

111TH CONGRESS
2^D SESSION

S. _____

To establish an advisory board to examine exposures to environmental hazards during military service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. AKAKA introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To establish an advisory board to examine exposures to environmental hazards during military service, and for other purposes.

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 “Examination of Expo-
5 sures to Environmental Hazards During Military Service
6 Act of 2010”.

7 **SEC. 2. DEFINITIONS.**

8 (a) **MILITARY EXPOSURE.**—

9 (1) **IN GENERAL.**—In this Act, the term “mili-
10 tary exposure” means the exposure of an individual

1 to an environmental hazard on a military installa-
2 tion.

3 (2) EXCEPTION.—Such term does not include
4 the exposure of an individual to an environmental
5 hazard at a military installation during a period in
6 which imminent danger pay is authorized to be paid
7 the individual under section 310 of title 37, United
8 States Code.

9 (b) MILITARY EXPOSURE CLAIM.—In this Act, the
10 term “military exposure claim” means a formal claim of
11 a military exposure submitted by or on behalf of an indi-
12 vidual.

13 **SEC. 3. ADVISORY BOARD ON MILITARY EXPOSURES.**

14 (a) ESTABLISHMENT.—The Secretary of Veterans
15 Affairs and the Secretary of Defense shall jointly establish
16 an advisory board (to be known as the “Advisory Board
17 on Military Exposures”) to provide expert advice to the
18 Department of Veterans Affairs and the Department of
19 Defense to matters relating to exposures of current and
20 former members of the Armed Forces and their depend-
21 ants to environmental hazards on military installations.

22 (b) COMPOSITION.—The Advisory Board shall consist
23 of 7 members, appointed by the President, in consultation
24 with the Secretary of Veterans Affairs and the Secretary
25 of Defense, of whom—

1 (1) two members shall be members of military
2 service organizations or organizations recognized by
3 the Secretary of Veterans Affairs under section 5902
4 of title 38, United States Code (commonly referred
5 to as “veterans service organizations”);

6 (2) two members shall be officials of appro-
7 priate Federal agencies, other than the Department
8 of Veterans Affairs or the Department of Defense,
9 with experience in environmental exposure or envi-
10 ronmental exposure assessments, health monitoring,
11 or other relevant fields; and

12 (3) three members shall be scientists with back-
13 grounds in environmental exposure or environmental
14 exposure assessments, health monitoring, or other
15 relevant fields.

16 (c) APPOINTMENTS.—

17 (1) DEADLINE.—All members of the Advisory
18 Board shall be appointed not later than 90 days
19 after the date of the enactment of this Act.

20 (2) DURATION.—Members of the Advisory
21 Board shall serve for 3-year terms, subject to re-
22 newal, but not longer than 6 years in total.

23 (3) VACANCIES.—A vacancy in the Advisory
24 Board shall be filled in the manner in which the
25 original appointment was made.

1 (d) CHAIRPERSON.—The members of the Advisory
2 Board shall select from among its membership a Chair-
3 person to serve a 1-year term.

4 (e) QUORUM.—A majority of the members of the
5 Board shall constitute a quorum.

6 (f) MEETINGS.—The Board shall meet at the call of
7 the Chairperson.

8 (g) COMPENSATION.—

9 (1) OFFICERS OF THE FEDERAL GOVERN-
10 MENT.—

11 (A) IN GENERAL.—A member of the Board
12 who is an employee of the Federal Government
13 may not receive additional pay, allowances, or
14 benefits by reason of the member's service on
15 the Board.

16 (B) TRAVEL EXPENSES.—Each such mem-
17 ber of the Board shall receive travel expenses,
18 including per diem in lieu of subsistence, in ac-
19 cordance with applicable provisions under sub-
20 chapter I of chapter 57 of title 5, United States
21 Code.

22 (2) OTHER MEMBERS.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), a member of the Advisory

1 Board who is not an employee of the Federal
2 Government—

3 (i) shall be paid compensation out of
4 funds made available for the purposes of
5 this title at the daily equivalent of the
6 highest rate payable under section 5332 of
7 title 5, United States Code, for each day
8 (including travel time) during which the
9 member is engaged in the actual perform-
10 ance of duties as a member of the Advisory
11 Board; and

12 (ii) while away from the member's
13 home or regular place of business on nec-
14 essary travel in the actual performance of
15 duties as a member of the Advisory Board,
16 shall be paid per diem, travel, and trans-
17 portation expenses in the same manner as
18 is provided under subchapter I of chapter
19 57 of title 5, United States Code.

20 (B) LIMITATION.—A member of the Advi-
21 sory Board may not be paid compensation
22 under subparagraph (A)(ii) for more than 90
23 days in any calendar year.

24 (h) STAFF.—

1 (1) IN GENERAL.—The Chairperson of the Ad-
2 visory Board may, without regard to the civil service
3 laws and regulations, appoint an executive director
4 and such other personnel as may be necessary to en-
5 able the Advisory Board to perform its duties. The
6 appointment of an executive director shall be subject
7 to approval by the Advisory Board.

8 (2) COMPENSATION.—The Chairperson of the
9 Advisory Board may fix the compensation of the ex-
10 ecutive director and other personnel without regard
11 to the provisions of chapter 51 and subchapter III
12 of chapter 53 of title 5, United States Code, relating
13 to classification of positions and General Schedule
14 pay rates, except that the rate of pay for the execu-
15 tive director and other personnel may not exceed the
16 rate payable for level V of the Executive Schedule
17 under section 5316 of such title.

18 (i) DETAIL OF GOVERNMENT EMPLOYEES.—Upon
19 request of the Chairperson of the Advisory Board, the
20 head of any Federal department or agency may detail, on
21 a nonreimbursable basis, any personnel of that depart-
22 ment or agency to the Advisory Board to assist it in car-
23 rying out its duties.

1 **SEC. 4. CONSIDERATION OF MILITARY EXPOSURES.**

2 (a) IN GENERAL.—The purpose of the Advisory
3 Board is to consider and study cases of exposure of cur-
4 rent and former members of the Armed forces and family
5 members to potential environmental hazards at military
6 installations. The Advisory Board shall evaluate military
7 exposure claims that are submitted to the Advisory Board
8 by veterans, veterans advocacy groups, and officials of the
9 Department of Veterans Affairs and the Department of
10 Defense with responsibility or experience monitoring the
11 health of current and former members of the Armed
12 Forces.

13 (b) CONSIDERATION OF EXPOSURE CLAIMS.—Not
14 later than 180 days after receiving a military exposure
15 claim, the Advisory Board shall consider the claim and
16 take one of the following actions:

17 (1) If the Advisory Board determines that fur-
18 ther consideration of the military exposure claim is
19 necessary to adequately assess the extent of expo-
20 sure, the Advisory Board shall convene a science re-
21 view panel under subsection (c) to make such assess-
22 ment and report its findings to the Advisory Board.

23 (2) If the Advisory Board determines that the
24 extent of exposure is insufficient to warrant further
25 consideration of the claim, the Advisory Board shall
26 make a recommendation of such finding to the Sec-

1 certain health care benefits, including ben-
2 efits **【under the TRICARE program】** to
3 the same extent and on the same terms
4 and conditions as dependants of members
5 of the uniformed services who are entitled
6 to retainer or retired pay or equivalent pay
7 for retirement for physical disability, or fi-
8 nancial compensation.

9 (B) Information on cost and attributable
10 exposure.

11 (c) SCIENCE ADVISORY PANELS.—

12 (1) ESTABLISHMENT.—The Advisory Board
13 may convene a science advisory panel to assist in the
14 consideration of a military exposure claim under this
15 section.

16 (2) COMPOSITION.—A science advisory panel
17 convened under this subsection shall consist of 7 sci-
18 entists with backgrounds in environmental exposure
19 or environmental exposure assessments, health moni-
20 toring, or other relevant fields.

21 (3) CHAIRPERSON.—The Chairperson of the
22 Advisory Board shall select from among the mem-
23 bership of a science advisory panel an individual to
24 serve as Chairperson of the panel. The individual so

1 selected shall serve a 1-year term as Chairperson of
2 the panel.

3 (4) CONSIDERATION OF MILITARY EXPOSURE
4 CLAIMS.—Not later than 180 days after requested
5 by the Advisory Board to review a military exposure
6 claim, a science advisory panel shall submit a report
7 to the Advisory Board with one of the following rec-
8 ommendations:

9 (A) A recommendation that there is insuf-
10 ficient exposure to warrant further consider-
11 ation of the claim.

12 (B) A recommendation that further study
13 of the claim is necessary, to be carried out by
14 the science advisory panel in coordination with
15 the Advisory Board.

16 (C) A recommendation that, during the
17 time period covered by such claim, members of
18 the Armed Forces and family members were ex-
19 posed to a sufficient risk of exposure to envi-
20 ronmental hazards to warrant compensation.

21 (d) SUBPOENA AUTHORITY.—The Advisory Board
22 and each science advisory panel convened by the Advisory
23 Board under subsection (c) are authorized to require by
24 subpoena the attendance and testimony of witnesses nec-

1 essary to consider military exposure cases under this sec-
2 tion.

3 (e) COOPERATION OF FEDERAL AGENCIES.—The
4 head of each relevant Federal agency, including the Ad-
5 ministrators of the Environmental Protection Agency, shall
6 cooperate fully with the Advisory Board and each science
7 advisory panel convened by the Advisory Board under sub-
8 section (c) for purposes of considering military exposure
9 cases under this section.

10 (f) INITIAL CASES.—The Advisory Board shall con-
11 sider military exposure claims related to Camp Lejeune,
12 North Carolina, and Atsugi Naval Air Station, Japan, as
13 the first two cases considered under this section.

14 (g) PERMANENT ADVISORY COMMITTEE.—Section 14
15 of the Federal Advisory Committee act (5 U.S.C. App.)
16 shall not apply to the Advisory Board.

17 **SEC. 5. AUTHORITY TO PROVIDE CERTAIN HEALTH CARE**
18 **BENEFITS TO INDIVIDUALS SUBJECTED TO**
19 **MILITARY EXPOSURES.**

20 Under joint regulations to be prescribed by the Sec-
21 retary of Defense and the Secretary of Veterans Affairs,
22 the Secretary of Defense may provide members or former
23 members of the Armed Forces, and their dependents,
24 health care benefits **【**under the TRICARE program**】** to
25 members of the Armed Forces, and their dependents, who

1 were exposed to environmental hazards at military instal-
2 lations to the same extent, and on the same terms and
3 conditions, as members of the uniformed services who are
4 entitled to retired or retainer pay or equivalent pay for
5 retirement for physical disability and their dependants.

6 **SEC. 6. LIST OF INDIVIDUALS EXPOSED TO ENVIRON-**
7 **MENTAL HAZARDS AT CAMP LEJEUNE,**
8 **NORTH CAROLINA.**

9 (a) IN GENERAL.—Not later than 90 days after the
10 date of the enactment of this Act, the Secretary of De-
11 fense, in coordination with the Secretary of Veterans Af-
12 fairs and after consultation with the Agency for Toxic
13 Substances and Disease Registry, shall compile a list of
14 individuals exposed to environmental hazards at Camp
15 Lejeune, North Carolina, during the period, as determined
16 by the Secretaries, in which the water at Camp Lejeune
17 was contaminated with volatile organic compounds, includ-
18 ing known and probable human carcinogens.

19 (b) ELIGIBILITY FOR COMPENSATION.—Individuals
20 included on the list compiled under subsection (a) shall
21 be immediately eligible for compensation as follows:

22 (1) Dependents shall be eligible for hospital
23 care, medical services, and nursing home care under
24 the TRICARE program for any condition, or any
25 disability that is associated with such condition, that

1 is associated with exposure to the contaminants in
2 the water at Camp Lejeune.

3 (2) Current and former members of the Armed
4 Forces shall be eligible to receive health care bene-
5 fits **【under the TRICARE program】** to the same ex-
6 tent and on the same terms and conditions as mem-
7 bers of the uniformed services who are entitled to re-
8 tired or retainer pay or equivalent pay for retirement
9 for physical disability.

10 (c) SUNSET.—Eligibility for benefits under this sec-
11 tion shall terminate on the date that is 5 years after the
12 date of the enactment of this Act.

13 **SEC. 7. REGULATIONS.**

14 The Secretary of Defense and the Secretary of Vet-
15 erans Affairs shall jointly prescribe regulations to carry
16 out the provisions of this Act, including guidelines regard-
17 ing health conditions and symptoms that may be attrib-
18 uted to military exposures.

19 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated such sums
21 as may be necessary to carry out this Act.