

111TH CONGRESS  
2D SESSION

# S. 3224

To amend the Radiation Exposure Compensation Act to improve compensation for workers involved in uranium mining, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 19, 2010

Mr. UDALL of New Mexico (for himself, Mr. BINGAMAN, Mr. CRAPO, Mr. UDALL of Colorado, Mr. RISCH, and Mr. BENNET) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Radiation Exposure Compensation Act to improve compensation for workers involved in uranium mining, 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 “Radiation Exposure  
5 Compensation Act Amendments of 2010”.

6 **SEC. 2. REFERENCES.**

7 Except as otherwise specifically provided, whenever in  
8 this Act an amendment or repeal is expressed in terms  
9 of an amendment to or repeal of a section or other provi-

1 sion of law, the reference shall be considered to be made  
2 to a section or other provision of the Radiation Exposure  
3 Compensation Act (Public Law 101–426; 42 U.S.C. 2210  
4 note).

5 **SEC. 3. EXTENSION OF FUND.**

6 Section 3(d) is amended—

7 (1) by striking the first sentence and inserting  
8 “The Fund shall terminate 19 years after the date  
9 of the enactment of the Radiation Exposure Com-  
10 pensation Act Amendments of 2010.”; and

11 (2) by striking “22-year” and inserting “19-  
12 year”.

13 **SEC. 4. CLAIMS RELATING TO ATMOSPHERIC TESTING.**

14 (a) LEUKEMIA CLAIMS RELATING TO TRINITY TEST  
15 IN NEW MEXICO AND TESTS IN THE PACIFIC.—Section  
16 4(a)(1)(A) is amended—

17 (1) in clause (i)—

18 (A) in subclause (II)—

19 (i) by striking “in the affected area”  
20 and inserting “in an affected area”; and

21 (ii) by striking “or” after the semi-  
22 colon;

23 (B) by redesignating subclause (III) as  
24 subclause (V); and

1 (C) by inserting after subclause (II) the  
 2 following:

3 “(III) was physically present in  
 4 an affected area for the period begin-  
 5 ning on June 30, 1945, and ending on  
 6 July 31, 1945; or

7 “(IV) was physically present in  
 8 an affected area—

9 “(aa) for a period of at least  
 10 1 year during the period begin-  
 11 ning on June 30, 1946, and end-  
 12 ing on August 19, 1958; or

13 “(bb) for the period begin-  
 14 ning on April 25, 1962, and end-  
 15 ing on November 5, 1962; or”;

16 (2) in clause (ii)(I), by striking “physical pres-  
 17 ence described in subclause (I) or (II) of clause (i)  
 18 or onsite participation described in clause (i)(III)”  
 19 and inserting “physical presence described in sub-  
 20 clause (I), (II), (III), or (IV) of clause (i) or onsite  
 21 participation described in clause (i)(V)”.

22 (b) AMOUNTS FOR CLAIMS RELATED TO LEU-  
 23 KEMIA.—Section 4(a)(1) is amended—

24 (1) in subparagraph (A) by striking “an  
 25 amount” and inserting “the amount”; and

1           (2) by striking subparagraph (B) and inserting  
2           the following:

3                   “(B) AMOUNT.—If the conditions de-  
4                   scribed in subparagraph (C) are met, an indi-  
5                   vidual who is described in subparagraph (A)(i)  
6                   shall receive \$150,000.”.

7           (c) SPECIFIED DISEASES CLAIMS RELATING TO  
8           TRINITY TEST IN NEW MEXICO AND TESTS IN THE PA-  
9           CIFIC.—Section 4(a)(2) is amended—

10           (1) in subparagraph (A), by striking “in the af-  
11           fected area” and inserting “in an affected area”;

12           (2) in subparagraph (B)—

13                   (A) by striking “in the affected area” and  
14                   inserting “in an affected area”; and

15                   (B) by striking “or” at the end;

16           (3) by redesignating subparagraph (C) as sub-  
17           paragraph (E); and

18           (4) by inserting after subparagraph (B) the fol-  
19           lowing:

20                   “(C) was physically present in an affected  
21                   area for the period beginning on June 30,  
22                   1945, and ending on July 31, 1945;

23                   “(D) was physically present in an affected  
24                   area—

1                   “(i) for a period of at least 2 years  
2                   during the period beginning on June 30,  
3                   1946, and ending on August 19, 1958; or  
4                   “(ii) for the period beginning on April  
5                   25, 1962, and ending on November 5,  
6                   1962; or”.

7           (d) AMOUNTS FOR CLAIMS RELATED TO SPECIFIED  
8 DISEASES.—Section 4(a)(2) is amended in the matter fol-  
9 lowing subparagraph (D) (as redesignated by subsection  
10 (c) of this section) by striking “\$50,000 (in the case of  
11 an individual described in subparagraph (A) or (B)) or  
12 \$75,000 (in the case of an individual described in subpara-  
13 graph (C)),” and inserting “\$150,000”.

14           (e) MEDICAL BENEFITS.—Section 4(a) is amended  
15 by adding at the end the following:

16                   “(5) MEDICAL BENEFITS.—An individual re-  
17                   ceiving a payment under this section shall be eligible  
18                   to receive medical benefits in the same manner and  
19                   to the same extent as an individual eligible to receive  
20                   medical benefits under section 3629 of the Energy  
21                   Employees Occupational Illness Compensation Pro-  
22                   gram Act (as enacted into law by Public Law 106-  
23                   398; 114 Stat. 165A-507).”.

24           (f) DOWNWIND STATES.—Section 4(b)(1) is amended  
25 to read as follows:

1 “(1) ‘affected area’ means—

2 “(A) except as provided under subpara-  
3 graphs (B) and (C), Arizona, Colorado, Idaho,  
4 Montana, Nevada, New Mexico, and Utah;

5 “(B) with respect to a claim by an indi-  
6 vidual under subsection (a)(1)(A)(i)(III) or  
7 (2)(C), only New Mexico; and

8 “(C) with respect to a claim by an indi-  
9 vidual under subsection (a)(1)(A)(i)(IV) or  
10 (2)(D), only Guam.”.

11 **SEC. 5. CLAIMS RELATING TO URANIUM MINING.**

12 (a) EMPLOYEES OF MINES AND MILLS.—Section  
13 5(a)(1)(A)(i) is amended—

14 (1) by inserting “(I)” after “(i)”;

15 (2) by striking “December 31, 1971; and” and  
16 inserting “December 31, 1990; or”; and

17 (3) by adding at the end the following:

18 “(II) was employed as a core driller in  
19 a State referred to in subclause (I) during  
20 the period described in such subclause;  
21 and”.

22 (b) MINERS.—Section 5(a)(1)(A)(ii)(I) is amended  
23 by inserting “or renal cancer or any other chronic renal  
24 disease, including nephritis and kidney tubal tissue in-  
25 jury” after “nonmalignant respiratory disease”.

1 (c) MILLERS, CORE DRILLERS, AND ORE TRANS-  
 2 PORTERS.—Section 5(a)(1)(A)(ii)(II) is amended—

3 (1) by inserting “, core driller,” after “was a  
 4 miller”;

5 (2) by inserting “(I)” after “ clause (i)”; and

6 (3) by striking all that follows “nonmalignant  
 7 respiratory disease” and inserting “or renal cancer  
 8 or any other chronic renal disease, including nephri-  
 9 tis and kidney tubal tissue injury; or”.

10 (d) COMBINED WORK HISTORIES.—Section  
 11 5(a)(1)(A)(ii) is further amended—

12 (1) by striking “or” at the end of subclause (I);

13 and

14 (2) by adding at the end the following:

15 “(III)(aa) does not meet the con-  
 16 ditions of subclause (I) or (II);

17 “(bb) worked, during the period  
 18 described in clause (i)(I), in two or  
 19 more of the following positions: miner,  
 20 miller, core driller, and ore trans-  
 21 porter;

22 “(cc) meets the requirements of  
 23 paragraph (4) or (5), or both; and

24 “(dd) submits written medical  
 25 documentation that the individual de-

1                   veloped lung cancer or a nonmalignant  
2                   respiratory disease or renal cancer  
3                   or any other chronic renal disease,  
4                   including nephritis and kidney tubal  
5                   tissue injury after exposure to radiation  
6                   through work in one or more of  
7                   the positions referred to in item  
8                   (aa);”.

9           (e) DATES OF OPERATION OF URANIUM MINE.—Section  
10   tion 5(a)(2)(A) is amended by striking “December 31,  
11   1971” and inserting “December 31, 1990”.

12           (f) SPECIAL RULES RELATING TO COMBINED WORK  
13   HISTORIES.—Section 5(a) is amended by adding at the  
14   end the following:

15                   “(4) SPECIAL RULE RELATING TO COMBINED  
16                   WORK HISTORIES FOR INDIVIDUALS WITH AT LEAST  
17                   ONE YEAR OF EXPERIENCE.—An individual meets  
18                   the requirements of this paragraph if the individual  
19                   worked in one or more of the positions referred to  
20                   in paragraph (1)(A)(ii)(III)(bb) for a period of at  
21                   least one year during the period described in paragraph  
22                   (1)(A)(i)(I).

23                   “(5) SPECIAL RULE RELATING TO COMBINED  
24                   WORK HISTORIES FOR MINERS.—An individual  
25                   meets the requirements of this paragraph if the indi-



1       vidual, during the period described in paragraph  
2       (1)(A)(i)(I), worked as a miner and was exposed to  
3       such number of working level months that the Attor-  
4       ney General determines, when combined with the ex-  
5       posure of such individual to radiation through work  
6       as a miller, core driller, or ore transporter during  
7       the period described in paragraph (1)(A)(i)(I), re-  
8       sults in such individual being exposed to a total level  
9       of radiation that is greater or equal to the level of  
10      exposure of an individual described in paragraph  
11      (4).”.

12      (g) DEFINITION OF CORE DRILLER.—Section 5(b) is  
13      amended—

14           (1) by striking “and” at the end of paragraph  
15           (7);

16           (2) by striking the period at the end of para-  
17           graph (8) and inserting “; and”; and

18           (3) by adding at the end the following:

19           “(9) the term ‘core driller’ means any indi-  
20           vidual employed to engage in the act or process of  
21           obtaining cylindrical rock samples of uranium or va-  
22           nadium by means of a borehole drilling machine for  
23           the purpose of mining uranium or vanadium.”.

1 **SEC. 6. EXPANSION OF USE OF AFFIDAVITS IN DETERMINA-**  
2 **TION OF CLAIMS; REGULATIONS.**

3 (a) AFFIDAVITS.—Section 6(b) is amended by adding  
4 at the end the following:

5 “(3) AFFIDAVITS.—

6 “(A) EMPLOYMENT HISTORY.—For pur-  
7 poses of this Act, the Attorney General shall ac-  
8 cept a written affidavit or declaration as evi-  
9 dence to substantiate the employment history of  
10 an individual as a miner, miller, core driller, or  
11 ore transporter if the affidavit—

12 “(i) is provided in addition to other  
13 material that may be used to substantiate  
14 the employment history of the individual;

15 “(ii) attests to the employment history  
16 of the individual;

17 “(iii) is made subject to penalty for  
18 perjury; and

19 “(iv) is made by a person other than  
20 the individual filing the claim.

21 “(B) PHYSICAL PRESENCE IN AFFECTED  
22 AREA.—For purposes of this Act, the Attorney  
23 General shall accept a written affidavit or dec-  
24 laration as evidence to substantiate an individ-  
25 ual’s physical presence in an affected area dur-

1           ing a period described in section 4(a)(1)(A)(i)  
2           or section 4(a)(2) if the affidavit—

3                   “(i) is provided in addition to other  
4                   material that may be used to substantiate  
5                   the individual’s presence in an affected  
6                   area during that time period;

7                   “(ii) attests to the individual’s pres-  
8                   ence in an affected area during that pe-  
9                   riod;

10                  “(iii) is made subject to penalty for  
11                  perjury; and

12                  “(iv) is made by a person other than  
13                  the individual filing the claim.

14                  “(C) PARTICIPATION AT TESTING SITE.—  
15                  For purposes of this Act, the Attorney General  
16                  shall accept a written affidavit or declaration as  
17                  evidence to substantiate an individual’s partici-  
18                  pation onsite in a test involving the atmospheric  
19                  detonation of a nuclear device if the affidavit—

20                   “(i) is provided in addition to other  
21                   material that may be used to substantiate  
22                   the individual’s participation onsite in a  
23                   test involving the atmospheric detonation  
24                   of a nuclear device;

1           “(ii) attests to the individual’s partici-  
2           pation onsite in a test involving the atmos-  
3           pheric detonation of a nuclear device;

4           “(iii) is made subject to penalty for  
5           perjury; and

6           “(iv) is made by a person other than  
7           the individual filing the claim.”.

8           (b) TECHNICAL AND CONFORMING AMENDMENTS.—  
9           Section 6 is amended—

10           (1) in subsection (b)(2)(C), by striking “section  
11           4(a)(2)(C)” and inserting “section 4(a)(2)(E)”;

12           (2) in subsection (c)(2)—

13           (A) in subparagraph (A)—

14           (i) in the first sentence, by striking  
15           “subsection (a)(1), (a)(2)(A), or (a)(2)(B)  
16           of section 4” and inserting “subsection  
17           (a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), or  
18           (a)(2)(D) of section 4”; and

19           (ii) in clause (i), by striking “sub-  
20           section (a)(1), (a)(2)(A), or (a)(2)(B) of  
21           section 4” and inserting “subsection  
22           (a)(1), (a)(2)(A), (a)(2)(B), (a)(2)(C), or  
23           (a)(2)(D) of section 4”; and

1 (B) in subparagraph (B), by striking “sec-  
 2 tion 4(a)(2)(C)” and inserting “section  
 3 4(a)(2)(E)”; and

4 (3) in subsection (e), by striking “subsection  
 5 (a)(1), (a)(2)(A), or (a)(2)(B) of section 4” and in-  
 6 serting “subsection (a)(1), (a)(2)(A), (a)(2)(B), or  
 7 (a)(2)(C) of section 4”.

8 (c) REGULATIONS.—Section 6(k) is amended by add-  
 9 ing at the end the following: “Not later than 180 days  
 10 after the date of enactment of the Radiation Exposure  
 11 Compensation Act Amendments of 2010, the Attorney  
 12 General shall issue revised regulations to carry out this  
 13 Act.”.

14 **SEC. 7. LIMITATION ON CLAIMS.**

15 (a) EXTENSION OF FILING TIME.—Section 8(a) is  
 16 amended—

17 (1) by striking “22 years” and inserting “19  
 18 years”; and

19 (2) by striking “2000” and inserting “2010”.

20 (b) RESUBMITTAL OF CLAIMS.—Section 8(b) is  
 21 amended to read as follows:

22 “(b) RESUBMITTAL OF CLAIMS.—

23 “(1) DENIED CLAIMS.—After the date of enact-  
 24 ment of the Radiation Exposure Compensation Act  
 25 Amendments of 2010, any claimant who has been

1 denied compensation under this Act may resubmit a  
2 claim for consideration by the Attorney General in  
3 accordance with this Act not more than three times.  
4 Any resubmittal made before the date of the enact-  
5 ment of the Radiation Exposure Compensation Act  
6 Amendments of 2010 shall not be applied to the lim-  
7 itation under the preceding sentence.

8 “(2) PREVIOUSLY SUCCESSFUL CLAIMS.—

9 “(A) IN GENERAL.—After the date of en-  
10 actment of the Radiation Exposure Compensa-  
11 tion Act Amendments of 2010, any claimant  
12 who received compensation under this Act may  
13 submit a request to the Attorney General for  
14 additional compensation and benefits. Such re-  
15 quest shall contain—

16 “(i) the claimant’s name, social secu-  
17 rity number, and date of birth;

18 “(ii) the amount of award received  
19 under this Act before the date of enact-  
20 ment of the Radiation Exposure Com-  
21 pensation Act Amendments of 2010;

22 “(iii) any additional benefits and com-  
23 pensation sought through such request;  
24 and

1           “(iv) any additional information re-  
2           quired by the Attorney General.

3           “(B) ADDITIONAL COMPENSATION.—If the  
4           claimant received compensation under this Act  
5           before the date of enactment of the Radiation  
6           Exposure Compensation Act Amendments of  
7           2010 and submits a request under subpara-  
8           graph (A), the Attorney General shall—

9           “(i) pay the claimant the amount that  
10          is equal to any excess of—

11           “(I) the amount the claimant is  
12           eligible to receive under this Act (as  
13           amended by the Radiation Exposure  
14           Compensation Act Amendments of  
15           2010); minus

16           “(II) the aggregate amount paid  
17           to the claimant under this Act before  
18           the date of enactment of the Radi-  
19           ation Exposure Compensation Act  
20           Amendments of 2010; and

21           “(ii) in any case in which the claimant  
22           was compensated under section 4, provide  
23           the claimant with medical benefits under  
24           section 4(a)(5).”.

1 **SEC. 8. ATTORNEY FEES.**

2 Section 9(b)(1) is amended by striking “2 percent”  
3 and inserting “10 percent”.

4 **SEC. 9. GRANT PROGRAM ON EPIDEMIOLOGICAL IMPACTS**  
5 **OF URANIUM MINING AND MILLING.**

6 (a) DEFINITIONS.—In this section—

7 (1) the term “institution of higher education”  
8 has the meaning given under section 101 of the  
9 Higher Education Act of 1965 (20 U.S.C. 1001);

10 (2) the term “program” means the grant pro-  
11 gram established under subsection (b); and

12 (3) the term “Secretary” means the Secretary  
13 of Health and Human Services.

14 (b) ESTABLISHMENT.—The Secretary shall establish  
15 a grant program relating to the epidemiological impacts  
16 of uranium mining and milling. Grants awarded under the  
17 program shall be used for the study of the epidemiological  
18 impacts of uranium mining and milling among non-occu-  
19 pationally exposed individuals, including family members  
20 of uranium miners and millers.

21 (c) ADMINISTRATION.—The Secretary shall admin-  
22 ister the program through the National Institute of Envi-  
23 ronmental Health Sciences.

24 (d) ELIGIBILITY AND APPLICATION.—Any institution  
25 of higher education or nonprofit private entity shall be eli-  
26 gible to apply for a grant. To apply for a grant an eligible



1 institution or entity shall submit to the Secretary an appli-  
2 cation at such time, in such manner, and containing or  
3 accompanied by such information as the Secretary may  
4 reasonably require.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There  
6 are authorized to be appropriated to carry out this section  
7 \$3,000,000 for each of fiscal years 2011 through 2016.

○