

113TH CONGRESS
2D SESSION

S. 2738

To establish in the Department of Veterans Affairs a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the Armed Forces, to establish an advisory board on exposure to toxic substances, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 31, 2014

Mr. BLUMENTHAL (for himself, Mr. MORAN, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To establish in the Department of Veterans Affairs a national center for research on the diagnosis and treatment of health conditions of the descendants of veterans exposed to toxic substances during service in the Armed Forces, to establish an advisory board on exposure to toxic substances, 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 “Toxic Exposure Re-
5 search Act of 2014”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ARMED FORCE.—The term “Armed Force”
4 means the United States Army, Navy, Marine
5 Corps, Air Force, or Coast Guard, including the re-
6 serve components thereof.

7 (2) DESCENDANT.—The term “descendant”
8 means, with respect to an individual, the biological
9 child, grandchild, or great-grandchild of that indi-
10 vidual.

11 (3) TOXIC SUBSTANCE.—The term “toxic sub-
12 stance” shall have the meaning given that term by
13 the Secretary of Veterans Affairs and shall include
14 all substances that have been proven by peer re-
15 viewed scientific research or a preponderance of
16 opinion in the medical community to lead to disabil-
17 ities related to the exposure of an individual to those
18 substances while serving as a member of the Armed
19 Forces.

20 (4) VETERAN.—The term “veteran” has the
21 meaning given that term in section 101 of title 38,
22 United States Code.

1 **SEC. 3. NATIONAL CENTER FOR RESEARCH ON THE DIAG-**
2 **NOSIS AND TREATMENT OF HEALTH CONDI-**
3 **TIONS OF THE DESCENDANTS OF INDIVID-**
4 **UALS EXPOSED TO TOXIC SUBSTANCES DUR-**
5 **ING SERVICE IN THE ARMED FORCES.**

6 (a) NATIONAL CENTER.—

7 (1) IN GENERAL.—Not later than one year
8 after the date of the enactment of this Act, the Sec-
9 retary of Veterans Affairs shall, in consultation with
10 the advisory board established under section 4, select
11 a medical center of the Department of Veterans Af-
12 fairs to serve as the national center for research on
13 the diagnosis and treatment of health conditions of
14 descendants of individuals exposed to toxic sub-
15 stances while serving as members of the Armed
16 Forces that are related to that exposure (in this sec-
17 tion referred to as the “National Center”).

18 (2) CRITERIA FOR SELECTION.—The National
19 Center shall be selected under paragraph (1) from
20 among medical centers of the Department with ex-
21 pertise in diagnosing and treating functional and
22 structural birth defects and caring for individuals
23 exposed to toxic substances, or that are affiliated
24 with research medical centers or teaching hospitals
25 with such expertise, that seek to be selected under
26 this section.

1 (b) RESEARCH.—

2 (1) IN GENERAL.—The National Center may
3 conduct research on the diagnosis and treatment of
4 health conditions of descendants of individuals ex-
5 posed to toxic substances while serving as members
6 of the Armed Forces that are related to that expo-
7 sure.

8 (2) STUDIES.—In conducting research under
9 paragraph (1), the National Center shall study indi-
10 viduals, at the election of the individual, for whom
11 the Secretary has made one of the following deter-
12 minations:

13 (A)(i) The individual is a descendant of an
14 individual who served as a member of the
15 Armed Forces;

16 (ii) such member was exposed to a toxic
17 substance while serving as a member of the
18 Armed Forces; and

19 (iii) such descendant is afflicted with a
20 health condition that is determined by the advi-
21 sory board established in section 4 to be a
22 health condition that results from the exposure
23 of such member to such toxic substance.

1 (B)(i) The individual was exposed to a
2 toxic substance while serving as a member of
3 the Armed Forces; and

4 (ii) such individual is afflicted with a
5 health condition that is determined by the advi-
6 sory board established in section 4 to be a
7 health condition that results from the exposure
8 of such individual to such toxic substance.

9 (3) USE OF RECORDS.—

10 (A) IN GENERAL.—The Secretary of De-
11 fense or the head of a Federal agency may
12 make available to the Secretary of Veterans Af-
13 fairs for review records held by the Department
14 of Defense, an Armed Force, or that Federal
15 agency, as appropriate, that might assist the
16 Secretary of Veterans Affairs in making the de-
17 terminations required by paragraph (2).

18 (B) MECHANISM.—The Secretary of Vet-
19 erans Affairs and the Secretary of Defense or
20 the head of the appropriate Federal agency may
21 jointly establish a mechanism for the avail-
22 ability and review of records by the Secretary of
23 Veterans Affairs under subparagraph (A).

24 (c) SOCIAL WORKERS.—The National Center shall
25 employ not less than one licensed clinical social worker to

1 coordinate access of individuals to appropriate Federal,
2 State, and local social and healthcare programs and to
3 handle case management.

4 (d) REIMBURSEMENT FOR NECESSARY TRAVEL AND
5 ROOM AND BOARD.—The National Center shall reimburse
6 any individual participating in a study pursuant to sub-
7 section (b), and any parent, guardian, spouse, or sibling
8 who accompanies such individual, for the reasonable cost
9 of—

10 (1) travel to the National Center for participa-
11 tion in such study; and

12 (2) room and board during the period in which
13 such individual is participating in such study at the
14 National Center.

15 (e) REPORT.—Not less frequently than annually, the
16 National Center shall submit a report to Congress on the
17 functions of the National Center during the year preceding
18 the submittal of the report that includes a summary of
19 the research efforts of the National Center under this sec-
20 tion that have been completed during such year and that
21 are ongoing as of the date of the submittal of the report.

22 **SEC. 4. ADVISORY BOARD.**

23 (a) ESTABLISHMENT.—Not later than 180 days after
24 the date of the enactment of this Act, the Secretary of

1 Veterans Affairs shall establish an advisory board (in this
2 section referred to as the “Advisory Board”)—

3 (1) to advise the National Center established
4 under section 3;

5 (2) to determine which health conditions result
6 from exposure to toxic substances; and

7 (3) to study and evaluate cases of exposure of
8 current and former members of the Armed Forces to
9 toxic substances if such exposure is related the serv-
10 ice of the member in the Armed Forces.

11 (b) MEMBERSHIP.—

12 (1) COMPOSITION.—Not later than 120 days
13 after the date of the enactment of this Act, the Sec-
14 retary of Veterans Affairs shall, in consultation with
15 the Secretary of Health and Human Services, the
16 Director of the National Institute of Environmental
17 Health Sciences, and other heads of Federal agen-
18 cies as the Secretary of Veterans Affairs determines
19 appropriate, select not less than 13 members of the
20 Advisory Board, of whom—

21 (A) not less than three shall be members
22 of organizations exempt from taxation under
23 section 501(c)(19) of the Internal Revenue
24 Code of 1986;

25 (B) not less than one shall be—

1 (i) a descendant of an individual who
 2 was exposed to toxic substances while serv-
 3 ing as a member of the Armed Forces and
 4 the descendant has manifested a birth de-
 5 fect or functional disability as a result of
 6 the exposure of that individual; or

7 (ii) a parent, child, or grandchild of
 8 that descendant; and

9 (C) additional members may be selected
 10 from among—

11 (i) health professionals, scientists, and
 12 academics with expertise in—

13 (I) birth defects;

14 (II) developmental disabilities;

15 (III) epigenetics;

16 (IV) public health;

17 (V) the science of environmental
 18 exposure or environmental exposure
 19 assessment;

20 (VI) the science of toxic sub-
 21 stances; or

22 (VII) medical and research eth-
 23 ics;

24 (ii) social workers; and

1 (iii) advocates for veterans or mem-
2 bers of the Armed Forces.

3 (2) CHAIRPERSON.—The Secretary shall select
4 a Chairperson from among the members of the Advi-
5 sory Board.

6 (3) TERMS.—Each member of the Advisory
7 Board shall serve a term of two or three years as
8 determined by the Secretary.

9 (c) DUTIES.—

10 (1) ADVISORY ROLE WITH RESPECT TO THE
11 NATIONAL CENTER.—With respect to the National
12 Center established under section 3, the Advisory
13 Board shall—

14 (A) oversee and assess the work of the Na-
15 tional Center; and

16 (B) advise the Secretary of Veterans Af-
17 fairs on—

18 (i) issues related to the research con-
19 ducted at the National Center; and

20 (ii) the particular benefits and serv-
21 ices required by the descendants of individ-
22 uals exposed to toxic substances while serv-
23 ing as members of the Armed Forces.

24 (2) DETERMINATION THAT HEALTH CONDI-
25 TIONS RESULTED FROM TOXIC EXPOSURE.—The Ad-

visory Board shall determine which health conditions in descendants of individuals exposed to toxic substances while serving as members of the Armed Forces are health conditions that resulted from the exposure of that individual to that toxic substance for purposes of eligibility of those descendants for medical care under section 1781 of title 38, United States Code.

(3) STUDY AND CONSIDERATION OF TOXIC SUBSTANCE EXPOSURE CLAIMS.—

(A) IN GENERAL.—The Advisory Board shall study and evaluate claims of exposure to toxic substances by current and former members of the Armed Forces that is related to the service of the member in the Armed Forces.

(B) SUBMISSION OF CLAIMS.—Claims of exposure described in subparagraph (A) may be submitted to the Advisory Board in such form and in such manner as the Secretary of Veterans Affairs may require by any of the following individuals or entities:

(i) A member of the Armed Forces.

(ii) A veteran.

(iii) A descendant of a member of the Armed Forces.

1 (iv) A descendant of a veteran.

2 (v) A veterans advocacy group.

3 (vi) An official of the Department of
4 Veterans Affairs with responsibility or ex-
5 perience monitoring the health of current
6 and former members of the Armed Forces.

7 (vii) An official of the Department of
8 Defense with responsibility or experience
9 monitoring the health of current and
10 former members of the Armed Forces.

11 (C) CONSIDERATION OF CLAIMS.—Not
12 later than 180 days after receiving a claim sub-
13 mitted pursuant to subparagraph (B), the Advi-
14 sory Board shall consider the claim and take
15 one of the following actions:

16 (i) If the Advisory Board determines
17 that exposure to a toxic substance occurred
18 to a degree that an individual exposed to
19 that substance may have or develop a med-
20 ical condition that would qualify that indi-
21 vidual for health care or compensation
22 from the Department of Veterans Affairs
23 or the Department of Defense, the Advi-
24 sory Board shall submit to the Secretary of

1 Veterans Affairs a report described in sub-
2 paragraph (D).

3 (ii) If the Advisory Board determines
4 that further consideration of the claim is
5 necessary to adequately assess the extent
6 of exposure, the Advisory Board shall refer
7 the claim to the National Center estab-
8 lished under section 3 to conduct further
9 research and report its findings to the Ad-
10 visory Board.

11 (iii) If the Advisory Board determines
12 that exposure to a toxic substance did not
13 occur, the Advisory Board shall report
14 such determination to the Secretary of
15 Veterans Affairs.

16 (D) REPORT.—If the Advisory Board
17 makes a determination under subparagraph
18 (C)(i), the Advisory Board shall submit to the
19 Secretary of Veterans Affairs a report that con-
20 tains the following:

21 (i) Evidence used by the Advisory
22 Board in making the determination under
23 subparagraph (C)(i), including, if appro-
24 priate, the following:

25 (I) Scientific research.

1 (II) Peer-reviewed articles from
2 scientific journals relating to exposure
3 to toxic substances.

4 (III) Medical research conducted
5 by the Department of Veterans Af-
6 fairs, the Department of Defense, or
7 the medical community.

8 (ii) Recommendations on the extent to
9 which the Department of Veterans Affairs
10 or the Department of Defense should pro-
11 vide health care, benefits, or other com-
12 pensation with respect to exposure to a
13 toxic substance to the following individuals:

14 (I) An individual exposed to a
15 toxic substance as determined under
16 subparagraph (C)(i).

17 (II) A descendant of that indi-
18 vidual.

19 (iii) Information on cost and attrib-
20 utable exposure, as defined in regulations
21 prescribed pursuant to this Act.

22 (E) PUBLICATION OF EVIDENCE.—

23 (i) IN GENERAL.—Except as provided
24 in clause (ii), the Secretary shall publish in
25 the Federal Register the evidence described

1 in clause (i) of subparagraph (D) that is
2 submitted with the report required by that
3 subparagraph.

4 (ii) EXCEPTION.—Such evidence may
5 not be published if the Secretary deter-
6 mines that preventing such publication—

7 (I) is in the national security in-
8 terest of the United States; or

9 (II) protects the privacy interests
10 of individuals exposed to toxic sub-
11 stances.

12 (F) SUBPOENA AUTHORITY.—The Advi-
13 sory Board may require by subpoena the at-
14 tendance and testimony of witnesses necessary
15 to consider claims of exposure to toxic sub-
16 stances under this paragraph.

17 (G) COOPERATION OF FEDERAL AGEN-
18 CIES.—The head of each relevant Federal agen-
19 cy, including the Administrator of the Environ-
20 mental Protection Agency, shall cooperate fully
21 with the Advisory Board for purposes of consid-
22 ering claims of exposure to toxic substances
23 under this paragraph.

1 (d) MEETINGS.—The Advisory Board shall meet at
2 the call of the Chair, but not less frequently than semi-
3 annually.

4 (e) COMPENSATION.—

5 (1) IN GENERAL.—The members of the Advi-
6 sory Board shall serve without compensation.

7 (2) TRAVEL EXPENSES.—The members of the
8 Advisory Board shall be allowed travel expenses, in-
9 cluding per diem in lieu of subsistence, at rates au-
10 thorized for employees of agencies under subchapter
11 I of chapter 57 of title 5, United States Code, while
12 away from their homes or regular places of business
13 in the performance of services for the Advisory
14 Board.

15 (f) PERSONNEL.—

16 (1) IN GENERAL.—The Chairperson may, with-
17 out regard to the civil service laws and regulations,
18 appoint an executive director of the Advisory Board,
19 who shall be a civilian employee of the Department
20 of Veterans Affairs, and such other personnel as
21 may be necessary to enable the Advisory Board to
22 perform its duties.

23 (2) APPROVAL.—The appointment of an execu-
24 tive director under paragraph (1) shall be subject to
25 approval by the Advisory Board.

1 (3) COMPENSATION.—The Chairperson may fix
 2 the compensation of the executive director and other
 3 personnel without regard to the provisions of chapter
 4 51 and subchapter III of chapter 53 of title 5,
 5 United States Code, except that the rate of pay for
 6 the executive director and other personnel may not
 7 exceed the rate payable for level V of the Executive
 8 Schedule under section 5316 of such title.

9 **SEC. 5. DECLASSIFICATION BY DEPARTMENT OF DEFENSE**
 10 **OF CERTAIN INCIDENTS OF EXPOSURE OF**
 11 **MEMBERS OF THE ARMED FORCES TO TOXIC**
 12 **SUBSTANCES.**

13 (a) IN GENERAL.—The Secretary of Defense may de-
 14 classify documents related to any known incident in which
 15 not less than 100 members of the Armed Forces were ex-
 16 posed to a toxic substance that resulted in at least one
 17 case of a disability that a member of the medical profes-
 18 sion has determined to be associated with that toxic sub-
 19 stance.

20 (b) LIMITATION.—The declassification authorized by
 21 subsection (a) shall be limited to information necessary
 22 for an individual who was potentially exposed to a toxic
 23 substance to determine the following:

24 (1) Whether that individual was exposed to that
 25 toxic substance.

1 (2) The potential severity of the exposure of
2 that individual to that toxic substance.

3 (3) Any potential health conditions that may
4 have resulted from exposure to that toxic substance.

5 (c) EXCEPTION.—The Secretary of Defense is not re-
6 quired to declassify documents if the Secretary determines
7 that declassification of those documents would materially
8 and immediately threaten the security of the United
9 States.

10 **SEC. 6. NATIONAL OUTREACH CAMPAIGN ON POTENTIAL**
11 **LONG-TERM HEALTH EFFECTS OF EXPOSURE**
12 **TO TOXIC SUBSTANCES BY MEMBERS OF THE**
13 **ARMED FORCES AND THEIR DESCENDANTS.**

14 The Secretary of Veterans Affairs, the Secretary of
15 Health and Human Services, and the Secretary of Defense
16 shall jointly conduct a national outreach and education
17 campaign directed towards members of the Armed Forces,
18 veterans, and their family members to communicate the
19 following information:

20 (1) Information on—

21 (A) incidents of exposure of members of
22 the Armed Forces to toxic substances;

23 (B) health conditions resulting from such
24 exposure; and

1 (C) the potential long-term effects of such
2 exposure on the individuals exposed to those
3 substances and the descendants of those indi-
4 viduals.

5 (2) Information on the National Center estab-
6 lished under section 3 of this Act for individuals eli-
7 gible to participate in studies conducted at the Na-
8 tional Center.

○