS.—An employer and the employer’s carrier shall make, keep, and preserve such records and provide such information as the Secretary of Labor determines necessary or appropriate to carry out this Act.
 - (3) FINAL AGENCY ACTION.—The action of the Secretary in allowing or denying reimbursement under this section shall be the final Agency action with respect to such reimbursement.
- (c) APPROPRIATIONS.—
- (1) IN GENERAL.—A reimbursement under this section shall be paid out of the Longshore COVID–19 Fund.
 - (2) FUNDS.—In addition to amounts otherwise available, there are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to the Longshore COVID–19 Fund for each reimbursement paid out of such Fund under this section.
- (d) REPORT.—Not later than 60 days after the end of each of fiscal years 2022, 2023, and 2024, the Secretary of Labor shall submit to the Committee on Education and Labor of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, an annual report enumerating—
- (1) the number of claims filed pursuant to section 2(a);
 - (2) of such filed claims—
 - (A) the number and types of claims under the Longshore and Harbor Workers Compensation Act (33 U.S.C. 901 et seq.) with respect to which the presumption under section 2(a) is made;
 - (B) the number and types of such claims denied; and
 - (C) the number and types of such claims pending; and
 - (3) the total number of claims for reimbursement and the total amounts paid for such reimbursement from the Longshore COVID–19 Fund under subsection (c)(1) for the fiscal year for which the report is being submitted.
- (e) REGULATIONS.—The Secretary of Labor may promulgate such regulations as may be necessary to carry out this Act.
- (f) DEFINITIONS.—In this Act:
- (1) COVERED EXPOSURE PERIOD.—The term “covered exposure period” with respect to the date of a diagnosis described in section 2(b)(1)(A), means the period of days—
 - (A) ending on the date of such diagnosis; and
 - (B) equal to the maximum number of days that the Secretary of Labor, with the concurrence of the Director of the National Institute of Occupational Safety and Health, determines could occur between an exposure to the novel coronavirus and a diagnosis of COVID–19 resulting from such exposure.
 - (2) LHWCA TERMS.—The terms “carrier”, “compensation”, “employee”, and “employer” have the meanings given the terms in section 2 of the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 902).
 - (3) LONGSHORE COVID-19 FUND.—The term “Longshore COVID-19 Fund” means the fund established in section 45 of the Longshore and Harbor Workers’ Compensation Act (as added by section 4 of this Act).
 - (4) NOVEL CORONAVIRUS.—The term “novel coronavirus” means SARS–CoV–2, a variant of SARS–CoV–2, or any other coronavirus declared to be a pandemic by public health authorities.

SEC. 4. LONGSHORE COVID-19 FUND.

The Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.) is amended by adding after section 44 the following:

“SEC. 45. LONGSHORE COVID-19 FUND.

“(a) **IN GENERAL.**—There is established in the Treasury of the United States the Longshore COVID-19 Fund (in this section, referred to as the ‘Fund’), which consists of sums that are appropriated to the Fund under section 3(c) of the Longshore and Harbor Workers' COVID-19 Compensation Act of 2022.

“(b) **EXPENDITURES.**—Amounts in the Fund shall be available for the reimbursement of an employer or the employer's carrier for compensation payments and expenses approved under section 3 of the Longshore and Harbor Workers' COVID-19 Compensation Act of 2022, including disability compensation, death benefits, funeral and burial expenses, medical or other related costs for treatment and care, and reasonable and necessary allocated claims expenses paid under this Act when reimbursement is required under section 3 of the Longshore and Harbor Workers' COVID-19 Compensation Act of 2022, subject to any limitations in such section.”.

PURPOSE AND SUMMARY

COVID-19 is an acute threat to the lives and livelihoods of workers in maritime occupations, such as longshoring, ship repair, shipbuilding, shipbreaking, and harbor construction, because of conditions from the hiring hall to the work itself that puts workers in close proximity with each other for long stretches of time. These workers are essential for supply chains that stretch across the United States and for the nation's defense infrastructure. Workers who miss work, incur medical expenses, or develop disabilities due to COVID-19 face the risk of substantial financial hardship. The *Longshore and Harbor Workers' Compensation Act*¹ (LHWCA) provides workers' compensation benefits to ensure that maritime workers do not bear the hardships that stem from workplace illnesses on their own. Under current law, however, maritime workers must prove a direct connection between their illness and a specific workplace exposure. With an infectious disease like COVID-19, drawing such a specific link can often be impossible, and this limitation prevents workers from accessing benefits despite the risks they endure by filling an essential role during an unprecedented pandemic.

H.R. 3114, the *Longshore and Harbor Workers COVID-19 Compensation Act* (H.R. 3114 or this Act), would remedy this problem by establishing a conclusive presumption that workers engaged in maritime employment who receive a diagnosis of COVID-19, or who were ordered to quarantine between January 2020 and January 2024 due to a potential exposure to COVID-19, have an injury or illness arising out of their employment under the LHWCA. To qualify for the presumption, maritime workers must have contact with coworkers, the public, or others in a way that increases their likelihood of contracting COVID-19 within a period of time determined by the U.S. Secretary of Labor (the Secretary). H.R. 3114 also establishes a fund to reimburse employers or their insurance carriers for the costs of paying claims to covered workers, provided that the employer adheres to the applicable safety and health guidelines and standards for containing the spread of COVID-19 in the workplace. This legislation addresses the challenges that maritime workers face in gaining access to LHWCA benefits when they are exposed to COVID-19 on the job without burdening employers.

¹Longshore and Harbor Workers Compensation Act, 44 Stat. 1424 (33 U.S.C. §901 et seq.).

COMMITTEE CONSIDERATION

116TH CONGRESS

On May 12, 2020, Rep. Nita Lowey (D–NY–17) introduced H.R. 6800, the *Heroes Act*. The bill was referred to the Committees on Appropriations, Ways and Means, and Budget. Title V of Division L of H.R. 6800 contained language similar to this legislation. On May 15, 2020, a Rules Committee Resolution was reported to the U.S. House of Representatives (House) to provide for debate on H.R. 6800. On May 15, 2020, H.R. 6800 passed the House with a vote of 208 Ayes and 199 Nays. No further action was taken on the bill.

On October 1, 2020, Rep. Lowey proposed that the House concur in the U.S. Senate (Senate) amendments to H.R. 925, the *America’s Conservation Enhancement Act*, with an amendment that substituted the entirety of the text and redesignated the bill as the *Heroes Act*. Title III of the *Heroes Act*, as amended, included language similar to this legislation. The motion to concur in the Senate amendments was adopted with a vote of 214 Ayes and 207 Nays. No further action was taken on the bill.

117TH CONGRESS

On February 24, 2021, Rep. John Yarmuth (D–KY–3) introduced H.R. 1319, the *American Rescue Plan Act of 2021*. The Committee on the Budget reported H.R. 1319 to the House that same day. On February 27, 2021, H.R. 1319 passed the House with a vote of 219 Ayes and 212 Nays. That House-passed bill contained language similar to H.R. 3114; however, the language was not included in the final version of H.R. 1319 that was subsequently signed into law.

On May 11, 2021, Rep. Frank Mrvan (D–IN–1) introduced H.R. 3114, the *Longshore and Harbor Workers’ COVID–19 Compensation Act of 2021*. The bill was referred to the Committee on Education and Labor.

The Committee on Education and Labor’s Subcommittee on Workforce Protections held a hearing on December 2, 2021, entitled “*Strengthening the Safety Net for Injured Workers*.” During this hearing, relevant to H.R. 3114, Mr. Christopher Godfrey, Director, Office of Workers’ Compensation Programs (OWCP), U.S. Department of Labor (DOL), Washington, DC, testified about the challenges the Longshore program has faced in resolving COVID–19 claims brought by covered workers.

The Committee on Education and Labor held a markup of H.R. 3114 on March 16, 2022. The Committee adopted an Amendment in the Nature of a Substitute (ANS) offered by Rep. Frank Mrvan (D–IN–1). The ANS incorporated the provisions of H.R. 3114 with the following changes:

- Changing the year in the short title from 2021 to 2022;
 - and
 - Extending the qualifying period from 2023 to 2024.
- One amendment to the ANS was offered:
- Rep. Fred Keller (R–PA–12) offered an amendment to strike the text of the bill and replace it with text to direct the Comptroller General to prepare a report on COVID–19 benefits

eligibility for maritime workers under the LHWCA. The amendment was defeated by a vote of 21 Yeas and 27 Nays. H.R. 3114 was reported favorably, as amended, to the House by a vote of 27 Yeas and 21 Nays.

COMMITTEE VIEWS

INTRODUCTION

The Committee on Education and Labor (the Committee) has jurisdiction over workers' compensation, including the LHWCA, and a record of consequential legislation in this area.² Accordingly, the Committee is hereby strengthening the LHWCA, which provides wage-loss compensation, medical treatment, return-to-work assistance, and vocational rehabilitation to assist maritime workers working on and adjacent to America's navigable waterways in the event of work-related injuries, illnesses, or death.

H.R. 3114, the *Longshore and Harbor Workers COVID-19 Compensation Act*, supports covered maritime workers by establishing that certain covered workers—those who were employed between January 27, 2020 and January 27, 2024, and who were either diagnosed with COVID-19 after working in-person with some exposure to coworkers or the public or were required to quarantine due to a COVID-19 exposure—are “conclusively presumed” to have an injury arising out of their employment for the purposes of compensation under the LHWCA.

H.R. 3114 is endorsed by the International Longshoremen's Association; International Longshore and Warehouse Union; Metal Trades Council of the AFL-CIO; Transportation Trades Department of the AFL-CIO; United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; and the Workers Injury Law & Advocacy Group.

LONGSHORE AND HARBOR WORKERS DEPEND ON THIS FEDERAL PROGRAM FOR WORKERS' COMPENSATION

Most workers in the United States are covered by a form of no-fault workers' compensation system. Each state (except Texas) has a mandatory workers' compensation policy, in which employers are required to purchase or provide insurance to reimburse employees injured or sickened on the job.³ These systems provide employees with access to wage replacement, compensation for medical expenses, and survivor benefits in the event of workplace injury or illness. Between 1910 and 1921, most states adopted the basic framework of the workers' compensation systems that exist today.⁴

²See, e.g., Energy Employees Occupational Illness Compensation Program Act, Pub. L. No. 106-398, Title XXXVI (2000); Longshoremen's and Harbor Workers' Compensation Act Amendments of 1972, Pub. L. No. 92-576; Black Lung Benefits Act of 1972, Pub. L. No. 92-303; Federal Coal Mine Safety and Health Act of 1969, Pub. L. No. 91-173, Title IV.

³Emily A. Spieler, (Re)Assessing the Grand Bargain: Compensation for Work Injuries in the United States, 1900-2017, 69 RUTGERS L. REV. 891, 932 (2017). Texas law is aggressively pro-employer on a number of fronts: employers can (1) opt into the state-regulated workers' compensation system, which is characterized by low benefits, many restrictions on eligibility and medical care for recipients, and little independent oversight, and also secures employers immunity from tort, or (2) establish employer-run injury benefits plans, which offer limited benefits for injured workers, and face some tort risk, albeit under a common law so pro-employer that the duty of care may not extend to some “open and obvious dangers.” *Id.* at 916, 932, 947-49.

⁴Price V. Fishback & Shawn Everett Kantor, *The Adoption of Workers' Compensation in the United States, 1900-1930*, 41 J.L. & ECON. 305 (1998).

Prior to this wave of reform, employees injured or sickened on the job would have had to prove their employer’s negligence led to their losses and survive powerful employer defenses in tort. Then, even if they were successful, the employees would have had to try to cover their medical and living expenses on damage awards that usually amounted to no more than one year’s worth of wages.⁵ The result of these reforms is often called the “Grand Bargain,” providing workers greater surety that they will be compensated in the event of illness or injury on the job while also shielding employers from costly litigation.⁶

The LHWCA was enacted in the early 20th Century to extend the Grand Bargain to some workers who were at risk of being excluded. The U.S. Supreme Court ruled in 1917 that state workers’ compensation laws could not apply to employment on the navigable waters of the United States because the Constitution reserves questions of maritime law for federal authority.⁷ Congress responded in 1927 by passing the LHWCA, which crafts a federal program, modeled on a New York law,⁸ to extend workers’ compensation coverage to these workers.⁹ Much of the original covered work of longshoring, ship building, repair, breaking, and other harbor work moved further away from water with the rise of containerization and other technological developments leading Congress to amend the LHWCA in 1972 to include maritime workers employed in areas adjoining navigable waterways, such as docks, wharves, drydocks, and port terminals.¹⁰

The LHWCA provides wage-loss compensation, medical treatment, return-to-work assistance, and vocational rehabilitation to assist maritime workers working on or adjacent to America’s navigable waterways in the event of work-related injuries, illnesses, or death.¹¹ Disability benefits under the LHWCA replace a maximum of two-thirds of a covered worker’s average pre-disability wages in the event of total disability or, in the case of partial disability, two-thirds of the difference between average pre-disability wages and the worker’s current wage.¹² These wage replacement rates are subject to a floor (50 percent of the national average weekly wage (NAWW) for covered maritime workers) and a ceiling (200 percent of the NAWW).¹³ In FY 2022, the NAWW was \$863, meaning the maximum payment to a totally disabled worker was \$1,726.¹⁴ The LHWCA also provides survivors’ benefits, beginning at 50 percent

⁵ Spieler, *supra* note 3, at 900–908.

⁶ *Id.*

⁷ Southern Pac. Co. v. Jensen, 244 U.S. 205 (1917).

⁸ Stuart Housel Smith, *The Special Fund Under the Longshore and Harbor Workers’ Compensation Act*, 11 TUL. MAR. L.J. 71, 74 (1986).

⁹ Eric J. Zagrocki, Note, *Worker’s Compensation—Longshoremen and Harbor Workers’ Compensation Act—Federal Employer’s Liability Act*, 29 DUQ. L. REV. 417, 419 (1991).

¹⁰ Gillian S. Davies, *The Stormy Seas of Situs: Reevaluating the Situs Requirement of the Longshore and Harbor Workers’ Compensation Act*, 63 AM. U.L. REV. 1901 (2014).

¹¹ SCOTT D. SZYMENDERA, CONG. RES. SERV., R41506, THE LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT (LHWCA): OVERVIEW OF WORKERS’ CERTAIN PRIVATE COMPENSATION FOR SECTOR MARITIME WORKERS 4 (Mar. 2021).

¹² *Id.*

¹³ *Id.*

¹⁴ *National Average Weekly Wages (NAWW), Minimum and Maximum Compensation Rates, and Annual October Increases (Section 10(f))*, OFF. OF WORKERS’ COMP. PROGS., <https://www.dol.gov/agencies/owcp/dlhwc/NAWWinfo> (last visited Apr. 19, 2022).

of a worker's wages and adjusted based on the number of dependents in a household.¹⁵

The LHWCA benefits process is similar to state workers' compensation processes. Employers are required to either self-insure or purchase insurance through a carrier. Injured or sickened employees submit a notice of their injury to their employer or their insurance carrier and submit a claim to OWCP. If these claims are disputed, OWCP initiates a conciliation process. If the dispute persists, DOL Administrative Law Judges (ALJs) rule on the claim, with appeals possible to the U.S. Courts of Appeals.¹⁶

COVID-19 IS AN OCCUPATIONAL HEALTH HAZARD FOR MARITIME WORKERS

Maritime workers are at heightened risk of contracting COVID-19 due to the nature of their work, which they continued to perform throughout the pandemic, as explained by the *New York Times*:

Longshore work is exhausting, and often requires close contact with others. The trade is essential to the economy, with longshore workers serving as a crucial link between moving goods from a shipping vessel onto trucks and trains that send them to their final destination, experts said . . .

The workers at highest risk of being exposed to the virus are deep sea longshoremen, who are primarily Black and do most of the work that requires the lifting and moving of goods, union officials noted.

Lashers, who take steel rods off containers so they can be lifted by crane operators, sweat and breathe heavily as they work in pairs side by side. Shuttle drivers, responsible for transporting their fellow longshoremen to and from either ends of a dock that can stretch for miles, spend their days packed in Ford Crown Victorias and school buses with other longshoremen.

"It's very high risk," said Gail Jackson, 45, a shuttle driver on the docks in Charleston who contracted the virus and spent weeks off the job. "There's no way for us to be six feet distanced."¹⁷

In fact, the risk is elevated even before work commences because of the day labor hiring structure:

There are certain elements to longshore work that pose an inherent risk for workers, most acutely their daily hiring events, where workers bid for a job on one of the ships coming into port that day.

On an early December night in Savannah, Ga., when it was a brisk 46 degrees, over 500 workers gathered outside the city's union hall shortly after dusk for a chance to work an overnight shift on one of the vessels docking at port.

¹⁵ SZYMENDERA, *supra* note 11.

¹⁶ *Id.*

¹⁷ Pranshu Verma, 'Very High Risk': Longshoremen Want Protection From the Virus So They Can Stay on the Job, N.Y. TIMES (Dec. 12, 2020), <https://www.nytimes.com/2020/12/12/us/politics/coronavirus-longshoremen-ports.html>.

Workers, in order of seniority, were squeezed into marked-off areas shoulder to shoulder. Many wore masks, sometimes slipping off, as workers reached over one another to hand a foreman their union card to get selected onto a crew for the night.

Barry Griffin, a longshoreman who runs the daily hiring in Savannah, said he tries to hold the events outside to protect from the virus, but if it gets too cold, or the weather is unpleasant it could be moved inside. “I make a game-time decision,” he said. Jackie Robinson, the longshore union’s local president in Savannah, contracted the virus this year and recovered. His wife died from the virus.¹⁸

This day labor model compounds the risk by creating incentives for workers to continue to report to work even when they might have reason to self-isolate, because a decision to isolate could result in significant time without earnings. As Alan A. Robb, International Longshore Association South Atlantic and Gulf Coast District President, described the situation facing many longshore workers, “there are people who know they’re sick, and go into work. They can’t afford to miss a day.”¹⁹

These conditions are not well known outside of the industry. During a hearing on March 16, 2022 before the Committee’s Subcommittee on Workforce Protections, Rep. Mariannette Miller-Meeks (R-IA-2) prefaced a question to OWCP Director Christopher Godfrey with a concern about whether close contact is actually a hallmark of maritime employment:

Mrs. Miller Meeks. I will readily admit that we do not have any ports in Iowa, and I am not exactly sure how longshoremen work. But in my mind, longshoremen are not in close contact with other individuals, such as they are in one of our other facilities, our manufacturing facilities.

And we recently addressed that individuals that are more isolated in their workplace, i.e., truck drivers, don’t have the same degree of risk to other individuals.

So can you tell me, what is the average work hour of a longshoreman?²⁰

Later in the hearing, in response to a question by Rep. Pramila Jayapal (D-WA-7) about challenges of proving that a COVID-19 case arose out of maritime employment, Godfrey took the opportunity to stress this aspect of maritime work:

First, I would point out I have had the opportunity since becoming Director of OWCP to tour ports, and I have seen not only with the ports . . . but I have also seen ship repair, shipbuilding, and I have seen the very close quarters and the hazardous exposures that they do have.²¹

¹⁸*Id.*

¹⁹*Id.*

²⁰*Strengthening the Safety Net for Injured Workers: Hearing Before the Subcomm. on Wrkf. Prots. of the H. Comm. on Educ. & Lab.*, 117th Cong. (Dec. 2, 2021) [hereinafter *Strengthening the Safety Net*] (<https://edlabor.house.gov/hearings/strengthening-the-safety-net-for-injured-workers> 1:28:29–1:29:03).

²¹*Id.* (1:31:39–1:31:59).

Medical experts agree that the conditions Godfrey observed are hazardous. “Maritime workers have performed essential work throughout the COVID–19 pandemic, loading and unloading ships, building and repairing ships, and toiling to keep our ports operating,” explained Dr. Robert M. Bourgeois, president of the American College of Occupational and Environmental Medicine in a letter to Rep. Mrvan. “This labor requires longshore workers to work in closely connected teams, resulting in hundreds of longshore and harbor workers contracting COVID–19 over the course of the pandemic.”²²

Given these conditions, COVID–19 outbreaks were inevitable. One worker in the early summer of 2020 “literally almost shut the Houston waterfront down,” Robb said.²³ Between December 2021 and January 2022, a COVID–19 outbreak infected approximately 20 percent of union longshore workers in the port of Mobile, Alabama.²⁴ In January 2022 alone, around 1,700 dock workers in West Coast ports tested positive for COVID–19, exceeding infections for all of 2021.²⁵ Between bouts of illness and mandatory quarantine requirements, the COVID–19 pandemic “has had a tremendous impact on the livelihoods of longshore workers who have been toiling endlessly during the pandemic to ensure that our nation’s economy continues to thrive.”²⁶

MARITIME WORKERS LACK THE COVID COVERAGE PROVIDED TO OTHER ESSENTIAL WORKERS

The COVID–19 pandemic has presented a unique challenge for workers’ compensation programs, including the LHWCA. As with most state workers’ compensation laws, the LHWCA requires covered workers to demonstrate that an occupational illness “arises naturally out of such employment,”²⁷ at which point the employer is able to rebut the claim by refuting the causation between the conditions and the harm.²⁸ To avoid burdening essential workers with the often-impossible obligation to link their COVID–19 to a workplace exposure, 28 states and Puerto Rico provide for eligibility for workers’ compensation benefits based on a presumption that COVID–19 is job-related for certain essential workers.²⁹ In 2021, Congress took a similar approach by adopting in the *American Rescue Plan Act* a presumption that frontline federal workers who contract COVID–19 are eligible for federal employees’ workers’ compensation.³⁰

²² Letter from Dr. Robert M. Bourgeois, Amer. Coll. of Occ. & Envtl. Med., to Rep. Frank Mrvan (Mar. 15, 2022).

²³ Verma, *supra* note 17.

²⁴ Jessica Wehrman, *Longshoremen Seek Workers’ Comp Law Change for COVID–19 Coverage*, ROLL CALL (Mar. 24, 2022), <https://rollcall.com/2022/03/24/longshoremen-seek-workers-comp-law-change-for-covid-19-coverage/>.

²⁵ Laura Curtis, *COVID Cases for U.S. Dockworkers Top All of 2021’s*, BLOOMBERG (Jan. 27, 2022), <https://www.bloomberg.com/news/articles/2022-01-27/u-s-west-coast-dockworkers-hit-by-covid-19-surpasses-2021-total>.

²⁶ Scott, *Mrvan Introduce Bill to Secure Support for Longshore and Harbor Workers Who Contract COVID–19*, H. COMM. ON EDUC. & LAB. (May 12, 2021), <https://edlabor.house.gov/media/press-releases/scott-mrvan-introduce-bill-to-secure-support-for-longshore-and-harbor-workers-who-contract-covid-19> (statement of International Longshoremen’s Association).

²⁷ LHWCA § 2(2) (33 U.S.C. § 902(2)).

²⁸ SZYMENDERA, *supra* note 11.

²⁹ Josh Cunningham, *COVID–19: Workers’ Compensation*, NAT’L CONF. STATE LEGIS. (Jan. 24, 2022), <https://www.ncsl.org/research/labor-and-employment/covid-19-workers-compensation.aspx>.

³⁰ American Rescue Plan Act of 2021, Pub. L. No. 117–2, § 4016.

There is clear evidence that, without adding a presumption of eligibility for compensation for COVID-19, the LHWCA is not adequately serving covered workers who contract COVID-19. Between April 2020 and October 2021, covered employees submitted 1,093 COVID-19 related claims under the LHWCA, but employers paid out benefits in only 73 cases—meaning that employers forced 93 percent of COVID-19 claims into OWCP’s resolution process.³¹ This level of contestation is a significant departure from the norm for LHWCA claims, 88 percent of which are resolved with payments starting to workers before 28 days have passed since the first claim.³² It is also a stark contrast from acceptance rates for COVID-19 claims under the *Federal Employee Compensation Act* Program, which since 2021 has implemented a presumption in favor of benefit eligibility for frontline federal workers with COVID-19 and has accepted 86 percent of the more than 21,000 COVID-19 related claims submitted by November 2021.³³

SUPPORTING MARITIME WORKERS WILL NOT BURDEN EMPLOYERS

H.R. 3114 would provide greater security to essential maritime workers without burdening maritime employers. H.R. 3114 provides that self-insured employers and insurance carriers will be reimbursed for the cost of claims paid out to workers covered under this legislation. Access to reimbursement is contingent on employers complying with safety and health guidelines and standards related to COVID-19, including those issued by the Centers for Disease Control and Prevention (CDC), the Occupational Safety and Health Administration (OSHA), and state regulators. Maritime employers are further protected from additional costs under this bill as insurance carriers are prohibited from using claims paid by the insurance carrier and reimbursed under the LHWCA to adjust a covered employer’s “experience rating,” a factor that modifies an employer’s annual insurance premium based on workers’ compensation claims. Additionally, the Secretary shall not consider benefits paid under this legislation in determining assessments to be paid by employers and insurance carriers into the Special Fund under the LHWCA.

Conditioning reimbursement on employers’ compliance with applicable safety and health standards to contain the workplace spread of COVID-19 is essential to promoting the safety of the maritime workforce. A core element of the LHWCA has always been promoting the efficient operation of the nation’s vital maritime infrastructure and the health of the maritime workforce. Requiring employer compliance with the relevant guidance and standards to contain the spread of COVID-19 will accomplish this objective.

CONCLUSION

Without H.R. 3114, covered maritime workers will continue to struggle to get access to the workers’ compensation benefits to

³¹ *Strengthening the Safety Net for Injured Workers*, *supra* note 20 (response to questions for the record from Christopher Godfrey, OWCP Director).

³² *Longshore Performance Page*, OFF. OF WORKERS’ COMP. PROGS., <https://www.dol.gov/agencies/owcp/dlhwc/LongshoreProgramPerformanceResults> (last accessed Apr. 25, 2022).

³³ *Strengthening the Safety Net*, *supra* note 20 (statement of Christopher Godfrey, OWCP Director, <https://edlabor.house.gov/imo/media/doc/GodfreyChristopherTestimony120221.pdf>).

which they are entitled when they are exposed to COVID-19 on the job. Maritime workers have been essential to maintaining critical functions for American commerce and defense throughout the pandemic. They have been at the center of the supply chains that have kept the economy functioning throughout unprecedented challenges. The pandemic has added new risks to the maritime workplace, including contracting COVID-19 in the workplace and losing out on wages while sick or quarantining. Strengthening the LHWCA to adapt to the COVID-19 pandemic is critical to mitigating these risks and protecting maritime workers.

SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

This section establishes that the legislation may be cited as the Longshore and Harbor Workers' COVID-19 Compensation Act of 2022.

Sec. 2. Claims related to COVID-19

This section provides that employees engaged in "maritime employment" under the LHWCA, who were employed between January 27, 2020, and January 27, 2024, and (1) received a diagnosis of COVID-19 following a "covered exposure period" (as defined by the Secretary pursuant to section 3) or (2) were ordered by a public health agency not to return to the workplace due to a documented exposure to COVID-19, risk of exposure to COVID-19, or an outbreak of COVID-19 will be "conclusively presumed" to have an injury arising out of or in the course of employment for the purpose of compensation under the LHWCA. Such employees will be entitled to benefits consistent with the LHWCA.

This section also provides that covered workers who were denied benefits under the LHWCA for claims related to COVID-19 prior to the passage of this Act shall be eligible to apply for benefits under this Act.

This section prohibits the Secretary from considering benefits paid pursuant to this legislation in determining the annual assessments for payments into the Special Fund under the LHWCA.

Sec. 3. Reimbursement

This section provides that self-insured employers and insurance carriers shall be reimbursed for the cost of claims authorized under Section 2 of this Act, provided the employer is in compliance with safety and health guidelines and standards related to COVID-19, including those issued by OSHA, a state OSHA plan, the CDC, and the National Institute for Occupational Safety and Health (NIOSH).

This section also specifies that, to receive reimbursement, insurance carriers may not adjust a covered employer's experience rating or annual premium based on claims paid by the carrier and reimbursed under this Act.

This section allows self-insured employers or insurance carriers to submit a claim for reimbursement to the Secretary after an order for compensation has been approved that fixes entitlement to benefits, but not later than a year after the final payment to a covered employee.

This section requires employers and insurance carriers to make, keep, and preserve records and provide reports and information as the Secretary determines necessary or appropriate to carry out this Act.

This section provides that actions of the Secretary in allowing or denying any reimbursement are final agency actions related to the reimbursement.

This section authorizes such sums as may be necessary to fund the Longshore COVID-19 Fund established by Section 4 to reimburse an employer or insurance carrier for each claim paid out under this Act.

This section also requires DOL to submit an annual report to the House Committee on Education and Labor and the Senate Committee on Health, Education, Labor, and Pensions regarding the number of claims filed, approved, denied, and pending under this Act, as well as the amounts paid out of the Longshore COVID-19 Fund.

This section also establishes that the Secretary shall determine, with the concurrence of the Director of NIOSH, the “covered exposure period” for which an employee can submit a claim covered by this Act. This “covered exposure period” will be the period that ends on the date of the employee’s diagnosis and covers the maximum span of time that the Secretary determines could occur between exposure to the virus that causes COVID-19 and a diagnosis of the disease.

Sec. 4. Longshore COVID-19 Fund

This section establishes the Longshore COVID-19 Fund as part of the LHWCA. This section provides that funds in this account are available for the reimbursement of claims approved under this Act, including disability compensation, death benefits, funeral and burial expenses, medical or other related costs for treatment and care, and reasonable and necessary allocated claims expenses paid by the employer or carrier pursuant to this Act.

EXPLANATION OF AMENDMENTS

The amendments, including the Amendment in the Nature of a Substitute, are explained in the descriptive portions of this report.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act of 1995*, Pub. L. No. 104-1, H.R. 3114, as amended, does not apply to terms and conditions of employment within the legislative branch because the law amended by H.R. 3114 (the LHWCA) is not included within the list of laws applicable to the legislative branch enumerated in section 102(a) of the *Congressional Accountability Act of 1995*.

UNFUNDED MANDATE STATEMENT

Pursuant to section 423 of the *Congressional Budget and Impoundment Control Act of 1974*, Pub. L. No. 93-344 (as amended by section 101(a)(2) of the *Unfunded Mandates Reform Act of 1995*, Pub. L. No. 104-4), the Committee adopts as its own the estimate

of federal mandates regarding H.R. 3114, as amended, prepared by the Director of the Congressional Budget Office.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3114 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

ROLL CALL VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 3114:

Date: 3/16/2022

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call:1

Bill: 3114

Amendment Number:2

Disposition: Defeated by a roll call vote of 21-27

Sponsor/Amendment: Keller / GAO_02

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)		X		Mrs. FOXX (NC) (Ranking)	X		
Mr. GRIJALVA (AZ)		X		Mr. WILSON (SC)	X		
Mr. COURNTEY (CT)		X		Mr. THOMPSON (PA)	X		
Mr. SABLAN (MP)			X	Mr. WALBERG (MI)	X		
Ms. WILSON (FL)		X		Mr. GROTHMAN (WI)	X		
Ms. BONAMICI (OR)		X		Ms. STEFANIK (NY)	X		
Mr. TAKANO (CA)		X		Mr. ALLEN (GA)	X		
Ms. ADAMS (NC)		X		Mr. BANKS (IN)	X		
Mr. DESAULNIER (CA)		X		Mr. COMER (KY)			X
Mr. NORCROSS (NJ)		X		Mr. FULCHER (ID)	X		
Ms. JAYAPAL (WA)		X		Mr. KELLER (PA)	X		
Mr. MORELLE (NY)		X		Ms. MILLER-MEEKS (IA)	X		
Ms. WILD (PA)		X		Mr. OWENS (UT)	X		
Mrs. MCBATH (GA)		X		Mr. GOOD (VA)	X		
Mrs. HAYES (CT)		X		Mrs. MCCLAIN (MI)	X		
Mr. LEVIN (MI)		X		Mrs. HARSHBARGER (TN)	X		
Ms. OMAR (MN)		X		Mrs. MILLER (IL)	X		
Ms. STEVENS (MI)		X		Mrs. SPARTZ (IN)			X
Ms. LEGER FERNÁNDEZ (NM)		X		Mr. FITZGERALD (WI)	X		
Mr. JONES (NY)		X		Mr. CAWTHORN (NC)	X		
Ms. MANNING (NC)		X		Mrs. STEEL (CA)	X		
Mr. MRVAN (IN)		X		Ms. LETLOW (LA)	X		
Mr. BOWMAN (NY)		X		Mr. JACOBS (NY)	X		
Mrs. CHERFILUS-MCCORMICK (FL)		X		<i>Vacancy</i>			
Mr. POCAN (WI)		X					
Mr. CASTRO (TX)		X					
Ms. SHERRILL (NJ)		X					
Mr. ESPAILLAT (NY)		X					
Mr. KWEISI MFUME (MD)			X				

TOTALS: Ayes: 21

Nos:27

Not Voting: 4

Total: 53 / Quorum: / Report:

(29 D - 24 R)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

Date: 3/16/22

COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE

Roll Call: 2 Bill: H.R. 3114 Amendment Number: Motion

Disposition: Adopted by a Full Committee Roll Call Vote 27-21

Sponsor/Amendment: Mrvan Motion to Report H.R. 3114 to the House, with an amendment and with recommendation that the amendment be agreed to, and the bill as amended, do pass

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mr. SCOTT (VA) (Chairman)	X			Mrs. FOXX (NC) (Ranking)		X	
Mr. GRIJALVA (AZ)	X			Mr. WILSON (SC)		X	
Mr. COURNTEY (CT)	X			Mr. THOMPSON (PA)		X	
Mr. SABLAN (MP)			X	Mr. WALBERG (MI)		X	
Ms. WILSON (FL)	X			Mr. GROTHMAN (WI)		X	
Ms. BONAMICI (OR)	X			Ms. STEFANIK (NY)		X	
Mr. TAKANO (CA)	X			Mr. ALLEN (GA)		X	
Ms. ADAMS (NC)	X			Mr. BANKS (IN)		X	
Mr. DESAULNIER (CA)	X			Mr. COMER (KY)			X
Mr. NORCROSS (NJ)	X			Mr. FULCHER (ID)		X	
Ms. JAYAPAL (WA)	X			Mr. KELLER (PA)		X	
Mr. MORELLE (NY)	X			Ms. MILLER-MEEKS (IA)		X	
Ms. WILD (PA)	X			Mr. OWENS (UT)		X	
Mrs. MCBATH (GA)	X			Mr. GOOD (VA)		X	
Mrs. HAYES (CT)	X			Mrs. MCCLAIN (MI)		X	
Mr. LEVIN (MI)	X			Mrs. HARSHBARGER (TN)		X	
Ms. OMAR (MN)	X			Mrs. MILLER (IL)		X	
Ms. STEVENS (MI)	X			Mrs. SPARTZ (IN)			X
Ms. LEGER FERNÁNDEZ (NM)	X			Mr. FITZGERALD (WI)		X	
Mr. JONES (NY)	X			Mr. CAWTHORN (NC)		X	
Ms. MANNING (NC)	X			Mrs. STEEL (CA)		X	
Mr. MRVAN (IN)	X			Ms. LETLOW (LA)		X	
Mr. BOWMAN (NY)	X			Mr. JACOBS (NY)		X	
Mrs. CHERFILUS-MCCORMICK (FL)	X			<i>Vacancy</i>			
Mr. POCAN (WI)	X						
Mr. CASTRO (TX)	X						
Ms. SHERRILL (NJ)	X						
Mr. ESPAILLAT (NY)	X						
Mr. KWEISI MFUME (MD)			X				

TOTALS: Ayes: 27

Nos: 21

Not Voting: 4

Total: 53 / Quorum: / Report:

(29 D - 24 R)

*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c)(4) of rule XIII of the Rules of the House of Representatives, the goal of H.R. 3114 is to improve maritime workers' access to compensation for losses due to COVID-19 under the LHWCA. The legislation achieves this by creating a conclusive presumption that covered maritime workers who are diagnosed with COVID-19 or are required to quarantine due to exposure to COVID-19 have an illness arising out of their occupation for purposes of the LHWCA.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 3114 is known to be duplicative of another federal program, including any program that was included in a report to Congress pursuant to section 21 of Pub. L. No. 111-139 or the most recent Catalog of Federal Domestic Assistance.

HEARINGS

Pursuant to clause 3(c)(6) of rule XIII of the Rules of the House of Representatives, the Committee's Subcommittee on Workforce Protections held a hearing on December 2, 2021, entitled "*Strengthening the Safety Net for Injured Workers*," which was used to develop H.R. 3114. Relevant to H.R. 3114, the Committee heard testimony from Mr. Christopher J. Godfrey, Director, Office of Workers' Compensation Programs, U.S. Department of Labor, Washington, DC, who testified about the challenges the Longshore program has faced in resolving COVID-19 claims brought by covered workers.

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.

NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget and Impoundment Control Act of 1974*, and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget and Impoundment Control Act of 1974*, the Committee has received the following estimate for H.R. 3114 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 29, 2022.

Hon. ROBERT C. (BOBBY) SCOTT,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3114, the Longshore and Harbor Workers' COVID-19 Compensation Act of 2022.

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

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
H.R. 3114, Longshore and Harbor Workers' COVID-19 Compensation Act of 2022			
As ordered reported by the House Committee on Education and Labor on March 16, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	306	336
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	306	336
Spending Subject to Appropriation (Outlays)	0	4	5
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Over Threshold

The bill would:

- Increase the number of private-sector maritime workers who receive workers' compensation because of a COVID-19 diagnosis or coronavirus exposure
- Reimburse private-sector employers and insurance carriers for those claims

Estimated budgetary effects would mainly stem from:

- Reimbursing employers and their insurance carriers for workers' compensation benefits

Areas of significant uncertainty include:

- Projecting the percentage of affected maritime workers who would file claims under the bill

Bill summary: H.R. 3114 would make it easier for private-sector maritime workers covered by the Longshore and Harbor Workers' Compensation Act (LHWCA) who are diagnosed with COVID-19 or who are ordered not to work because of coronavirus exposure to receive workers' compensation benefits. Under current law, covered workers who have contracted COVID-19 can receive workers' compensation benefits only if they can demonstrate that their illness was caused by a workplace exposure. H.R. 3114 would create a

legal presumption that maritime workers contracted COVID-19 on the job, decreasing the burden of proof on those workers. The LHWCA requires any medical, disability, or survivor benefits for those workers to be paid by the employer or the employer’s insurance carrier. Finally, H.R. 3114 would require the Department of Labor (DOL) to reimburse employers and insurance carriers for the cost of that compensation.

Estimated Federal cost: The estimated budgetary effect of H.R. 3114 is shown in Table 1. The costs of the legislation fall within budget functions 500 (education, training, employment, and social services) and 600 (income security).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 3114

	By fiscal year, millions of dollars—													2022– 2027	2022– 2032
	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032				
Increases in Direct Spending															
Estimated Budget Authority	0	214	63	15	8	6	6	6	6	6	6	6	6	306	336
Estimated Outlays	0	214	63	15	8	6	6	6	6	6	6	6	6	306	336
Increases in Spending Subject to Appropriation															
Estimated Authorization	0	3	2	0	0	0	0	0	0	0	0	0	0	5	5
Estimated Outlays	0	1	1	1	*	*	*	*	*	*	*	*	*	4	5

Components may not sum to totals because of rounding; * = between zero and \$500,000.

Basis of estimate: For this estimate, CBO assumes that H.R. 3114 will be enacted near the end of fiscal year 2022 and that the estimated amounts will be available in each year. Estimated outlays are based on historical spending patterns for the affected programs.

Direct spending: H.R. 3114 would make it easier for maritime workers to receive workers’ compensation if they contracted COVID-19 or were ordered not to work because of coronavirus exposure by creating a legal presumption that the illness or exposure were work related. The bill would apply to approximately 200,000 maritime workers who have been or will be covered under the LHWCA between January 27, 2020, and January 27, 2024.

Under the bill, employers and insurance carriers would not be reimbursed for workers’ compensation benefits paid before enactment if a worker already had received coronavirus-related benefits under the LHWCA. As of the end of fiscal year 2021, fewer than 100 workers who had filed such claims had been awarded benefits. DOL would not be required to reimburse benefits newly awarded under the bill if the worker’s employer does not comply with certain safety and health guidelines and standards issued by the Occupational Safety and Health Administration and by other federal, state, or local authorities. CBO expects that most employers would comply with those guidelines and thus would be reimbursed for benefits.

Using data from DOL about current LHWCA claims and based on CBO’s projections of infections, hospitalizations, and deaths for adults between the ages of 20 and 64, CBO estimates that about 12 percent of covered workers would receive medical, disability, or survivor benefits under the bill. CBO does not anticipate that all covered workers diagnosed with COVID-19 or quarantined because of exposure before enactment of this bill would apply for or receive

benefits. The average cost of those benefits per worker would vary significantly, from relatively small reimbursements for testing or doctors' visits to larger monthly payments for the spouses and children of workers who die. Reimbursing employers' and insurance carriers' costs would increase direct spending by \$336 million over the 2022–2032 period, CBO estimates.

Spending subject to appropriation: Using information from DOL, CBO expects the department would need three additional employees to review LHWCA claims and reimburse employers or their insurance carriers. On that basis, CBO estimates that those administrative costs would total \$4 million over the 2022–2027 period and \$5 million over the 2022–2032 period; such spending would be subject to the availability of appropriated funds.

Uncertainty: CBO's estimates of the budgetary effects of H.R. 3114 are subject to uncertainty. The number of workers affected by the coronavirus, as well as the percentage of affected workers who would file claims, could differ significantly from CBO's projections. As a result, actual costs could be higher or lower than CBO estimates.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term deficits: CBO estimates that enacting H.R. 3114 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2033.

Mandates: H.R. 3114 would impose a private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA) by establishing a legal presumption that maritime workers diagnosed with COVID–19 or ordered not to work because of coronavirus exposure are entitled to workers' compensation benefits if they can demonstrate that their illness was caused by a workplace exposure. Because the bill would expand the availability of compensation, it would increase the cost of an existing mandate on employers and insurance carriers to pay those benefits. CBO estimates that the cost of the mandate would exceed the threshold for private-sector mandates established in UMRA (\$184 million in 2022, adjusted annually for inflation) in 2023. The federal government would reimburse employers and insurance carriers for those mandate costs.

Previous CBO estimate: On February 17, 2021, CBO transmitted a revised cost estimate for the reconciliation recommendations of the House Committee on Education and Labor resulting from S. Con. Res. 5, the Concurrent Resolution on the Budget for Fiscal Year 2021. Section 2104 is similar to H.R. 3114. Both provisions would establish the presumption that maritime workers with COVID–19 have contracted the illness on the job and allow employers and insurance carriers to be reimbursed for the costs of workers' compensation benefits. However, the version in the reconciliation recommendations would cover workers only through January 2023 and allow for reimbursement through 2030. CBO's cost estimates reflect those differences.

Estimate prepared by: Federal Costs: Meredith Decker; Mandates: Andrew Laughlin.

Estimate reviewed by: Elizabeth Cove Delisle, Chief, Income Security Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 3114. However, clause 3(d)(2)(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 and Impoundment Control Act of 1974*.

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, H.R. 3114, as reported, are shown as follows:

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):

LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

* * * * *

SPECIAL FUND

SEC. 44. (a) There is hereby established in the Treasury of the United States a special fund. Such fund shall be administered by the Secretary. The Treasurer of the United States shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be money or property of the United States.

(b) The Treasurer is authorized to disburse moneys from such fund only upon order of the Secretary. He shall be required to give bond in an amount to be fixed and with securities to be approved by the Secretary of the Treasury and the Comptroller General of the United States conditioned upon the faithful performance of his duty as custodian of such fund.

(c) Payments into such fund shall be made as follows:

(1) Whenever the Secretary determines that there is no person entitled under this Act to compensation for the death of an employee which would otherwise be compensable under this Act, the appropriate employer shall pay \$5,000 as compensation for the death of such an employee.

(2) At the beginning of each calendar year the Secretary shall estimate the probable expenses of the fund during that calendar year and the amount of payments required (and the schedule therefor)

to maintain adequate reserves in the fund. Each carrier and self-insurer shall make payments into the fund on a prorated assessment by the Secretary determined by—

(A) computing the ratio (expressed as a percent) of (i) the carrier's or self-insured's workers' compensation payments under this Act during the preceding calendar year, to (ii) the total of such payments by all carriers and self-insureds under this Act during such year;

(B) computing the ratio (expressed as a percent) of (i) the payments under section 8(f) of this Act during the preceding calendar year which are attributable to the carrier or self-insured, to (ii) the total of such payments during such year attributable to all carriers and self-insureds;

(C) dividing the sum of the percentages computed under subparagraphs (A) and (B) for the carrier or self-insured by two; and

(D) multiplying the percent computed under subparagraph (C) by such probable expenses of the fund (as determined under the first sentence of this paragraph).

(3) All amounts collected as fines and penalties under the provisions of this Act shall be paid into such fund.

(d)(1) For the purpose of making rules, regulations, and determinations under this section under and for providing enforcement thereof, the Secretary may investigate and gather appropriate data from each carrier and self-insurer. For that purpose, the Secretary may enter and inspect such places and records (and make such transcriptions thereof), question such employees, and investigate such facts, conditions, practices, or matters as he may deem necessary or appropriate.

(2) Each carrier and self-insurer shall make, keep, and preserve such records, and make such reports and provide such additional information, as prescribed by regulation or order of the Secretary, as the Secretary deems necessary or appropriate to carry out his responsibilities under this section.

(3) For the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of this section, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (U.S.C., title 15, secs. 49 and 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary of Labor.

(e) The Treasurer of the United States shall deposit any moneys paid into such fund into such depository banks as the Secretary may designate and may invest any portion of the funds which, in the opinion of the Secretary, is not needed for current requirements, in bonds or notes of the United States or of any Federal land bank.

(f) Neither the United States nor the Secretary shall be liable in respect of payments authorized under section 8 in an amount greater than the money or property deposited in or belonging to such fund.

(g) The Comptroller General of the United States shall audit the account for such fund, but the action of the Secretary in making payments from such fund shall be final and not subject to review,

and the Comptroller General is authorized and directed to allow credit in the accounts of any disbursing officer of the Secretary for payments made from such fund authorized by the Secretary.

(h) All civil penalties and unpaid assessments provided for in this Act shall be collected by civil suit brought by the Secretary.

(i) The proceeds of this fund shall be available for payments:

(1) Pursuant to section 10 with respect to certain initial and subsequent annual adjustments in compensation for total permanent disability or death.

(2) Under section 8 (f) and (g), under section 18(b), and under section 39(c).

(3) To repay the sums deposited in the fund pursuant to subsection (d).

(4) To defray the expense of making examinations as provided in section 7(e).

(j) The fund shall be audited annually and the results of such audit shall be included in the annual report required by section 42.

SEC. 45. LONGSHORE COVID-19 FUND

(a) *IN GENERAL.*—*There is established in the Treasury of the United States the Longshore COVID-19 Fund (in this section, referred to as the ‘Fund’), which consists of sums that are appropriated to the Fund under section 3(c) of the Longshore and Harbor Workers’ COVID-19 Compensation Act of 2022.*

(b) *EXPENDITURES.*—*Amounts in the Fund shall be available for the reimbursement of an employer or the employer’s carrier for compensation payments and expenses approved under section 3 of the Longshore and Harbor Workers’ COVID-19 Compensation Act of 2022, including disability compensation, death benefits, funeral and burial expenses, medical or other related costs for treatment and care, and reasonable and necessary allocated claims expenses paid under this Act when reimbursement is required under section 3 of the Longshore and Harbor Workers’ COVID-19 Compensation Act of 2022, subject to any limitations in such section.*

* * * * *

MINORITY VIEWS

INTRODUCTION

Longshore and Harbor Workers' Compensation Act

Enacted in 1927, the *Longshore and Harbor Workers' Compensation Act* (LHWCA) provides compensation for on-the-job injuries to private-sector maritime workers engaged in longshore (the loading and unloading of ships), harbor (repairing, building, and deconstructing ships), or other maritime occupations on or adjacent to the navigable waters of the United States.¹ In 2019, \$1.748 billion in LHWCA workers' compensation benefits were paid to beneficiaries.²

The Department of Labor's Office of Workers' Compensation Programs (OWCP) administers the longshore program, although private insurers or self-insured firms largely cover the program's workers' compensation benefits.³ The LHWCA requires employers to purchase coverage for their employees' medical and disability benefits, as well as for vocational rehabilitation should an employee be injured or become ill in the course of employment.⁴ In addition, if a covered worker's injury results in death, the LHWCA provides for a payment to help offset funeral expenses and a monetary wage-replacement benefit to the surviving spouse and any dependents.⁵ OWCP determines benefit eligibility and the amount of compensation.⁶

H.R. 3114

H.R. 3114, the *Longshore and Harbor Workers' COVID-19 Compensation Act of 2022*, establishes a conclusive presumption that all maritime workers covered under the LHWCA who contract COVID-19 contracted the virus through work and are eligible for medical benefits, lost wages, and survivor benefits. Further, the conclusive presumption applies to individuals working in covered employment at any time between January 27, 2020, and January 27, 2024, who were diagnosed with COVID-19 or ordered not to work by their employer or a federal, state, or local agency because of risk of exposure to persons diagnosed with COVID-19 in the workplace during that period. The Congressional Budget Office (CBO) estimates H.R. 3114 would apply to approximately 200,000

¹ 33 U.S.C. § 903.

² NAT'L ACAD. OF SOC. INS., WORKERS' COMPENSATION: BENEFITS, COVERAGE, AND COSTS (Oct. 2021), <https://www.nasi.org/wp-content/uploads/2021/10/2021-Workers-Compensation-Report-2019-Data.pdf>.

³ 33 U.S.C. § 904(a).

⁴ 33 U.S.C. § 908.

⁵ 33 U.S.C. § 909(a)-(c).

⁶ CONG. RES. SERV., THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT (LHWCA): OVERVIEW OF WORKERS' COMPENSATION FOR CERTAIN PRIVATE-SECTOR MARITIME WORKERS (Mar. 16, 2021), <https://www.crs.gov/Reports/R41506?source=search&guid=cf2d377f535d4c00881f129efe8bf912&index=0>.

maritime workers.⁷ Self-insured employers and insurance carriers in the program will be reimbursed from the U.S. Treasury Employees' Compensation Fund for payments made under H.R. 3114, so long as the employer has complied with all applicable safety and health guidelines related to the prevention of occupational exposure to COVID-19.

H.R. 3114 is another attempt by Democrats to use the pandemic as an excuse to expand the role of the federal government. The conclusive presumption created by the legislation is extremely broad, conclusively presuming that maritime workers who contract COVID-19 contracted the virus through work-related activities. H.R. 3114 would thereby create new and unreasonable financial burdens on private maritime employers, threatening our nation's supply chain.

This legislation is also inappropriate because individuals in maritime employment, who primarily work outside, are not at increased risk of contracting COVID-19 at work as compared to the general population. Further, H.R. 3114 perverts the intent of the LHWCA as a workers' compensation program by turning it into a federal benefits program not based on workplace injury or illness or into a guaranteed income replacement program.

It is no surprise that Democrats are moving this ill-advised legislation, which is supported by the International Longshore and Warehouse Union and other unions, during ongoing labor negotiations between the West Coast ports and dockworkers.⁸ Time and time again, Democrats have put their thumb on the scale in support of their Big Labor allies. For the sake of the nation's supply chain and taxpayers, Congress should reject this approach and preserve the integrity of the LHWCA.

H.R. 3114 CREATES UNREASONABLE COSTS FOR PRIVATE EMPLOYERS
AND TAXPAYERS

H.R. 3114 would create new and unreasonable financial burdens on taxpayers and private companies in maritime services, which could cripple an industry already struggling with worker shortages and supply chain issues. The broad, conclusive presumption in the legislation would require that workers' compensation benefits are covered for maritime workers who may have contracted COVID-19 outside of work. Workers are also covered who were exposed to COVID-19 and ordered to remain home by a public health official even though they did not test positive for the virus.

Official cost estimates on the legislation's broad, conclusive presumption, while already high, are understated. CBO assumes that employers and the employers' insurance carriers would be reimbursed for the cost of the benefits and estimates that enacting H.R. 3114 would cost taxpayers \$336 million.⁹

However, this CBO score only accounts for costs to the federal government and does not account for the increased costs for employers and workers' compensation insurance plans. These include

⁷ CBO, COST ESTIMATE (Aug. 29, 2022), <https://www.cbo.gov/system/files/2022-08/hr3114.pdf>.

⁸ Eleanor Mueller, *West Coast port labor talks carry high stakes for economy, midterms*, POLITICO, Apr. 11, 2022, <https://www.politico.com/news/2022/04/11/west-coast-port-labor-talks-economy-midterms-00023058>.

⁹ CBO, *supra* note 7.

administrative costs and costs associated with the potential that federal appropriations will not provide for timely and complete reimbursement. The maritime industry projects that the cost of H.R. 3114 to the maritime industry would be approximately \$785 million—on top of the costs to taxpayers.¹⁰ H.R. 3114 creates unnecessary costs to private employers and the federal government for workers who are already eligible for a range of private-sector and LHWCA benefits.

Moreover, H.R. 3114 will hurt the nation’s supply chain. According to a letter from a broad group of employers including the National Association of Waterfront Employers, increased claims costs that are not directly reimbursed under H.R. 3114 would lead to increased costs of maritime services.¹¹ The last thing that Congress should do is worsen the nation’s supply chain crisis.

MARITIME IS NOT A HIGH-RISK INDUSTRY FOR COVID–19

While Democrats claim that H.R. 3114 is necessary, they offer little evidence that maritime workers are more likely to contract COVID–19 on the job than other workers or that they are at an increased risk of contracting the virus than the public. In fact, the Occupational Safety and Health Administration (OSHA) does not identify maritime workplaces as higher risk for COVID–19.¹² Moreover, many maritime employees work in outdoor environments, which the Centers for Disease Control and Prevention (CDC) has stated is less risky for transmission.¹³

Further, COVID–19 is highly transmissible. Maritime workers could contract the virus in virtually any setting. Yet, under H.R. 3114, maritime workers are conclusively presumed to have contracted the virus at work, even if the transmission in fact occurred away from work such as at home or at a restaurant—which is both possible and statistically more likely.

Placing the full burden of all maritime COVID–19 cases on the shoulders of employers and taxpayers is unwarranted. In *National Federation of Independent Business v. OSHA*, the Supreme Court ruled that COVID–19 is not an occupational hazard in most workplaces. In limiting OSHA’s power to implement a sweeping public health measure as an emergency workplace safety regulation, the Court observed the following:

Although COVID–19 is a risk that occurs in many workplaces, it is not an occupational hazard in most. COVID–19 can and does spread at home, in schools, during sporting events, and everywhere else that people gather. That kind of universal risk is no different from the day-to-day dangers that all face from crime, air pollution, or any number of communicable diseases. Permitting OSHA to regulate the hazards of daily life—simply because most Americans have jobs and face those same risks while on the

¹⁰Letter from Am. Prop. Cas. Ins. Ass’n et al. to Rep. Bobby Scott et al. (Mar. 14, 2022).

¹¹*Id.*

¹²According to OSHA, higher-risk workplaces include health care; manufacturing; meat, seafood, and poultry processing; high-volume retail and grocery; and agricultural processing settings. OSHA, PROTECTING WORKERS: GUIDANCE ON MITIGATING AND PREVENTING THE SPREAD OF COVID–19 IN THE WORKPLACE, <https://www.osha.gov/coronavirus/safework#appendix>.

¹³CDC, SCIENTIFIC BRIEF: SARS–COV–2 TRANSMISSION, https://www.cdc.gov/coronavirus/2019-ncov/science/science-briefs/sars-cov-2-transmission.html#anchor_1619805200745.

clock—would significantly expand OSHA’s regulatory authority without clear congressional authorization.¹⁴

There is no data indicating that maritime workers are more susceptible to the spread of COVID–19 in their workplaces. Creating a conclusive presumption is not justified and is inconsistent with the basic tenets of workers’ compensation programs.

H.R. 3114 INAPPROPRIATELY PERVERTS THE INTENT OF A WORKERS’
COMPENSATION PROGRAM

The purpose of the Longshore Program is to provide compensation for on-the-job injuries to private-sector maritime workers, including medical and disability benefits, and for vocational rehabilitation. According to the Congressional Research Service, the LHWCA is a workers’ compensation system and not a federal benefits program unrelated to workplace injury or illness.¹⁵ H.R. 3114, however, changes the Longshore Program from one that provides benefits to injured workers to a system that guarantees wage replacement for workers regardless of whether they sustained an injury at work.

In fact, this change would be unprecedented: since the LHWCA was enacted in 1927, there has never been a specific injury or illness that is presumed to be covered. Claims have always been evaluated on a case-by-case basis depending on the medical and supporting evidence available. H.R. 3114 would corrupt the long-standing process and remove necessary oversight.

CLAIMS THAT STATES HAVE SIMILAR PRESUMPTIONS ARE INACCURATE

Advocates for H.R. 3114 claim it is needed because many states have enacted COVID–19 presumptions for private sector employees covered by state workers’ compensation programs. They say it is unfair that maritime workers are not eligible for the same benefits merely because they are covered by the LHWCA instead of state programs.¹⁶

However, these assertions ignore the types of workers that are covered under these presumptions and the length of coverage. According to the National Conference of State Legislatures, while 28 states and Puerto Rico have taken action to extend workers’ compensation coverage to include COVID–19 as a work-related illness, these bills vary greatly in their scope of coverage and presumption of eligibility.¹⁷ For instance, Arkansas’ law defines COVID–19 as an occupational disease that could be covered by its workers’ compensation program, but the law does not create a presumption of coverage. Utah and Wisconsin limit the coverage to first responders and health care workers. As of June 1, 2022, only seven states still had a COVID–19 or infectious disease presumption in effect, while

¹⁴ 142 S.Ct. 661, 665 (2022).

¹⁵ CONG. RES. SERV., *supra* note 6.

¹⁶ Press Release, Educ. Lab. Comm., Scott, Mrvan Introduce Bill to Secure Support for Longshore and Harbor Workers Who Contract COVID–19 (May 12, 2021), <https://edlabor.house.gov/media/press-releases/scott-mrvan-introduce-bill-to-secure-support-for-longshore-and-harbor-workers-who-contract-covid-19>.

¹⁷ JOSH CUNNINGHAM, NAT’L CONF. OF STATE LEG., COVID–19: WORKERS’ COMPENSATION (Jan. 24, 2022), <https://www.ncsl.org/research/labor-and-employment/covid-19-workers-compensation.aspx#:~:text=All%20workers%20whose%20jobs%20make,process%20of%20filing%20a%20claim.>

maritime workers under H.R. 3114 would be covered through January 27, 2024.¹⁸

Further, most state law presumptions are rebuttable, meaning the employer has the opportunity to rebut the claim. In contrast, H.R. 3114 creates a conclusive presumption of eligibility that the employer cannot rebut.

THE LHWCA ALREADY PROVIDES A REBUTTABLE PRESUMPTION OF ELIGIBILITY FOR INJURIES AND ILLNESSES BUT NOT A CONCLUSIVE PRESUMPTION

H.R. 3114 is unnecessary because the LHWCA already provides a rebuttable presumption that an injury or illness is work related, including COVID-19 claims.¹⁹ After an employee makes a prima facie case, the LHWCA provides a presumption establishing that the injury or illness is work related “in the absence of substantial evidence to the contrary.”²⁰ An employer or carrier then has the burden to refute the employee’s claim. Because there is already a rebuttable presumption under the LHWCA in which the burden rests on the employer to refute the claim, including for claims related to COVID-19, it is not necessary and would be irresponsible to create a conclusive presumption in which COVID-19 claims are automatically successful, as H.R. 3114 does.

H.R. 3114 IS UNNECESSARY

This legislation is unnecessary because most workers covered under the LHWCA are private sector workers who already have access to disability benefits. Should a diagnosis of COVID-19 prevent an employee from working, many of these employees are entitled to employer-provided sick leave.²¹ For much of the coverage period in H.R. 3114, private sector employers are required to provide existing sick leave and emergency paid sick leave under the Families First Coronavirus Response Act of 2020.²²

Additionally, many of these workers have access to medical treatment for COVID-19 through their employer-sponsored health insurance coverage. Further, in many cases, employees who have contracted COVID-19 and would be eligible for benefits under H.R. 3114 have already been compensated from employer-sponsored benefits or through the regular claims process under FECA. Therefore, the retroactive, conclusive presumption under H.R. 3114 is unnecessary.

REPUBLICAN AMENDMENT

Rep. Fred Keller (R-PA) offered a substitute amendment to ensure H.R. 3114 does not burden job creators and taxpayers with unnecessary costs. It instructs the Government Accountability Of-

¹⁸ LAURA KERSEY, NAT’L COUNCIL ON COMPENSATION INS., COVID-19 WORKERS COMPENSATION PRESUMPTIONS UPDATE—FIVE THINGS YOU NEED TO KNOW (June 20, 2022), <https://www.ncci.com/Articles/Pages/Insights-COVID-19-WorkersComp-Presumptions-Update-5-Things-to-Know.aspx>.

¹⁹ OWCP, CLAIMS UNDER THE LONGSHORE AND HARBOR WORKERS’ COMPENSATION ACT DUE TO COVID-19: FAQ’S FOR EMPLOYER/CARRIERS, <https://www.dol.gov/agencies/owcp/dlhwc/Covid-19-Employers-and-Carriers>.

²⁰ 33 U.S.C. § 920(a).

²¹ Eleanor Mueller, *supra* note 7.

²² Pub. L. No. 116-127, Div. E.

ficie (GAO) to study the medical benefits and treatments of maritime workers who contract COVID-19. Congress needs to have a better understanding of how this program is working before changing the law, and the last time GAO examined the Longshore Program was 22 years ago. The Committee should be doing everything in its power to ensure that business owners can recover from forced shutdowns during the pandemic instead of placing even more regulations and red tape on them. The amendment would increase our understanding of what workers need without harming the job creators on which our economy and supply chains rely. Unfortunately, Committee Democrats rejected this amendment along party lines.

CONCLUSION

H.R. 3114 is another example of Democrats pushing the forever pandemic mindset to enact progressive policies. Under this legislation, when the public health emergency declaration is no longer in effect, workers will still be able to take advantage of the bill's provisions. Democrats fail to provide evidence that the extremely broad, conclusive presumption in H.R. 3114 is necessary or that longshore workers are more likely to contract COVID-19 on the job than other workers. Big Labor's support for this legislation is no coincidence, and the last thing this Committee should do is involve itself in ongoing labor negotiations at the West Coast ports. H.R. 3114 would establish a precedent at odds with the U.S. workers' compensation system which could be abused in the future to expand government programs unnecessarily and hurt job creators and taxpayers.

VIRGINIA FOXX,
Ranking Member.
 JOE WILSON.
 GLENN "GT" THOMPSON.
 TIM WALBERG.
 GLENN GROTHMAN.
 RICK W. ALLEN.
 JIM BANKS.
 JAMES COMER.
 RUSS FULCHER.
 FRED KELLER.
 MARIANNETTE MILLER MEEKS,
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 BOB GOOD.
 LISA C. McCLAIN.
 DIANA HARSHBARGER.
 MARY E. MILLER.
 SCOTT FITZGERALD.
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 JOE SEMPOLINSKI.