

114TH CONGRESS  
2D SESSION

# S. 3023

To provide for the reconsideration of claims for disability compensation for veterans who were the subjects of experiments by the Department of Defense during World War II that were conducted to assess the effects of mustard gas or lewisite on people, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 6, 2016

Mrs. MCCASKILL introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To provide for the reconsideration of claims for disability compensation for veterans who were the subjects of experiments by the Department of Defense during World War II that were conducted to assess the effects of mustard gas or lewisite on people, 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 “The Arla Harrell Act”.

1 **SEC. 2. RECONSIDERATION OF CLAIMS FOR DISABILITY**  
2 **COMPENSATION FOR VETERANS WHO WERE**  
3 **THE SUBJECTS OF MUSTARD GAS OR LEW-**  
4 **ISITE EXPERIMENTS DURING WORLD WAR II.**

5 (a) RECONSIDERATION OF CLAIMS FOR DISABILITY  
6 COMPENSATION IN CONNECTION WITH EXPOSURE TO  
7 MUSTARD GAS OR LEWISITE.—

8 (1) IN GENERAL.—The Secretary of Veterans  
9 Affairs, in consultation with the Secretary of De-  
10 fense, shall reconsider all claims for compensation  
11 described in paragraph (2) and make a new deter-  
12 mination regarding each such claim.

13 (2) CLAIMS FOR COMPENSATION DESCRIBED.—  
14 Claims for compensation described in this paragraph  
15 are claims for compensation under chapter 11 of  
16 title 38, United States Code, that the Secretary of  
17 Veterans Affairs determines are in connection with  
18 exposure to mustard gas or lewisite during active  
19 military, naval, or air service during World War II  
20 and that were denied before the date of the enact-  
21 ment of this Act.

22 (3) PRESUMPTION OF EXPOSURE.—In carrying  
23 out paragraph (1), if the Secretary of Veterans Af-  
24 fairs or the Secretary of Defense makes a deter-  
25 mination regarding whether a veteran experienced

1 full-body exposure to mustard gas or lewisite, such  
2 Secretary—

3 (A) shall presume that the veteran experi-  
4 enced full-body exposure to mustard gas or lew-  
5 isite, as the case may be, unless proven other-  
6 wise; and

7 (B) may not use information contained in  
8 the DoD and VA Chemical Biological Warfare  
9 Database or any list of known testing sites for  
10 mustard gas or lewisite maintained by the De-  
11 partment of Veterans Affairs or the Depart-  
12 ment of Defense as the sole reason for deter-  
13 mining that the veteran did not experience full-  
14 body exposure to mustard gas or lewisite.

15 (4) REPORT.—Not later than 90 days after the  
16 date of the enactment of this Act, and not less fre-  
17 quently than once every 90 days thereafter, the Sec-  
18 retary of Veterans Affairs shall submit to the appro-  
19 priate committees of Congress a report specifying  
20 any claims reconsidered under paragraph (1) that  
21 were denied during the 90-day period preceding the  
22 submittal of the report, including the rationale for  
23 each such denial.

24 (b) DEVELOPMENT OF POLICY.—Not later than one  
25 year after the date of the enactment of this Act, the Sec-

1   retary of Veterans Affairs and the Secretary of Defense  
2   shall jointly establish a policy for processing future claims  
3   for compensation under chapter 11 of title 38, United  
4   States Code, that the Secretary of Veterans Affairs deter-  
5   mines are in connection with exposure to mustard gas or  
6   lewisite during active military, naval, or air service during  
7   World War II.

8           (c) INVESTIGATION AND REPORT BY SECRETARY OF  
9   DEFENSE.—Not later than 180 days after the date of the  
10  enactment of this Act, the Secretary of Defense shall—

11           (1) for purposes of determining whether a site  
12           should be added to the list of the Department of De-  
13           fense of sites where mustard gas or lewisite testing  
14           occurred, investigate and assess sites where—

15                   (A) the Army Corps of Engineers has un-  
16                   covered evidence of mustard gas or lewisite test-  
17                   ing; or

18                   (B) more than two veterans have sub-  
19                   mitted claims for compensation under chapter  
20                   11 of title 38, United States Code, in connec-  
21                   tion with exposure to mustard gas or lewisite at  
22                   such site and such claims were denied; and

23           (2) submit to the appropriate committees of  
24   Congress a report on experiments conducted by the  
25   Department of Defense during World War II to as-

1       sess the effects of mustard gas and lewisite on peo-  
2       ple, which shall include—

3               (A) a list of each location where such an  
4               experiment occurred, including locations inves-  
5               tigated and assessed under paragraph (1);

6               (B) the dates of each such experiment; and

7               (C) the number of members of the Armed  
8               Forces who were exposed to mustard gas or  
9               lewisite in each such experiment.

10       (d) INVESTIGATION AND REPORT BY SECRETARY OF  
11 VETERANS AFFAIRS.—Not later than 180 days after the  
12 date of the enactment of this Act, the Secretary of Vet-  
13 erans Affairs shall—

14               (1) investigate and assess—

15               (A) the actions taken by the Secretary to  
16               reach out to individuals who had been exposed  
17               to mustard gas or lewisite in the experiments  
18               described in subsection (c)(2)(A); and

19               (B) the claims for disability compensation  
20               under laws administered by the Secretary that  
21               were filed with the Secretary and the percent-  
22               age of such claims that were denied by the Sec-  
23               retary; and

24               (2) submit to the appropriate committees of  
25       Congress—

1 (A) a report on the findings of the Sec-  
2 retary with respect to the investigations and as-  
3 sessments carried out under paragraph (1); and

4 (B) a comprehensive list of each location  
5 where an experiment described in subsection  
6 (c)(2)(A) was conducted.

7 (e) DEFINITIONS.—In this section:

8 (1) The terms “active military, naval, or air  
9 service”, “veteran”, and “World War II” have the  
10 meanings given such terms in section 101 of title 38,  
11 United States Code.

12 (2) The term “appropriate committees of Con-  
13 gress” means—

14 (A) the Committee on Veterans’ Affairs,  
15 the Committee on Armed Services, and the Spe-  
16 cial Committee on Aging of the Senate; and

17 (B) the Committee on Veterans’ Affairs  
18 and the Committee on Armed Services of the  
19 House of Representatives.

20 (3) The term “full-body exposure”, with respect  
21 to mustard gas or lewisite, has the meaning given  
22 that term by the Secretary of Defense.

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